In this action, the Bureau of Household Goods and Services adopts criteria to be used in determining whether a crime, professional misconduct, or other act is substantially related to the professional practice of its licensees for purposes of license denial, suspension, or revocation. The action adopts criteria for determining whether an applicant for a license, or for reinstatement of a license, or for the modification or termination of probation of a license, has been rehabilitated subsequent to a criminal conviction, professional misconduct, or other act. The action also adopts criteria for determining whether a licensee has been rehabilitated, subsequent to a criminal conviction, professional misconduct, or other act, when considering whether to suspend or revoke their license.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 4/9/2021.

Date: April 9, 2021

Eric Partington
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Nicholas Oliver, Bureau Chief
Copy: Diana Godines
**STATE of CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW**

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

(See instructions on reverse)

For use by Secretary of State only

<table>
<thead>
<tr>
<th>OAL FILE NUMBERS</th>
<th>NOTICE FILE NUMBER</th>
<th>REGULATORY ACTION NUMBER</th>
<th>EMERGENCY NUMBER</th>
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<td>Z-</td>
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<td>2020-1023-02</td>
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For use by Office of Administrative Law (OAL) only

2020 OCT 23 P 1: 20

OFFICE OF ADMINISTRATIVE LAW

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A. **PUBLICATION OF NOTICE** (Complete for publication in Notice Register)

1. **SUBJECT OF NOTICE**

<table>
<thead>
<tr>
<th>TITLE(S)</th>
<th>FIRST SECTION AFFECTED</th>
<th>2. REQUESTED PUBLICATION DATE</th>
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3. **NOTICE TYPE**

- [ ] Notice re Proposed Regulatory Action
- [ ] Other

4. **AGENCY CONTACT PERSON**

<table>
<thead>
<tr>
<th>TELEPHONE NUMBER</th>
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5. **OAL USE ONLY**

- [ ] Approved as Submitted
- [ ] Approved as Modified
- [ ] Disapproved/Withdrawn

- [ ] NOTICE REGISTER NUMBER
- [ ] PUBLICATION DATE

B. **SUBMISSION OF REGULATIONS** (Complete when submitting regulations)

1a. **SUBJECT OF REGULATION(S)**

Substantial Relationship Criteria and Rehabilitation Criteria

1b. **ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER($)**

2. **SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE($) AND SECTION($) (including title 26, if toxics related)**

<table>
<thead>
<tr>
<th>SECTION($) AFFECTED</th>
<th>AMEND</th>
<th>ADOPT</th>
<th>REPEAL</th>
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3. **TYPE OF FILING**

- [ ] Regular Rulemaking (Gov. Code §11346)
- [ ] Resubmittal of disapproved or withdrawn emergency filing (Gov. Code §§11349.3, 11349.4)
- [ ] Emergency (Gov. Code, §11346.1(b))
- [ ] Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1(b))
- [ ] Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
- [ ] Emergency Readopt (Gov. Code, §11346.1(h))
- [ ] Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
- [ ] File & Print
- [ ] Print Only
- [ ] Other (Specify)

4. **ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs., title 1, §44 and Gov. Code §11347.1)**

4 1 f

5. **EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.10; Cal. Code Regs., title 1, §100)**

- [ ] Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) (Specify) July 1, 2020 (or on filing thereafter)
- [ ] Effective on filing with §100 Changes Without Regulatory Effect (Specify)
- [ ] Other (Specify)

6. **CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY**

- [ ] Department of Finance (Form STD. 399) (SAM §6660)
- [ ] Fair Political Practices Commission
- [ ] State Fire Marshal
- [ ] Other (Specify)

7. **CONTACT PERSON**

<table>
<thead>
<tr>
<th>Diana Godines</th>
<th>TELEPHONE NUMBER</th>
<th>FAX NUMBER (Optional)</th>
<th>E-MAIL ADDRESS (Optional)</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>(916) 999-2068</td>
<td>(916) 921-7279</td>
<td><a href="mailto:diana.godines@dca.ca.gov">diana.godines@dca.ca.gov</a></td>
</tr>
</tbody>
</table>

8. **I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.**

<table>
<thead>
<tr>
<th>SIGNATURE OF AGENCY HEAD OR DESIGNEE</th>
<th>DATE</th>
</tr>
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<tbody>
<tr>
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**TYPED NAME AND TITLE OF SIGNATORY**

Yeaphana La Marr, Acting Bureau Chief
§ 2767. Substantial Relationship Criteria

(a) For the purposes of denial, suspension, or revocation of the registration of a repair service dealer or service contractor pursuant to Section 141, Division 1.5 (commencing with Section 475), subdivision (a)(7) of Section 9841, subdivision (a) of Section 9853, or subdivision (b) of Section 9855.7 of the Business and Professions Code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a service dealer registrant if to a substantial degree it evidences present or potential unfitness of a service dealer registrant to perform the functions authorized by his the registration in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

(b) In making the substantial relationship determination required under subsection (a) for a crime, the Bureau shall consider all of the following criteria:
   (1) The nature and gravity of the offense.
   (2) The number of years elapsed since the date of the offense.
   (3) The nature and duties of a service dealer or service contractor.

(c) For the purposes of subsection (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, the following:
   (a)(1) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 20, Division 3 of the Business and Professions Code.
   (b) Conviction of a crime involving fiscal dishonesty.
   (2) Crimes or acts involving dishonesty, fraud, deceit or theft with the intent to benefit oneself or another or to harm another including, but not limited to:
      (A) Making or authorizing any statement or advertisement that is untrue or misleading, and that is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.
      (B) Making any false promises of a character likely to influence, persuade, or induce a customer to authorize the repair, installation, service, or maintenance of equipment.
      (C) Conduct constituting incompetence or negligence.
(D) Any willful departure from or disregard of accepted trade standards for good
and workmanlike installation or repair.
(3) Crimes involving physical violence against others.

(d) If an applicant or registrant wishes to contest a registration denial, suspension, or
revocation based on a conviction, the applicant or registrant may request a hearing
pursuant to Business and Professions Code section 9848 to determine if the registration
should be denied, suspended, or revoked.

NOTE: Authority cited: Sections 9814 and 9814.5, Business and Professions Code.
Reference: Sections 141, 475, 480, 481, 485, 488, 490, 493, and 9841, 9848, 9853 and
9855.7, Business and Professions Code.

§ 2768. Criteria for Rehabilitation

(a) The Bureau shall evaluate the rehabilitation of the applicant, registrant, or petitioner
and his or her present eligibility for a registration:

(1) When considering the denial, suspension, or revocation of a registration under
the provisions of Section 480 of the Code; pursuant to Division 1.5 (commencing with
Section 475) of the Business and Professions Code on the grounds that the applicant or
registrant has been convicted of a crime. the Bureau shall consider whether the
applicant or registrant has made a showing of rehabilitation. if the applicant or registrant
completed the criminal sentence at issue without a violation of parole or probation. In
making this determination, the Bureau shall consider the following criteria:

(2) When considering the suspension or revocation of a registration on the grounds that
a service dealer has been convicted of a crime;

(3) When considering a petition for reinstatement of a registration under the pro-
"visions of Section 11522 of the Government Code.

(b) In evaluating the rehabilitation of the applicant, registrant, or petitioner, the Bureau
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 applicant’s or registrant’s rehabilitation.
(5) The extent to which the terms or conditions of parole or probation were modified
and the reason(s) for modification.

(b) If the applicant has not completed the criminal sentence at issue without a violation
of probation, the Bureau determines that the applicant did not make the showing of
rehabilitation based on the criteria in subsection (a), the denial is based on professional
misconduct, the suspension or revocation is based on a disciplinary action as described
in Section 141 of the Code, or the denial, suspension, or revocation is based on one or more grounds specified in Sections 9841, 9853 or 9855.7 of the Business and Professions Code, the Bureau shall apply the following criteria in evaluating an applicant's or registrant's rehabilitation:

1. The nature and the severity of the act(s), professional misconduct, disciplinary action(s) or crime(s) under consideration.

2. Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code when considering an applicant pursuant to subsection (a)(1) of this section.

3. Total criminal record when considering a person pursuant to subsections (a)(2) and (a)(3) of this section.

4. The total criminal record, and evidence of any act(s), professional misconduct, disciplinary action(s) or crime(s) committed subsequent to the act(s), professional misconduct, disciplinary action(s) or crime(s) under consideration as grounds for denial, suspension, or revocation.

5. The time that has elapsed since commission of the act(s), professional misconduct, disciplinary action(s) or crime(s) under consideration.

6. Whether the applicant or registrant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant or registrant.

7. The extent to which the applicant, registrant, or petitioner has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant, registrant, or petitioner.

8. Evidence, if any, of rehabilitation submitted by the applicant, registrant, or petitioner. Such evidence may include, but is not limited to, proof of additional training or education, evidence of service to the community, and, if applicable, evidence of expungement proceedings, pursuant to Section 1203.4 of the Penal Code.

9. The criteria in subsections (a)(1) through (a)(5), as applicable.

10. Evidence of dismissal proceedings pursuant to Section 1203.4 of the Penal Code.

11. Whether the applicant or registrant has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

12. Evidence, if any, of rehabilitation submitted by the applicant or registrant.

(c) When considering a petition for reinstatement of a registration under the provisions of Section 11522 of the Government Code, the Bureau shall evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in this section.
NOTE: Authority cited: Sections 9814 and 9814.5, Business and Professions Code.
Reference: Sections 475, 480, 481, 482, 488, 490, 493, and 9841, 9853 and 9857.7, Business and Professions Code.