

100106.02 Substantial Relationship Criteria for the Denial, Placement on Probation, Suspension, or Revocation of a Certificate

(a)

For the purposes of denial, placement on probation, suspension, or revocation of a certificate, pursuant to Section 1798.200(c) of the Health and Safety Code, a crime or act shall be considered to be substantially related to the qualifications, functions, or duties of a certificate holder if to a substantial degree it evidences unfitness of a certificate holder to perform the functions authorized by the certificate in that it poses a threat to the public health and safety.

(b)

For the purposes of a crime, the record of conviction or a certified copy of the record shall be conclusive evidence of such conviction. (1) "Crime" means any act in violation of the penal laws of this state, any other state, or federal laws. This also means violation(s) of any statute which impose criminal penalties for such violations. (2) "Conviction" means the final judgement on a verdict of finding of guilty, a plea of guilty, or a plea of nolo contendere.

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(c)

The LEMSA, when determining the certification action to be imposed or reviewing a petition for reinstatement or reduction of penalty under Section 11522 of the Government Code, shall evaluate the rehabilitation of the applicant and present eligibility for certification of the respondent. When the certification action warranted is probation, denial, suspension, or revocation the following factors may be considered: 1. Nature and severity of the act(s), offense(s), or crime(s) under consideration; 2. Actual or potential harm to the public; 3. Actual or potential harm to any patient; 4. Prior disciplinary record; 5. Prior warnings on record or prior remediation; 6. Number and/or variety of current violations; 7. Aggravating evidence; 8. Mitigating evidence; 9. Rehabilitation evidence; 10. In the case of a criminal conviction, compliance with terms of the sentence and/or court-ordered probation; 11. Overall criminal record; 12. Time that has elapsed since the act(s) or offense(s) occurred; 13. If applicable, evidence of expungement proceedings pursuant to Penal Code 1203.4. 14. In determining appropriate certification disciplinary action, the LEMSA medical director may give credit for prior disciplinary action imposed by the respondent's employer.

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5.

Prior warnings on record or prior remediation;

6.

Number and/or variety of current violations;

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Aggravating evidence;

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Mitigating evidence;

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Rehabilitation evidence;

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In the case of a criminal conviction, compliance with terms of the sentence and/or court-ordered probation;

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Overall criminal record;

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Time that has elapsed since the act(s) or offense(s) occurred;

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If applicable, evidence of expungement proceedings pursuant to Penal Code 1203.4.

14.

In determining appropriate certification disciplinary action, the LEMSA medical director may give credit for prior disciplinary action imposed by the respondent's employer.