

**Medical Board of California
Division of Medical Quality
Diversion Program
Alternate Version—Draft 7/16/07**

1. Amend section 1357.4 to read as follows:

1357.4 Causes for Denial of Admission

(a) The program manager shall deny an applicant admission to the program if the applicant either participated in the program within three years immediately preceding the date of application or has been disciplined in California, previously participated in the program as a condition of probation, and was terminated from the program as unsuccessful.

(b) The program manager may deny an applicant admission to the program for any of the following reasons:

(a1) The applicant does not meet the requirements set forth in Section 1357.1.

(b2) The applicant has been disciplined by another state medical licensing authority.

(c3) Complaints or information have been received by the division which indicate that the applicant may have violated a provision of the Medical Practice Act or committed any other act that would be grounds for discipline, excluding Sections 822 and 2239 of the code.

(d4) The committee recommends that the applicant will not substantially benefit from participation in the program or that the applicant's participation in the program creates too great a risk to the public health, safety or welfare.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2350 and 2354, Business and Professions Code.

2. Amend section 1357.5 to read as follows:

1357.5 Causes for Termination from the Program

(a) The program manager shall terminate a physician's participation in the program if the participant:

(a1) Fails or refuses to stop practice when directed to do so by the committee.

(b2) Fails or refuses to comply with an order for a clinical competency exam.

(3) Has had three relapses (as defined in section 1357.75) on or after the effective date of this subsection.

(b) The program manager may terminate a physician's participation in the program for any of the following reasons:

(a) (1) The physician has failed to comply with the diversion agreement, including but not limited to, failure to comply with the prescribed monitoring or treatment regimen, use of alcohol or other unauthorized drug; ~~or refusal to stop practice when directed to do so by the committee.~~

(b) (2) Any cause for denial of an applicant in Section 1357.4.

(c) (3) The physician has failed to comply with any of the requirements set forth in Section 1357.1.

(d) (4) The committee recommends that the physician will not benefit from further participation in or has not substantially benefited from participation in the program or that the physician's continued participation in the program creates too great a risk to the public health, safety or welfare.

Note: Authority cited: Sections 2018 and 2355, Business and Professions Code.

Reference: Sections 2350, 2351 and 2354, Business and Professions Code.

2. Adopt section 1357.75 in Article 2 of Chapter 2 of Division 13 to read as follows:

1357.75. Response to Relapses

(a) A relapse is defined as the unauthorized use of alcohol and/or drugs that has been confirmed either by a biological test or by admission of use by the participant or both.

(b) Upon notification by the program of a relapse, the participant shall immediately cease the practice of medicine until the participant has been deemed by the program manager to be safe to return to the practice of medicine.

(c) Every relapse shall be evaluated by the program manager, in consultation with the committee, to determine whether the participant meets the criteria set forth in section 1357.5 for termination from the program.

NOTE: Authority cited: Section 2018, Business and Professions Code.

Reference: Sections 2350, 2351 and 2354, Business and Professions Code.