

BOARD OF OPTOMETRY

PROPOSED LANGUAGE

Amend section 1575 in Division 15 of Title 16 of the California Code of Regulations to read as follows:

§ 1575. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Administrative Procedures Act (Government Code Section 11400 et seq.), the Board of Optometry shall ~~consider the disciplinary guidelines entitled "Disciplinary Guidelines and Model Disciplinary Orders"~~ comply with the "Uniform Standards Related to Substance Abuse and consider the Disciplinary Guidelines (DG-3 4, 5-99 9-2011) which are hereby incorporated by reference. The Disciplinary Guidelines apply to all disciplinary matters; the Uniform Standards apply to a substance abusing licensee.

- (a) Notwithstanding subsection (b), ~~D~~deviation from these disciplinary 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 warrant such a deviation - for example: the presence of mitigating factors; the age of the case; evidentiary problems.

- (b) 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 that presumption, then the Uniform Standards for a substance abusing licensees shall apply unless the licensee establishes that, in his or her particular case, appropriate public protection can be provided with modification or omission of a specific standard as a term of probation.

Note: Authority cited: Sections 3025 and 3090, Business and Professions Code; and Sections 11400.20 and 11420.24, Government Code. Reference: Sections 315, 315.2, 315.4, 480, and 3090, 3091 and 3110, Business and Professions Code; and Sections 11400.20, 11400.24 and 11425.50(e), Government Code.