

BOARD OF PHARMACY

SUPPLEMENT TO THE INITIAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations: Disciplinary Guidelines

Title 16 Section Affected: CCR Section 1760

Rationale for Necessity

Removal of language relating to ownership during the suspension of an individual's license:

In several terms throughout the proposed guidelines, the board is removing the following language where it was used in conjunction with a suspension of an individual's practice that could have been triggered by the term of probation,

“Subject to the above restrictions, respondent may continue to hold an interest in any licensed premises in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.”

The board notes that this language is being removed from multiple terms because it has determined that this language is not needed. The suspension itself relates only to the individual respondent ability to practice, not the ownership of a business license that the respondent may have. If necessary, ownership restrictions would be addressed in another term of probation.

Sale or Discontinuance of Business (Disciplinary Guidelines, Proposed Standard Term 10 for premises):

As indicated in the initial statement of reasons (ISR) issued on or about September 4, 2015, this term specifies that the board has the discretion to determine if it will retain jurisdiction and continue probationary terms when a licensed location on probation wishes to either change location or ownership. As previously noted, the reason for this provision is to allow the board to accommodate a change in ownership or change in location without incurring additional costs. Such additional costs would be related to the enforcement and hearing costs incurred to deny the new licensed location or ownership. The board also noted that the provision was modeled after a current term, but incorrectly referenced that term. The correct reference should be to current Standard Term 7 for premises, Status of License. The board or its designee will determine whether to exercise the authority within this term on a case by case basis during the licensee's probation.

Timeframes for implementation of various terms:

The board notes that throughout both the current and proposed guidelines, the board has established timeframes by which a respondent must perform specified actions. In determining the timeframes, the board assessed the potential for risk to the public, the need to provide clear guidance to the respondent to ensure understanding of when the term must be completed and or complied with, as well as the estimated time within which a respondent would need to complete specified actions, and the need for the board to be able to reasonably enforce the term. In making a determination for new proposed time

frames the board considered the current timeframes for similar types of requirements, the time it might take a licensee to take any practical steps necessary to comply, weighted against the potential risk to the public if the particular probation term was not followed. More specifically:

Facilitated Group Recovery and/or Support Meetings (proposed Optional Term 28 for individuals): As previously noted in the ISR issued on or about September 4, 2015, this proposed amendment was added in consideration of the Substance Abuse Coordination Committee. The 30 day timeframe for compliance established in this proposed term is consistent with the timeframe established in the current guidelines (Term 16) for attending meetings. The board previously determined that the timeframe established in the current guidelines was appropriate as it provides guidance to the respondent on the expectation for compliance while providing sufficient time for the respondent to take the necessary steps to establish the services need to comply. This was based upon previous determinations by the board that 30 days would be the appropriate timeframe to establish compliance with the proposed new term, thereby protecting the public, providing a date on which the board can enforce the term and allowing the licensee time to find the appropriate resources to comply with the term.

Underlying Data

In the Underlying Data portion of the initial statement of reasons issued on or about September 4, 2015, the board referenced "3. Enforcement and licensing statistics," which were and are available in the rulemaking file for public review upon request. The board notes that "enforcement and licensing statistics" referenced in the underlying data include both enforcement statistics for Fiscal Year 2014/15 as well as licensing statistics for Fiscal Year 2014/2015. The board notes that the same information has been and is also publicly available on its website as part of the meeting materials for the July 27-29, 2015, Board Meeting.