

Acupuncture Board
AB 2138 Implementation – Proposed Regulation for
Criteria for Rehabilitation for Suspensions or Revocations

Changes proposed are underlined to denote new text.

Adopt new section under Article 6 Miscellaneous Provisions of Chapter 13.7 of Title 16 of the California Code of Regulations:

§ 1399.469.6 Criteria for Rehabilitation – Suspensions or Revocations.

(a) When considering the suspension or revocation of a license on the ground that a person holding a license under the Acupuncture Licensure Act has been convicted of a crime, the board shall consider whether the licensee made a showing of rehabilitation and is presently eligible for a license, if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall consider the following criteria:

- (1) The nature and gravity of the crime(s).
- (2) The length(s) of the applicable parole or probation period(s).
- (3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.
- (4) The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation.
- (5) The extent to which the terms or conditions of parole or probation were modified and the reason(s) for the modification.

(b) If subdivision (a) is inapplicable, or the board determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivision (a), the board shall apply the following criteria in evaluating a licensee's rehabilitation. The board shall find that the licensee made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the board finds that the licensee is rehabilitated:

- (1) The nature and severity of the act(s) or crime(s).
- (2) The total criminal record.
- (3) The time that has elapsed since commission of the act(s) or crime(s).

(4) The extent to which the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such person.

(5) The criteria in subdivision (a)(1)-(5), as applicable.

(6) If applicable, evidence of dismissal proceedings pursuant to section 1203.4 of the Penal Code.

(7) Evidence, if any of rehabilitation submitted by the licensee.

Note: Authority cited: Sections 482 and 4933, Business and Professions Code.

Reference: Sections 141, 480, 481, 482, 488, 493, 4955, 4955.1, 4955.2, and 4956, Business and Professions Code.