

## Uniform Standards Related to Substance Abuse

### Veterinary Medical Board

#### Options for Regulatory Adoption

##### Option 1

Section 2006 Division 20 of Title 16, Article 1 of the California Code of Regulations is amended:

Section 2006. Disciplinary Guidelines

(a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board shall consider the guidelines entitled "Model Guidelines for Issuing Citations and Imposing Discipline", Revised on June 16, 2009 which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board, in its sole discretion, determines that the facts of the particular case warrants such a deviation -for example: The presence of mitigating factors; the presence of aggravating factors; the age of the case; evidentiary problems.

(b) Notwithstanding subsection (a), the Board shall use the uniform standards for substance abuse as provided in Section 2006.5, without deviation, for each individual shown to be a substance-abusing licensee.

Note: Authority cited: Sections 315, 315.2, 315.4, and 2615, Business and Professions Code; and Section 11400.20 Government Code.

Reference: Sections 315, 315.2, 315.4, 2660, 2660.1, 2661 and 2661.5, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

Section 2006.5 Division 20 of Title 16, Article 1 of the California Code of Regulations is added:

Section 2006.5. Uniform Standards for Substance Abuse.

(a) If the conduct found to be a violation involves drugs and/or alcohol, the licensee shall be presumed to be a substance-abusing licensee for purposes of section 315 of the Code. If the licensee does not rebut the presumption, then the terms and conditions contained in the document entitled "Uniform Standards for Substance-Abusing Licensees with Standard Language for Probationary Orders" (Rev. April 2011), which is hereby incorporated by reference, shall be used in any probationary order of the Board affecting that licensee.

(b) Nothing in this Section shall prohibit the Board from imposing additional terms or conditions of probation in any order that the Board determines would provide greater public protection.

Note: Authority cited: Sections 315, 315.2, 315.4, and 2615, Business and Professions Code.

Reference: Sections 11400.20 and 11425.50(e), Government Code; Section 315, 315.2, and 315.4 of the Business and Professions Code.

## Option 2

### Section 2006. Disciplinary Guidelines

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board shall consider the guidelines entitled "Model Guidelines for Issuing Citations and Imposing Discipline", Revised on June 16, 2009 which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board, in its sole discretion, determines that the facts of the particular case warrants such a deviation -for example: The presence of mitigating factors; the presence of aggravating factors; the age of the case; evidentiary problems.

However, neither the Board nor and administrative law judge may impose any conditions or terms of probation that are less restrictive than the uniform standards related to substance abuse listed in Section 2006.5. If a licensee has not yet been identified as a substance-abusing licensee (for example, through stipulation) in a case involving drugs or alcohol, a clinical diagnostic evaluation shall be ordered and the remaining provisions of the Uniform Standards may, in the discretion of the Board, be made contingent upon a clinical diagnostic evaluator's report that the individual is a substance-abusing licensee. The clinical diagnostic evaluator's report shall be submitted in its entirety to the board.

Note: Authority cited: Sections 315, 315.2, 315.4, and 2615, Business and Professions Code; and Section 11400.20 Government Code.

Reference: Sections 315, 315.2, 315.4, 2660, 2660.1, 2661 and 2661.5, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

### Section 2006.5. Uniform Standards for Substance Abuse.

(a) If a licensee has been identified as a substance-abusing licensee as provided in Section 2006, then the terms and conditions contained in the document entitled "Uniform Standards for Substance-Abusing Licensees with Standard Language for Probationary Orders" (Rev. April 2011), which are hereby incorporated by reference, shall be used in any probationary order of the Board affecting that licensee.

(b) Nothing in this Section shall prohibit the Board from imposing additional terms or conditions of probation in any order that the Board determines would provide greater public protection.

Note: Authority cited: Sections 315, 315.2, 315.4, and 2615, Business and Professions Code.

Reference: Sections 11400.20 and 11425.50(e), Government Code; Section 315, 315.2, and 315.4 of the Business and Professions Code.

## Option 3

### Section 2006. Disciplinary Guidelines

(a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board shall consider the guidelines entitled "Model Guidelines for Issuing Citations and Imposing Discipline", Revised on June 16, 2009 which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms

of probation, is appropriate where the Board, in its sole discretion, determines that the facts of the particular case warrants such a deviation -for example: The presence of mitigating factors; the presence of aggravating factors; the age of the case; evidentiary problems.

(b) Notwithstanding subsection (a), the Board shall use the uniform standards for substance abuse as provided in Section 2006.5, without deviation, for each individual proven to be a substance-abusing licensee.

Note: Authority cited: Sections 315, 315.2, 315.4, and 2615, Business and Professions Code; and Section 11400.20 Government Code.

Reference: Sections 315, 315.2, 315.4, 2660, 2660.1, 2661 and 2661.5, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

#### Section 2006.5. Uniform Standards for Substance Abuse.

(a) If, after notice and a hearing conducted in accordance with Chapter 5, Part 1, Division 3, Title 2 of the government Code (Commencing with section 11500 et seq.), the Board finds that the evidence proves that an individual is a substance-abusing licensee, then the terms and conditions contained the document entitled "Uniform Standards for Substance-Abusing Licensees with Standard Language for Probationary Orders" (Rev. April 2011) , which are hereby incorporated by reference, shall be used in any probationary order of the Board affecting that licensee.

(b) Nothing in this Section shall prohibit the Board from imposing additional terms or conditions of probation in any order that the Board determines would provide greater public protection.

Note: Authority cited: Sections 315, 315.2, 315.4, and 2615, Business and Professions Code.

Reference: Sections 11400.20 and 11425.50(e), Government Code; Section 315, 315.2, and 315.4 of the Business and Professions Code.

For all options, this is necessary to make clear that Diversion participants a also subject to the U.S.

Section 2076 Division 20 of Title 16, Article 8 of the California Code of Regulations is amended:

#### 2076. Criteria for Admission.

An applicant shall meet the following criteria for admission to the program:

(a) The applicant shall be a veterinarian or registered veterinary technician licensed or registered in this state.

(b) The applicant shall reside in California.

(c) The applicant is found to abuse alcohol or other dangerous drugs in a manner which may affect the veterinarian's ability to practice veterinary medicine competently or the registered veterinary technician's ability to perform his or her duties competently.

(d) The applicant shall have voluntarily requested admission to the program.

(e) The applicant agrees to undertake any reasonable medical or psychiatric examinations necessary to evaluate the application for participation in the program.

(f) The applicant cooperates with the program by providing medical information, disclosure authorizations and releases of liability as may be necessary for participation in the program.

(g) The applicant agrees in writing to cooperate with all elements of both the program and the individual treatment program designed by a diversion committee.

(h) The applicant agrees in writing to be subject to all provisions of the “Uniform Standards Regarding Substance-Abusing Healing Arts Licensees” (Rev. April 2011), which is hereby incorporated by reference.

Note: Authority cited: Sections 315, 315.2, 315.4, 4808, Business and Professions Code.

Reference: Sections 315, 315.2, 315.4, 4866, Business and Professions Code.