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**BUSINESS AND PROFESSIONS CODE - BPC**

**DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11]** ( *Heading of Division 3 added by Stats. 1939, Ch. 30. )*

**CHAPTER 12.5. Geologists and Geophysicists [7800 - 7887]** ( *Heading of Chapter 12.5 amended by Stats. 1972, Ch. 1396. )*

**ARTICLE 5. Disciplinary Proceedings [7860 - 7864]** ( *Article 5 added by Stats. 1968, Ch. 942. )*

**7860.** (a) The board may, upon its own initiative or upon the receipt of a complaint, investigate the actions of any professional geologist or geophysicist, and make findings thereon.

(b) By a majority vote, the board may publicly reprove, suspend for a period not to exceed two years, or revoke the certificate of any geologist or geophysicist registered hereunder, on any of the following grounds:

- (1) Conviction of a crime substantially related to the qualifications, functions, or duties of a geologist or geophysicist.
- (2) Misrepresentation, fraud, or deceit by a geologist or geophysicist in his or her practice.
- (3) Negligence or incompetence by a geologist or geophysicist in his or her practice.
- (4) Violation of any contract undertaken in the capacity of a geologist or geophysicist.
- (5) Fraud or deceit in obtaining a certificate to practice as a geologist or geophysicist.

(c) By a majority vote, the board may publicly reprove, suspend for a period not to exceed two years, or may revoke the certificate of any geologist or geophysicist registered under this chapter, for unprofessional conduct. Unprofessional conduct includes, but is not limited to, any of the following:

- (1) Aiding or abetting any person in a violation of this chapter or any regulation adopted by the board pursuant to this chapter.
- (2) Violating this chapter or any regulation adopted by the board pursuant to this chapter.
- (3) Conduct in the course of practice as a geologist or geophysicist that violates professional standards adopted by the board.

(Amended by Stats. 2014, Ch. 400, Sec. 13. (SB 1467) Effective January 1, 2015.)

**7860.1.** The board may, upon its own initiative or upon the receipt of a complaint, investigate the actions of any geologist-in-training and make findings. By a majority vote, the board may revoke the certificate of any geologist-in-training who does any of the following:

- (a) Has been convicted of a crime as defined in subdivision (a) of Section 480.
- (b) Committed an act that would be grounds for denial of a license pursuant to Section 480 or 496.
- (c) Committed an act of fraud, deceit, or misrepresentation in obtaining their geologist-in-training certificate or license as a professional geologist, certified specialty geologist, professional geophysicist, or certified specialty geophysicist.
- (d) Aids or abets any person in the violation of any provision of this chapter or any regulation adopted by the board pursuant to this chapter.
- (e) Violates Section 119 with respect to a geologist-in-training certificate.
- (f) Commits any act described in Section 7872.

(g) Violates any provision of this chapter.

*(Added by Stats. 2019, Ch. 630, Sec. 9. (AB 1522) Effective January 1, 2020.)*

**7860.2.** The failure of, or refusal by, a licensee or a certificate holder to respond to a written request from a representative of the board in the investigation of a complaint against that licensee or certificate holder constitutes a cause for disciplinary action under Section 7860 or 7860.1.

*(Amended by Stats. 2019, Ch. 630, Sec. 10. (AB 1522) Effective January 1, 2020.)*

**7861.** The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

*(Added by Stats. 1968, Ch. 942.)*

**7862.** The board may reissue a certificate of registration, certification, or authority, to any person whose certificate has been revoked if a majority of the members of the board vote in favor of such reissuance for reasons the board deems sufficient.

*(Added by Stats. 1968, Ch. 942.)*

**7863.** A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a geologist or geophysicist is deemed to be a conviction within the meaning of this article. The board may order the certificate or authorization suspended or revoked, or may decline to issue a certificate or authorization, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

*(Amended by Stats. 1978, Ch. 1161.)*

**7864.** (a) A petitioner may petition the board for reinstatement or modification of penalty, including reduction, modification, or termination of probation, after the following minimum periods have elapsed from the effective date of the decision ordering the disciplinary action, or if the order of the board or any portion of it is stayed by a court, from the date the disciplinary action is actually implemented in its entirety:

(1) Except as otherwise provided in this section, at least three years for reinstatement of a certificate that was revoked or surrendered. However, the board may, in its sole discretion, specify in its order of revocation or surrender a lesser period of time that shall be at a minimum of one year.

(2) At least two years for early termination of a probation period of three years or more.

(3) At least one year for early termination of a probation period of less than three years.

(4) At least one year for reduction or modification of a condition of probation.

(b) The board shall notify the Attorney General of the filing of the petition. The petitioner and the Attorney General shall be given timely notice by letter of the time and place of the hearing on the petition, and the petitioner and the Attorney General shall be given the opportunity to present both oral and documentary evidence and argument to the board. The petitioner shall at all times have the burden of proof to establish by clear and convincing evidence that he or she is entitled to the relief sought in the petition.

(c) The board itself or an administrative law judge, if one is designated by the board, shall hear the petition and shall prepare a written decision setting forth the reasons supporting the decision.

(d) The board may grant or deny the petition or may impose any terms and conditions that it reasonably deems appropriate as a condition of reinstatement or reduction or modification of the penalty.

(e) A petition shall not be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. A petition shall not be considered while there is an accusation or petition to revoke probation pending against the petitioner.

(f) The board may, in its discretion, deny without hearing or argument any petition that is filed pursuant to this section within a period of two years from the effective date of a prior decision following a hearing under this section.

(g) Judicial review of the board's decision following a hearing under this section may be sought by way of a petition for writ of administrative mandamus pursuant to Section 1094.5 of the Code of Civil Procedure. The party seeking to overturn the board's decision shall have the burden of proof in any mandamus proceeding. In the mandamus proceeding, if it is alleged that there has

been an abuse of discretion because the board's findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in light of the whole record.

(h) The following definitions shall apply for purposes of this section:

(1) "Certificate" includes a certificate of registration or license as a professional geologist or professional geophysicist or certification as a geologist-in-training.

(2) "Petitioner" means a professional geologist or professional geophysicist or a geologist-in-training whose certificate has been revoked, suspended, or surrendered or placed on probation.

*(Added by Stats. 2014, Ch. 400, Sec. 14. (SB 1467) Effective January 1, 2015.)*