

Item: 2018 Board Sponsored Proposed Legislation

Item Summary: In accordance with the Board's recently drafted Strategic Plan 2017-2021, draft legislative language is submitted for the Board's review and approval to pursue securing the language in a legislative bill during the 2018 legislative session.

- Board Action:**
1. President calls the agenda item and it is presented by or as directed by the President.
 2. President requests motion:
 - to move forward with proposals to secure placement in a legislative bill and grant the Executive Committee authority to make non substantive changes if necessary;
 - any other appropriate motion.
 3. President requests a second to motion (if not already made).
 4. Board member discussion/edits (if applicable).
 5. Inquire for public comment / Further Board discussion as applicable
 6. Repeat motion and vote: 1) aye, in favor, 2) no, not in favor, or 3) abstain

Petitions for Reinstatement: Passage of Current Licensing Examination

Seek legislation to require an individual petitioning for reinstatement of licensure to pass the current licensing exams to ensure competency at the current minimum required level. (enf3)

Section 3751 of the Business and Professions Code is amended to read:

3751. (a) A person whose license has been revoked, surrendered, or suspended, or placed on probation, may petition the board for reinstatement, modification, or termination of probation, provided the person has paid all outstanding fees, fines, and cost recovery in full, and monthly probation monitoring payments are current.

(b) A person petitioning for reinstatement of his or her license that has been revoked or surrendered for three or more years shall also meet the current education and examination requirements required for initial licensure.

(c) A petition may be filed only after a period of time has elapsed, but not less than the following minimum periods from the effective date of the decision ordering that disciplinary action:

(1) At least three years for reinstatement of a license that has been revoked or surrendered.

(2) At least two years for early termination of probation of three years or more.

(3) At least one year for modification of a condition, or reinstatement of a license revoked or surrendered for mental or physical illness, or termination of probation of less than three years.

(d) The petition shall state any facts as may be required by the board. The petition shall be accompanied by at least two verified recommendations from licensed health care practitioners who have personal knowledge of the professional activities of the petitioner since the disciplinary penalty was imposed. The board may accept or reject the petition.

(e) Written or oral argument may be provided by the petitioner or, at the request of the board, by the Attorney General. Unless the board or the petitioner requests the presentation of oral argument, the petition shall be considered and voted upon by mail. If the petitioner or the board requests the opportunity for oral argument, the petition shall be heard by the board or the board may assign the petition to an administrative law judge.

(f) Consideration shall be given to all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the license was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability.

(g) The board may deny the petition for reinstatement, reinstate the license without terms and conditions, require an examination for the reinstatement, restoration, or modification of probation, or reinstate the license with terms and conditions as it deems necessary. Where a petition is heard by an administrative law judge, the administrative law judge shall render a proposed decision to the board denying the petition for reinstatement, reinstating the license without terms and conditions, requiring an examination for the reinstatement, or reinstating the license with terms and conditions as he or she deems necessary. The board may take any action with respect to the proposed decision and petition as it deems appropriate.

(h) No petition shall be considered under either of the following circumstances:

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

(2) If an accusation or a petition to revoke probation is pending against the person.

(i) The board may deny without a hearing or argument any petition filed pursuant to this section within a period of three years from the effective date of the prior decision.

(j) Petitions for reinstatement shall include a processing fee equal to fees charged pursuant to subdivisions (a) and (h) of Section 3775. In addition, petitions for reinstatement that are granted shall include a fee equal to the fee charged pursuant to subdivision (d) of Section 3775, before the license may be reinstated.

(k) Nothing in this section shall be deemed to alter Sections 822 and 823.

(Amended by Stats. 2005, Ch. 658, Sec. 15. Effective January 1, 2006.)

Probation Monitoring Monthly Costs

Seek legislation to clarify that once an applicant is placed on probation, the applicant is subject to monthly probation monitoring costs in order to recover costs associated with monitoring probationers that are newly licensed. (enf11)

Section 3753.1 of the Business and Professions Code is amended to read:

3753.1. (a) An administrative disciplinary decision and order imposing terms of probation may shall include, among other things terms and conditions, a requirement that the licensee-probationer pay the monetary costs associated with monitoring the probation.

(b) For purposes of this section, probationer means any applicant or licensee placed on board probation through an administrative order resulting from the filing of a statement of issues, accusation, petition for reinstatement, or any other similar pleading.

~~(b)~~ (c) The board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section once a licensee has served his or her term of probation.

(Amended by Stats. 2002, Ch. 1150, Sec. 31. Effective January 1, 2003.)

Examination Name Clarification

Seek a legislative amendment to accurately reflect the name(s) of examinations for licensure to ensure clarity in the law. (org3)

Section 3735 of the Business and Professions Code is amended to read:

3735. (a) Except as otherwise provided in this chapter, an applicant shall not receive a license under this chapter without first successfully passing all parts of the national registered-respiratory therapist examination: the National Board for Respiratory Care's Therapist Multiple-Choice Examination, at the cut-off level required to qualify for the Clinical Simulation Examination, and Clinical Simulation Examination, or any succeeding exam(s)

(b) Notwithstanding subdivision (a), any person applying for licensure who provides evidence that he or she passed the national Certified Respiratory Therapist examination or Written Registry Exam prior to January 1, 2015, shall ~~not be required to pass the national registered-respiratory therapist examination;~~ be deemed to have met the exam requirement, provided if there is no evidence of prior license or job-related discipline, as determined by the board in its discretion.

(Amended by Stats. 2014, Ch. 179, Sec. 2. Effective January 1, 2015.)