

HSC 1798.200(c)(8)

Violating or attempting to violate any federal or state statute or regulation which regulates narcotics, dangerous drugs, or controlled substances.

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Recommended Guidelines for Disciplinary Orders and Conditions of Probation:

- Maximum Discipline: Revocation.
- Recommended Discipline: Revocation stayed, 60-day suspension, and 3-year probation with terms and conditions.
- Minimum Discipline: Revocation stayed, and 3-year probation with terms and conditions.
- Minimum Conditions of Probation: All Standard Conditions, and Optional Conditions 1, 2, 3, 4, and 10.

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Comparison to the California Medical Board:

- Conviction of drug violation, violation of drug statutes, excessive use of controlled substances, practice under the influence of narcotic(s).
 - Maximum Discipline: Revocation
 - Minimum Discipline: Revocation stayed, 60-day suspension or more, and 5-year probation.
- Illegal sales of controlled substances: Revocation.
- Prescribing to addicts: Revocation, or 60-day suspension, and 5-year probation.

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Comparison to the Board of Registered Nursing:

- B&P Code 2762 conviction of a criminal offense involving the prescription, consumption, or self-administration of narcotics, dangerous drugs, or alcohol, or the possession of, or falsification of a record pertaining to narcotics or dangerous drugs.
- Separated into sub violations:
 - Recommend revocation when nurse was under the influence, withheld, or substituted drugs while on the job.
 - For documented participation in an ongoing rehab program but not when under the influence/ withholding, or substitution of drugs on the job: Revocation stayed, with 3-year probation.
 - For conviction of falsification of records pertaining to controlled substances: Revocation stayed, and 3-year probation.

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Assembly Bill 2188

This bill added section 12954 to the California Government Code, part of the California Fair Employment and Housing Act found in *Cal. Government Code sections 12900-12999*.

This Act protects/safeguards the right and opportunity of all persons to seek, obtain, and hold employment or in housing accommodations without discrimination.

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An employer cannot discriminate on the basis of:

- Age
- Marital status
- Sex
- Gender
- Gender identity
- Gender expression
- Sexual orientation
- Race
- Color
- National Origin
- Ancestry
- Religious creed
- Physical disability
- Mental disability
- Medical condition
- Genetic information
- Reproductive health decision-making
- Military status
- Veteran status

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- Section 12954 adds an additional protection effective January 1, 2024:
 - An employer cannot discriminate in hiring, termination or any condition of employment, or otherwise penalize a person if the discrimination is based on:
 - Drug screening that found nonpsychoactive cannabis metabolites in hair, blood, urine, or other bodily fluids.
- The legislature found that metabolites of THC, while they indicate a person has consumed cannabis in the past few weeks, do not indicate impairment.
- The legislature then defined Tetrahydrocannabinol (THC) as the psychoactive component of cannabis because the presence of this substance can indicate impairment and cause psychoactive effects.

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- An employer can employ employment/pre-employment drug screening tests that do not screen for non-psychoactive cannabis metabolites.
- An employer can make employment decisions based on the results when the test screens for THC.

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- The statute does not restrict an employer from maintaining a drug and alcohol-free workplace as specified in section 11362.45 of the Health and Safety Code.
- The statute does not permit an employee to possess, be impaired by, or to use cannabis on the job.

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- The statute does not apply to:
 - Applicants/employees hired for positions that require a federal government background investigation or security clearance
 - OR
 - Employees in jobs receiving federal funding, or federal licensing-related benefits, or entering into a federal contract

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Senate Bill 700

Amended section 12954:

- Making it unlawful for an employer to request information from an applicant for employment relating to the applicant's prior use of cannabis

And from

- Using information about a person's prior cannabis use obtained from the person's criminal history unless the employer is permitted to consider or inquire about that information under section 12952 or other state or federal law.

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EMSA Central Registry System

- Requires all EMT-I, EMT-II, and EMT-P to submit fingerprint images to the authority for submission to the California DOJ for state and federal level criminal offender record information search for the following information:
 - Existence of and content of a record of State or Federal convictions
 - State or Federal arrests
 - Whether the person is free on bail or on own recognizance pending trial or appeal
 - Information on subsequent arrests

HSC 1797.117 and 1797.118

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What is the Inquiry?

- Not a determination of employer/employee conduct under the Fair Employment and Housing Act.
- The inquiry is whether a federal or state statute or regulation was violated or whether there was an attempted violation.
- If there is a violation:
 - EMSA/ALJs/PDRB apply the disciplinary guidelines.

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Prohibition on use of controlled substances/alcohol when on probation:

- Not a determination of employer/employee conduct under the Fair Employment and Housing Act.
- If the licensee is on probation and must abstain from use, the licensee will be prohibited from using cannabis the same as if prohibited from using alcohol.

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The Board shall develop and implement progressive discipline to aid in considering appeals of licensure which shall include all of the following:

1. The nature and duties of a paramedic.
2. The time that has elapsed since the licenseholder's offense.
3. The nature and gravity of the offense.
4. The employer-imposed discipline for the offense.
5. The licenseholder's prior disciplinary record.
6. Mitigating evidence.

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7. Prior warnings to the licenseholder on record or prior remediation.
8. The actual harm to the patient and the actual harm to the public.
9. Evidence of the licenseholder's rehabilitation.
10. Evidence of an expungement proceeding, if applicable.
11. The licenseholder's compliance with the terms of their sentence or a court order, if criminally convicted.
12. Aggravating evidence.
13. The licenseholder's overall criminal record.

HSC 1797.125.07(b)

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Determining whether a violation or attempted violation has occurred is a fact-based inquiry.

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Most cases where a (c)(8) violation is charged involve the following types of violations or attempted violations:

- Theft of medications.
- Use of medications without prescriptions in violation of HSC 11350.
- Possession of controlled substances.
- One case of violation of HSC 11359, unlawful possession of marijuana for the purpose of sale, based on home-based marijuana grow operation.

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A (c)(9) violation is charged as well for:

- Appearing under the influence at work,
- Positive drug tests, and
- Charges of driving under the influence

Many times, other violations are charged as well, such as violation of (c)(5), (c)(6), and/or(c)(11).