

DEPARTMENT OF CONSUMER AFFAIRS  
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS  
**DIVISION 20. VETERINARY MEDICAL BOARD**

**ORDER OF ADOPTION**

Uniform Standards for Substance-Abusing Licensees

Amend Section 2006 of, and add Sections 2006.5, 2006.51, 2006.52, 2006.53, 2006.54, 2006.55, 2006.56 to, Article 1 of Division 20 of Title 16 of the California Code of Regulations to read as follows:

**§ 2006. Disciplinary Guidelines and Uniform Standards for Substance-Abusing Licensees.**

- (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 disciplinary guidelines entitled: "Veterinary Medical Board Disciplinary Guidelines, ~~October 2021~~January 2022 Edition" which are hereby incorporated by reference. Deviation from these guidelines, including the standard terms of probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such a deviation (for example: the presence of mitigating or aggravating factors; the age of the case; evidentiary problems).
- (b) If the conduct found to be grounds for discipline involves drugs and/or alcohol, the individual shall be presumed to be a substance-abusing licensee for purposes of section 315 of the code. If the individual does not rebut that presumption, in addition to any and all other relevant terms and conditions in the Disciplinary Guidelines, the terms and conditions in the "Veterinary Medical Board Uniform Standards for Substance-Abusing Licensees, January 2022 Edition" which are hereby incorporated by reference, shall be used when applying probationary conditions in the disciplinary order.

Note: Authority cited: Sections 315, 315.4, 4808, and 4845(d), Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 141, 315, 315.2, 315.4, 480, 490, 4830.5, 4830.7, 4836.2, 4836.5, 4837, 4839.5, 4842, 4845, 4845.5, 4855, 4856, 4857, 4876, 4883, and 4886, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

**§ 2006.5. Actions by Substance-Abusing Licensees and Consequences Thereof.**

- (a) For purposes of this Article, the term "prohibited substance" means an illegal drug, a lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by the licensee and approved by the Board, or alcohol or any other substance the licensee has been instructed by the Board not to use, consume, ingest, or self-administer.

(b) For purposes of this Article, "biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee.

(c) A licensee who does any of the following shall be deemed to have committed a major violation of probation:

(1) Fails to complete a Board-ordered program;

(2) Fails to undergo a required clinical diagnostic evaluation;

(3) Commits multiple minor violations of probation conditions and terms;

(4) Treats a patient or patients while under the influence of a prohibited substance;

(5) Engages in any drug- or alcohol- related act that is a violation of state or federal law or regulation;

(6) Fails to undergo biological fluid testing when ordered;

(7) Uses, consumes, ingests, or self-administers a prohibited substance;

(8) Knowingly uses, makes, alters, or possesses any object or product in such a way as to defraud or attempt to defraud a biological fluid test designed to detect the presence of a prohibited substance; or

(9) Fails to comply with any term or condition of probation which presents an immediate threat to the violator or to the public.

(d) If a licensee commits a major violation, the Board shall take one (1) or more of the following actions:

(1) Issue an immediate cease-practice order and order the licensee to undergo a clinical diagnostic evaluation, in accordance with section 2006.51, at the expense of the licensee. Any order issued by the Board pursuant to this subsection shall state that the licensee must test negative for at least a month of continuous biological fluid testing before being allowed to resume practice.

(2) Increase the frequency of biological fluid testing.

(3) Refer the licensee for further disciplinary action, such as suspension, revocation, or other action as determined by the Board.

(e) A licensee who does any of the following shall be deemed to have committed a minor violation of probation:

(1) Fails to submit required documentation to the Board in a timely manner;

- (2) Has an unexcused absence at a required meeting;
  - (3) Fails to contact a worksite monitor as required; or
  - (4) Fails to comply with any term or condition of probation which does not present an immediate threat to the violator or to the public.
- (f) If a licensee commits a minor violation, the Board shall take one (1) or more of the following actions:
- (1) Issue a cease-practice order;
  - (2) Order practice limitations;
  - (3) Order or increase supervision of licensee;
  - (4) Order increased documentation;
  - (5) Issue a citation and fine, or a warning letter;
  - (6) Order the licensee to undergo a clinical diagnostic evaluation, in accordance with section 2006.51, at the expense of the licensee;
  - (7) Take any other action as determined by the Board.
- (g) Nothing in this section shall be considered a limitation on the Board's authority to revoke the probation of a licensee who has violated a term or condition of that probation.

Note: Authority cited: Sections 315, 315.4, 4808, and 4845(d), Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 315, 315.2, and 315.4, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

**§ 2006.51. Clinical Diagnostic Evaluations for Substance-Abusing Licensees.**

- (a) If the Board orders a licensee who is either in a wellness program or whose license is on probation due to a substance abuse problem to undergo a clinical diagnostic evaluation, then the following apply:
- (1) The clinical diagnostic evaluation shall be conducted by a licensed practitioner who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of health care professionals with substance abuse disorders, and is approved by the Board.
  - (2) The clinical diagnostic evaluation shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations.

- (3) The evaluator shall not have a current or former financial, personal, or business relationship with the licensee within the last five (5) years. The evaluator shall provide an objective, unbiased, and independent evaluation.
- (4) The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether the licensee has a substance abuse problem; whether the licensee is a threat to himself or others; and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to the licensee's rehabilitation and ability to practice safely. If the evaluator determines during the evaluation process that a licensee is a threat to himself or others, the evaluator shall notify the Board within twenty-four (24) hours of such a determination.
- (5) In formulating an opinion as to whether the licensee is safe to return to either part-time or full-time practice and what restrictions or recommendations may be imposed, including participation in an inpatient or outpatient treatment program, the evaluator shall consider the following factors:
- (A) License type;
  - (B) Licensee's history;
  - (C) Documented length of sobriety/time that has elapsed since substance use;
  - (D) Scope and pattern of substance abuse;
  - (E) Treatment history;
  - (F) Medical history;
  - (G) Current medical condition;
  - (H) Nature, duration, and severity of substance abuse problem; and
  - (I) Whether the licensee is a threat to himself or the public.
- (6) The cost of an evaluation shall be borne by the licensee.
- (7) For all evaluations, a final written report shall be provided to the Board no later than ten (10) days from the date the evaluator is assigned the matter. If the evaluator requests additional information or time to complete the evaluation and report, an extension may be granted, but shall not exceed thirty (30) days from the date the evaluator was originally assigned the matter.
- (b) Whenever the Board orders a licensee to undergo a clinical diagnostic evaluation, the Board shall order the licensee to cease practice pending the results of the clinical diagnostic evaluation and review by the Board.

- (c) While awaiting the results of the clinical diagnostic evaluation, the licensee shall undergo random biological fluid testing at least two (2) times per week.
- (d) The Board shall review the clinical diagnostic evaluation report and determine within ten (10) business days of receipt whether the licensee is safe to return to either part-time or full-time practice and what restrictions or recommendations shall be imposed on the licensee based on the recommendations made by the evaluator. No licensee shall be returned to practice until the licensee has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating that the licensee has not used, consumed, ingested, or self-administered a prohibited substance.
- (e) The licensee shall comply with all restrictions or conditions recommended by the examiner conducting the clinical diagnostic evaluation within fifteen (15) calendar days after being notified by the Board or its designee.

Note: Authority cited: Sections 315, 315.4, 4808, and 4845(d), Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 315, 315.2, and 315.4, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

**§ 2006.52. Request by a Substance-Abusing Licensee to Return to Practice.**

- (a) Before a licensee may request to return to full time practice after the issuance of a cease-practice order or after the imposition of practice restrictions following a clinical diagnostic evaluation, the Board, in conjunction with the evaluator, shall ensure that the licensee meets the following criteria:
  - (1) Demonstrated sustained compliance with the licensee's current treatment or recovery program, as applicable;
  - (2) Demonstrated ability to practice safely as evidenced by current worksite monitor reports (if currently being monitored), evaluations conducted by licensed health care practitioners, and any other information relating to the licensee's substance abuse and recovery therefrom; and
  - (3) Negative biological fluid tests or biological fluid tests indicating that the licensee has not used, consumed, ingested, or self-administered a prohibited substance for at least six (6) months, two (2) positive worksite monitor reports (if currently being monitored), and complete compliance with other terms and conditions of probation.
- (b) Before a substance-abusing licensee may request a full and unrestricted license, the licensee shall demonstrate:
  - (1) Sustained compliance with the terms of the disciplinary order, if applicable;
  - (2) Successful completion of a treatment or recovery program, if required;

- (3) Consistent and sustained participation in activities that promote and support the licensee's recovery, including, but not limited to, ongoing support meetings, therapy, counseling, a relapse prevention plan, and community activities;
- (4) Ability to practice veterinary medicine safely; and
- (5) Continuous sobriety for three (3) to five (5) years.

Note: Authority cited: Sections 315, 315.4, 4808, and 4845(d), Business and Professions Code. Reference: Sections 315, 315.2, and 315.4, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

**§ 2006.53. Disclosure of Substance-Abusing Licensee Information.**

For licensees subject to the terms and conditions of the Uniform Standards for Substance-Abusing Licensees in section 2006, the Board shall disclose the following information to the public for licensees who are participating in a Board monitoring/wellness program regardless of whether the licensee is a self-referral or a Board referral. However, the disclosure shall not contain information that the restrictions are a result of the licensee's participation in a wellness program.

- (a) Licensee's name;
- (b) Whether the licensee's practice is restricted, or the license is on inactive status; and
- (c) A detailed description of any restriction imposed.

Note: Authority cited: Sections 315 and 4808, Business and Professions Code. Reference: Sections 315 and 4871, Business and Professions Code.

**§ 2006.54. Requirements for Laboratories/Testing Locations and Specimen Collectors for Testing Substance-Abusing Licensees.**

If the Board uses a private-sector vendor that provides laboratories or testing locations or specimen collection for testing substance-abusing licensees, the laboratory, location, or collection service shall meet all the following standards:

- (a) The vendor shall report to the Board any major violation, as defined in section 2006.5.
- (b) The vendor shall ensure that its laboratory, testing, or specimen collection providers or contractors meet all of the following:
  - (1) Specimen collectors shall either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the United States Department of Transportation.

- (2) Specimen collectors shall conform to the current United States Department of Transportation Specimen Collection Guidelines.
  - (3) Testing locations shall comply with the Urine Specimen Collection Guidelines published by the United States Department of Transportation without regard to the type of test administered.
  - (4) Specimen collectors shall observe the collection of testing specimens.
  - (5) Laboratories shall be certified and accredited by the United States Department of Health and Human Services.
  - (6) Testing locations shall submit a specimen to a laboratory within one (1) business day of receipt and all specimens collected shall be handled pursuant to chain of custody procedures. The laboratory shall process and analyze the specimen and provide legally defensible test results to the Board within seven (7) business days of receipt of the specimen. The Board shall be notified of non-negative test results within one (1) business day and shall be notified of negative test results within seven (7) business days.
  - (7) Specimen collection and testing locations shall possess all the materials, equipment, and technical expertise necessary in order to test every licensee for which it is responsible on any day of the week.
  - (8) Testing locations shall be able to scientifically test for urine, blood, and hair specimens for the detection of alcohol and illegal and controlled substances.
  - (9) Testing sites shall be located throughout California.
  - (10) Testing sites shall be equipped with:
    - (A) An automated 24-hour toll-free telephone system and/or a secure on-line computer database that allows the licensee to check in daily for testing; and
    - (B) A secure, Health Insurance Portability and Accountability Act (HIPAA)-compliant website or computer system to allow staff access to drug test results and compliance reporting information that is available twenty-four (24) hours a day.
  - (11) Testing sites shall employ or contract with toxicologists who are licensed physicians and have knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate laboratory biological fluid test results, medical histories, and any other information relevant to biomedical information.
- (c) A toxicology screen shall not be considered negative if a positive result is obtained while practicing, even if the practitioner holds a valid prescription for the substance.

Note: Authority cited: Sections 315 and 4808, Business and Professions Code.  
Reference: Section 315, Business and Professions Code.

**§ 2006.55. Requirements for Wellness Program Vendors.**

If the Board uses a private-sector wellness program services vendor, all of the following shall apply:

(a) The vendor shall comply with all of the following:

(1) The vendor is fully responsible for the acts and omissions of its subcontractors and persons either directly or indirectly employed by any of them. No subcontract shall relieve the vendor of its responsibilities and obligations. All state policies, guidelines, and requirements apply to all subcontractors.

(2) If a subcontractor fails to provide effective or timely services, but not limited to any other subcontracted services, the vendor shall terminate services of said subcontractor within thirty (30) business days of notification of failure to provide adequate services.

(3) The vendor shall notify the Board within five (5) business days of termination of said subcontractor.

(b) An external audit shall be conducted at least once every three (3) years by a qualified, independent reviewer or review team from outside the California Department of Consumer Affairs with no real or apparent conflict of interest with the vendor providing the monitoring services. The independent reviewer or review team shall consist of individuals who are competent in the professional practice of internal auditing and assessment processes and qualified to perform audits of monitoring programs.

(c) The audit in subsection (b) shall assess the vendor's performance in adhering to the uniform standards established by the Board. The reviewer shall provide a report of their findings to the Board by June 30 of each three (3) year cycle. The report shall identify any material inadequacies, deficiencies, irregularities, or other non-compliance with the terms of the vendor's monitoring services that would interfere with the Board's mandate of public protection.

(d) The Board and the California Department of Consumer Affairs shall respond to the findings in the audit report.

Note: Authority cited: Sections 315 and 4808, Business and Professions Code.  
Reference: Section 315, Business and Professions Code.



**§ 2006.56. Reporting Requirements Relating to Substance-Abusing Licensees.**

(a) The Board shall report the following information on a yearly basis to the California Department of Consumer Affairs and the Legislature as it relates to licensees with substance abuse problems who are on probation:

(1) Number of intakes into a wellness program;

(2) Number of probationers whose conduct was related to a substance-abuse problem;

(3) Number of referrals for treatment programs;

(4) Number of relapses (break in sobriety);

(5) Number of cease-practice orders;

(6) Number of suspensions;

(7) Number terminated from program for noncompliance;

(8) Number of successful completions based on uniform standards;

(9) Number of major violations; nature of violation, and action taken; and

(10) Number of licensees who successfully completed probation.

(b) For each reporting category described in subsection (a), the Board shall identify the licensing category and the specific substance abuse problem (e.g., cocaine, alcohol, Demerol, etc.), and whether the licensee is in a wellness program and/or probation program.

(c) If the reporting data indicates that licensees in specific licensing categories or with specific substance-abuse problems have either a higher or lower probability of success, that information shall be taken into account when determining the success of terms and conditions of probation. The information may also be used to determine the risk factor when the Board is determining whether a license should be revoked or placed on probation.

(d) The Board shall use the following criteria to determine if its terms and conditions of probation protect patients from harm and are effective in assisting its licensees in recovering from substance abuse problems in the long term:

(1) At least one hundred percent (100%) of licensees whose licenses were placed on probation as a result of a substance abuse problem successfully completed probation or had their licenses to practice revoked or surrendered on a timely basis based on noncompliance with terms and conditions of probation.

(2) At least seventy-five percent (75%) of licensees who successfully completed probation did not have any substantiated complaints related to substance-abuse for at least five (5) years after completion.

(e) For purposes of measuring outcomes and effectiveness relating to biological fluid testing, the Board shall collect and report historical data (as available) and post-implementation data as follows:

(1) Historical Data.

The Board may collect the following historical data (as available) for a period of two (2) years prior to implementation of the Uniform Standards for Substance-Abusing Licensees, for each person subject to testing for banned substances, who has done any of the following:

(A) Tested positive for a banned substance;

(B) Failed to appear or call in for testing on more than three (3) occasions;

(C) Failed to pay testing costs; or

(D) Given a diluted or invalid specimen.

(2) Post-Implementation Data—Three (3) Years.

The Board shall collect data annually for a period of three (3) years following implementation of the Uniform Standards for Substance-Abusing Licensees for every licensee subject to testing for banned substances. The data collected shall be reported to the California Department of Consumer Affairs and the Legislature, upon request, and shall include, but may not be limited to:

(A) Licensee identification;

(B) License type;

(C) Probation effective date;

(D) General range of testing frequency for each licensee;

(E) Dates testing requested;

(F) Dates tested;

(G) Identity of the entity that performed each test;

(H) Date(s) licensee tested positive;

(I) Date(s) Board was informed of positive test(s);

- (J) Date(s) of questionable tests (e.g., dilute, high levels);
- (K) Date(s) Board was notified of questionable test(s);
- (L) Identification of substances detected or questionably detected;
- (M) Date(s) licensee failed to appear for testing;
- (N) Date(s) Board notified of licensee's failure to appear;
- (O) Date(s) licensee failed to call in for testing;
- (P) Date(s) Board was notified that licensee failed to call in for testing;
- (Q) Date(s) licensee failed to pay for testing;
- (R) Date(s) licensee was removed/suspended from practice (identify which);  
and
- (S) Final outcome and effective date (if applicable).

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