



ISSUE MEMORANDUM

DATE	August 6, 2009
TO	SB 1441 Substance Abuse Coordination Committee
FROM	SB 1441 Uniform Standards Staff Working Group Kim Madsen, BBS
SUBJECT	SB 1441 Uniform Standard #11

SB 1441 REQUIREMENT

(11) Criteria that a licensee must meet in order to petition for return to practice on a full time basis.

DRAFT UNIFORM STANDARD #11

“Petition” as used in this standard is an informal request as opposed to a “Petition for Modification” under the Administrative Procedure Act.

The licensee shall meet the following criteria before submitting a request (petition) to return to full time practice:

1. Demonstrated sustained compliance with current recovery program.
2. Demonstrated the ability to practice safely as evidenced by current work site reports, evaluations, and any other information relating to the licensee's substance abuse.

DISCUSSION

The workgroup approached this standard by first defining the term “petition” as this term represents several different meanings depending on the circumstances and settings in which the term is used. For example, an individual whose license is restricted through a disciplinary order is afforded the opportunity under the Administrative Procedures Act (Government Code Section 11522) and individual board statutes to petition for modification of the terms and conditions imposed on the license after a specified time

period has passed. Therefore, the workgroup determined for the purposes of this standard, that the

term “petition” is an informal request by a licensee whose license has been restricted through another process.

The workgroup did not receive any written comment regarding this standard.

Several comments received during the public meeting indicated a desire for establishing a specific time period before the licensee may submit a petition.

The workgroup considered establishing a specific time period, however, each licensee’s situation is unique. Establishing a specific time period for all licensees to meet is problematic in that it in some circumstances it would be far too restrictive and in others far too lenient. The workgroup determined that demonstration of sustained compliance by licensee and the use of various reports, evaluations, and other information was a better measurement of a licensee’s ability to resume full time practice. Further, the procedures will allow a board the flexibility necessary in assessing a licensee’s ability to return to full time practice safely.

CONS

Adopting the recommended criteria for this standard pose no risk to public safety and is in accordance with DCA’s mandate to ensure consumer protection.

PROS

The criteria recommended by the workgroup are ones that can be followed in all cases. The criteria allow the licensee and board the flexibility in determining the licensee’s ability to safely resume full time practice while ensuring consumer protection.