

DENTAL BOARD OF CALIFORNIA

LEGISLATIVE PROPOSAL TO AMEND BUSINESS AND PROFESSIONS CODE SECTIONS 1628.7, 1686, 1718.2, AND 1718.3 REGARDING PROBATIONARY LICENSES, PETITIONS FOR REINSTATEMENT, TERMINATION, OR MODIFICATION OF PENALTY, AND CANCELLED LICENSES AND PERMITS

Proposed amendments are indicated in *blue italic* for new text and ~~red strikethrough~~ for deleted text.

Amend Business and Professions Code Section 1628.7 as follows:

1628.7. (a) The board may deny licensure to any applicant who is guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of their license. The board may, upon an applicant's successful completion of the board's licensure requirements, in its sole discretion, issue a probationary license to an applicant for licensure as a dentist or dental auxiliary. The board may require, as a term or condition of issuing the probationary license, the applicant to do any of the following, including, but not limited to:

- (1) Successfully complete a professional competency examination.
- (2) Submit to a medical or psychological evaluation.
- (3) Submit to continuing medical or psychological treatment.
- (4) Abstain from the use of alcohol or drugs.
- (5) Submit to random fluid testing for alcohol or controlled substance abuse.
- (6) Submit to continuing participation in a board-approved rehabilitation program.
- (7) Restrict the type or circumstances of practice.
- (8) Submit to continuing education and coursework.
- (9) Comply with requirements regarding notification to employer and changes of employment.
- (10) Comply with probation monitoring.
- (11) Comply with all laws and regulations governing the practice of dentistry.
- (12) Limit practice to a supervised structured environment in which the licensee's activities shall be supervised by another dentist.
- (13) Submit to total or partial restrictions on drug prescribing privileges.

(b) The board shall provide the decision placing the applicant on probation in plain view on the board's internet website.

(c) Unless otherwise specified by the board, the term of probation shall be for three years and the licensee may petition the board for early termination, or modification of a *term or* condition of, the probation in accordance with ~~subdivision (b) of~~ Section 1686.

(d) An applicant shall not be eligible to reapply for licensure for a minimum of one year from the effective date of the denial of their application.

(e) Upon successful completion of all terms and conditions of probation or termination of the probationary terms and conditions pursuant to subdivision (c), the board may issue an unrestricted license to the licensee.

(f) Adjudication under the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not be required to issue a probationary license pursuant to subdivision (a).

Amend Business and Professions Code Section 1686 as follows:

1686. *(a) Except as provided under subdivision (d), a* A person whose license, ~~certificate,~~ or permit has been revoked, *surrendered,* ~~or~~ suspended, ~~who has been~~ *or* placed on probation, ~~or whose license, certificate, or permit was surrendered pursuant to a stipulated settlement as a condition to avoid a disciplinary administrative hearing,~~ may petition the board for reinstatement or ~~modification of penalty, including~~ modification or termination of probation, after a period of not less than the following minimum periods have elapsed from the effective date of the decision ordering disciplinary action:

~~(a) (1) Except as provided under paragraph (3), at~~ *At* least three years for reinstatement of a ~~revoked or surrendered~~ license ~~revoked for unprofessional conduct or surrendered pursuant to a stipulated settlement as a condition to avoid an administrative disciplinary hearing.~~

~~(b) (2) At least two years for early termination,~~ ~~or modification of a condition,~~ of a probation of three years or more.

~~(c) (3) At least one year for~~ ~~modification of a condition,~~ ~~or~~ reinstatement of a license revoked *pursuant to Section 822 or surrendered pending proceedings initiated under Article 12.5 (commencing with Section 820)* for mental or physical illness, ~~or termination, or modification of a condition, of a probation of less than three years.~~

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

(5) At least one year for modification of a term or condition of probation.

(b) The petition shall state any fact required by the board, and upon request of the board, the petitioner shall submit a full set of classifiable fingerprints for purposes of conducting

a criminal history record check and undergo a state and federal criminal offender record information search conducted through the Department of Justice, pursuant to subdivision (u) of Section 11105 of the Penal Code. The Department of Justice shall provide a state or federal response to the board pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(c) A petition under this section shall not be considered if:

(1) The petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole.

(2) A complaint, investigation, or enforcement action is pending against the petitioner.

(3) The petition was filed within a period of one year from the effective date of the prior decision issued by the Board or the date of submission of a prior petition submitted under this section.

(d) A certificate or permit issued pursuant to Sections 1638.1, 1646.2, 1647.3, 1647.20, or 1647.32 that was revoked or surrendered shall not be reinstated. If a petitioner seeks issuance of such certificate or permit, the petitioner shall apply for a new certificate or permit once the dentist license is fully restored.

(e) The petition may be heard by the board, or ~~the board may assign the petition to~~ an administrative law judge ~~designated in~~ assigned pursuant to Section ~~11371~~ 11370.3 of the Government Code.

(f) In considering reinstatement or modification of penalty, the board or the administrative law judge hearing the petition may consider (1) all activities of the petitioner since the disciplinary action was taken, (2) the offense for which the petitioner was disciplined, (3) the petitioner's activities during the time the license, ~~certificate~~, or permit was in good standing, and (4) the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the board or the administrative law judge ~~as designated in Section 11371 of the Government Code~~ finds necessary.

(g) A revoked or surrendered license or permit that has been expired for five years or more shall not be reinstated unless the petitioner submits proof of competency to practice under the license or permit. Proof of competency to practice may include any or all requirements for issuance of a new license or permit, as applicable.

*(h) The board or the administrative law judge may impose necessary terms and conditions on the licensee ~~or permitholder~~ in reinstating a license, ~~certificate~~, or permit or modifying a penalty. *The terms and conditions imposed for reinstatement of a license or permit shall include payment of all outstanding costs of investigation and enforcement awarded pursuant to Section 125.3 in the prior decision. If the license or permit has been expired for at least five years and proof of competency to practice has not been shown pursuant**

to subdivision (g), the petitioner shall be required to satisfy terms and conditions precedent to reinstatement that demonstrate the petitioner's competency to safely practice.

(i) If the petitioner fails to satisfy any term or condition precedent to reinstating the license or permit by the deadline required in the term or condition, the petition shall be deemed abandoned, and the license or permit shall not be reinstated as ordered by the decision. The board, or its representative, may extend the deadline to satisfy the term or condition on a case-by-basis only if the petitioner requests an extension of the deadline prior to the deadline expiration. A deadline to satisfy a term or condition precedent to reinstatement of the license or permit shall not be extended for more than 180 days.

~~A petition under this section 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 person. The board may deny without a hearing or argument any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section.~~

(j) This section shall not be deemed to alter Sections 822 and 823.

Amend Business and Professions Code Section 1718.2 as follows:

1718.2. A revoked *or surrendered* license is subject to expiration as provided in this article, but it may not be renewed. If it is reinstated after its expiration, the licensee, ~~as a condition precedent to its reinstatement,~~ shall *satisfy the following, as applicable:*

(a) As a condition precedent to reinstatement, pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

(b) Pay all outstanding costs of investigation and enforcement awarded pursuant to Section 125.3, payment of which may be required as a condition precedent to reinstatement or pursuant to a payment plan approved by the Board or its designated agent .

Amend Business and Professions Code Section 1718.3 as follows:

1718.3. A license that is not renewed within five years after its expiration shall be canceled and shall not be renewed, restored, ~~reinstated,~~ or reissued thereafter, but the holder of the license may apply for and obtain a new license if the following requirements are satisfied:

(a) No fact, circumstance, or condition exists which would justify denial of licensure under Section 480.

(b) The licenseholder pays all of the fees that would be required if the licenseholder were then applying for the license for the first time and all delinquency fees, if any, that have accrued since the date on which the licenseholder last renewed the license. Delinquency fees shall not accrue after the license has been canceled pursuant to this section.

(c) The licenseholder applies for licensure, as a new applicant, through one of the available licensing pathways under this division and meets all the requirements for licensure outlined therein.

(d) For purposes of subdivision (c), a licenseholder who was previously eligible for examination pursuant to subdivision (e) of Section 1628 shall be eligible to take the examination required by Section 1632 pursuant to the terms of subdivision (e) of Section 1628.