



TO: Petitioners for Reinstatement of License or Reduction of Penalty

FROM: Board of Registered Nursing – Decisions and Appeals Unit

SUBJECT: Process for Filing a Petition

Persons who wish to have their registered nurse licenses reinstated or who wish to have a reduction of Board-imposed penalties must petition the Board of Registered Nursing.

The purpose of filing a petition is to give you, the Petitioner, an opportunity to provide proof to the Board that it will be *safe for consumers* if your license is reinstated or if your petition for reduction of penalty is granted. **The burden of proof is on you.**

The process for filing a petition requires that you submit an application, provide evidence of rehabilitation, and personally appear before the Board or its designee.

To assist you in preparing your petition, the following items are attached:

- Summary of statutes related to petition process
- Instructions for filing a petition for reinstatement or reduction of penalty
- Instructions for submitting fingerprint cards and Live Scan **(For reinstatements only)**
- Petition form

Please carefully review the instructions for filing a petition prior to completing the petition form and prior to your hearing.

If you have any questions regarding the procedure for filing a petition or if you change your mailing address during the process, please contact:

BOARD OF REGISTERED NURSING
ATTN.: Board Hearing Coordinator
PO Box 944210
Sacramento, CA 94244-2100

OR

BRNPetitioners@dca.ca.gov

CALIFORNIA BOARD OF REGISTERED NURSING

Statutes Related to Reinstatement of License or Reduction of Penalty

Business and Professions Code Section 2760.1 governs reinstatement of licenses and reduction of penalty. Key portions of the law are summarized as follows:

CLEAR AND CONVINCING EVIDENCE

The **burden of proof is on the petitioner** to establish clear and convincing evidence that he or she is entitled to have the petition granted. The Board may grant or deny the petition, or may impose any terms and conditions that it reasonably deems appropriate as a condition of reinstatement or reduction of penalty.

TIME FRAMES FOR PETITIONS

In order to qualify to petition the Board, the following time periods must elapse after the effective date of the Board's disciplinary decision:

- Three years for reinstatement of a revoked license, unless the Board decision specified a different period of time.
- Two years for early termination of a probation period of three years or more.
- One year for modification of a condition of probation or termination of probation of less than three years.
- One year for reinstatement of a license which was revoked for impairment due to mental or physical illness. (Business and Professions Code Section 822)

CONDITIONS WHEN PETITION IS PROHIBITED

No petition can be considered by the Board if the following conditions exist:

- Petitioner is under sentence for any criminal offense, including any period of court-imposed probation or parole.
- Petitioner is subject to an order of registration as a sex offender pursuant to Section 290 of the Penal Code.
- There is an accusation or petition to revoke probation pending against petitioner.

FILING SUBSEQUENT PETITIONS

A petition may be filed two years after the effective date of the decision in a prior petition hearing. However, the Board, in its discretion, may deny without hearing or argument the subsequent petition within two years of the effective date of the prior petition decision, unless the petitioner had been disciplined for a violation of Section 822 (impairment due to mental or physical illness).

Instructions for Filing a
Petition for Reinstatement or
Reduction of Penalty of One or More
Probation Conditions
or Early Termination of Probation

State of California
Department of Consumer Affairs



BOARD OF REGISTERED NURSING

1747 N. Market Blvd, Suite 150
Sacramento, CA 95834-1924

These instructions should be followed when you file a petition with the Board of Registered Nursing (Board) to reinstate your registered nursing (RN) license after it has been revoked/surrendered or to reduce a Board-imposed penalty. Reduction of penalty includes early termination of the probation period **or** modification of one or more conditions of probation.

The burden of proof is on you to establish by clear and convincing evidence that you are entitled to have your petition granted under California law. It is **your responsibility**, as the Petitioner, to provide the Board with sufficient evidence to establish that it will be **safe for consumers** if your petition is granted. You must show that you are sufficiently rehabilitated and competent to safely practice nursing.

If you are currently on Board-imposed probation, you must produce all appropriate documentation as evidence of your rehabilitation. Your probation records will **not** be provided to the Board. Your probation monitor will submit a summary report of your compliance with probation.

PROCESS FOR FILING A PETITION

1. **Q. How do I file a petition with the Board?**

A. 1. Submit the following items to the Board:

- The attached "Petition For Reinstatement or Petition for Reduction of Penalty Modification of One or More Probation Conditions or Early Termination of Probation" form, completely and accurately filled out and **signed**.
- Completed Check List
- Documents to support your current nursing competence and rehabilitation.
- Second copy of live scan form once fingerprints have been scanned. **(For reinstatements residing in California)**
Or
- The attached completed fingerprint cards and fee. **(For reinstatements residing outside of California)**
- Submit your petition and supporting documentation to:
Board **Mailing** Address:

Board of Registered Nursing
Attn: Decisions and Appeals Unit
P.O. Box 944210
Sacramento, CA 94244-2100

Street Address for overnight or in-person delivery:

Board of Registered Nursing
Attn: Decisions and Appeals Unit
1747 N. Market Blvd., Suite 150
Sacramento, CA 95834-1924

Scan and **Email** your petition to:

BRNPetitioners@dca.ca.gov¹

When submitting by email and living out of state, please submit finger print cards via mail with a copy of your petition application and a check for \$49.00.

2. Appear at a hearing before the Board or an Administrative Law Judge (ALJ) to present evidence of your rehabilitation and competency.

EVIDENCE

Evidence is the information that you submit to substantiate your request, including documentation and testimony.

1. **Q. What kinds of evidence are appropriate to present?**
 - A. The following documents are **examples** of appropriate evidence which may be helpful in demonstrating your rehabilitative efforts and competency. Documents should be recent and dated. The list is not intended to be comprehensive, and you are not limited to these examples. You should submit evidence that is relevant to the violation that led to the discipline of your license and your subsequent rehabilitation.
 - a. Written statements from employers and persons in positions of authority who have on-the-job knowledge of your work performance. For probationers and out-of-state licensees who have practiced nursing subsequent to their disciplinary action, the statements should report on your current nursing competency.
 - b. Performance evaluation(s) from your current and recent employers.
 - c. Letters from counselors regarding your participation in rehabilitation or recovery program, where appropriate. These should include a description of the program, the number of sessions you have attended, the counselor's diagnosis and prognosis of your condition in relation to safety to practice, current state of rehabilitation (or improvement), the counselor's basis for determining improvement, and the credentials of the counselor.
 - d. Letters describing your participation in support groups, e.g., Alcoholics Anonymous, Narcotics Anonymous, Nurse Support Groups, etc., where appropriate. Letters should include dates and frequency of attendance and documentation of attendance such as sign in-sheets.
 - e. Laboratory analyses or drug screen reports, where appropriate.

¹ Please note that packets submitted via mail and e-mail could potentially be intercepted by third parties. Although interception of such communications by a third party would constitute a violation of federal law, we can offer no assurance that such interception will not occur.

- f. Letters from counselors, therapists, psychologists, or psychiatrists regarding any participation in therapy as part of your rehabilitation efforts. Letter should include time period and frequency of sessions, diagnosis and prognosis in relation to safety to practice, credentials of counselor, and any other relevant information.
- g. Physical and/or mental examination or assessment report by a licensed physician, psychiatrist, or psychologist related to your rehabilitation and safety to practice. If your license was revoked as a result of impairment due to mental or physical illness, the law requires competent evidence of the absence or control of the condition which caused Board action. (Business & Professions Code Section 822)
- h. Certificates of completion or transcripts of courses related to nursing which you may have completed since your license was disciplined. **If your RN license has been revoked, you no longer have a valid license and cannot use your former RN license number when registering for courses.**
- i. Letters or proof of community and volunteer work or other activities which may be appropriate or relevant to demonstrating rehabilitation from the acts which led to discipline.
- j. Proof of compliance with and completion of court imposed probation or parole, proof of expungement, or other evidence related to criminal convictions.

2. **Q. Will the Board contact people who submit documents on my behalf?**

A. The Board reserves the right to contact individuals who submit documents on your behalf to verify the information.

3. **Q. If I am petitioning for reduction of penalty, will all my probation records be sent to the Board Members?**

A. No. The Board Probation Monitor will only summarize your compliance with probation for the Board Members. It is your responsibility to obtain and submit all documents you wish to provide as evidence.

HEARING

Petitions are heard by the members of the Board or an ALJ in a formal administrative hearing that resembles a court proceeding. At your hearing, you have an opportunity to present evidence of your rehabilitation and competency.

1. **Q. How is the hearing conducted?**

A. **If your petition is heard by the Board:**

An ALJ will preside over the hearing proceedings. The Board members of the Board of Registered Nursing will hear and rule on your petition. You will sit at a table in front of the Board and the ALJ. A Deputy Attorney General (DAG) from the Office of the California Attorney General will represent the State. The DAG will make a preliminary statement outlining all disciplinary actions which have been taken against your license, and describe

the documents you have submitted into evidence. The DAG may ask you questions about your violation and discipline, and efforts you have undertaken to rehabilitate yourself.

If your petition is heard by an Administrative Law Judge:

An ALJ will hear and rule on your petition. You will sit at a table in front of the Administrative Law Judge. A DAG from the Office of the California Attorney General will represent the State. The DAG will make a preliminary statement outlining all disciplinary actions which have been taken against your license, and describe the documents you have submitted into evidence. The DAG may ask you questions about your violation and discipline, and efforts you have undertaken to rehabilitate yourself.

2. **Q. What will I be expected to do?**

A. You will be sworn under oath by the judge who will ask you to state in your own words what you have done to rehabilitate yourself and to maintain current nursing knowledge and skills. **Be prepared to make an oral presentation at this point which includes such a statement.** The Board members, the judge, and the DAG may ask questions to clarify your statement or elicit additional information regarding your rehabilitation and current competency.

3. **Q. May I be represented at the hearing by an attorney?**

A. Yes, but it is not required. You may represent yourself or you may be represented by an attorney.

4. **Q. May I have persons come to speak on my behalf?**

A. Yes. However, their testimony and yours should be directed specifically toward your nursing competence and/or rehabilitation. You may choose to bring family members or friends for support even if they do not testify.

5. **Q. What if I don't agree with the disciplinary action that was taken against my license and don't feel that I need to be rehabilitated?**

A. Your burden is to prove to the Board or the ALJ that it will be **safe for consumers** if your petition is granted. You can do this by focusing on presenting evidence of the positive steps you have taken towards rehabilitation since your license was revoked or placed on probation.

6. **Q. Will there be an audience at my hearing?**

A. Yes, when appearing before the Board, the hearing will be conducted at a public meeting of the Board. The number in attendance varies from 50-200 people. When appearing before the ALJ, there may also be members of the public present as it is considered a public hearing.

7. **Q. May I attend a petition hearing heard by the Board, to observe in order to know what to expect?**

A. Yes. Petition hearings are open to the public and you may attend one to observe in preparation for your own hearing date. The Board Meeting schedule is located on our website at <http://rn.ca.gov/consumers/meetings.shtml> and you may contact the Board for

more specific information about a meeting you may wish to observe. Petition hearings are conducted on the first day of each Board meeting.

8. **Q. How is the date and place for my hearing decided?**

A. Petitions are scheduled on the first day of each Board meeting. Petitioners are scheduled for the first available meeting in the order that the petitions are received. The Board Hearing Coordinator will contact you 30 to 60 days prior to a scheduled meeting to see if you wish to attend and/or to select an alternate date. OR you may be contacted by the DAG if your petition is going to be heard by an ALJ.

9. **Q. When will I know the exact date, time, and location for the hearings?**

A. **If you are appearing before the Board:**

Approximately 30 days prior to the Board meeting you will receive a formal "Notice of Hearing" stating the date, time, and place at which you are to appear. Several cases will be scheduled on the hearing docket and it is not possible to know how long each case will last. Therefore, you need to be prepared to remain throughout the day depending on the number and length of cases and in which order they are scheduled.

If you are appearing before an ALJ:

The DAG will send you a formal "Notice of Hearing" stating the date, time, and place at which you are to appear.

10. **Q. Is there a contact person I must check in with when I arrive at the hearing?**

A. Yes. Staff from the Board of Registered Nursing or the DAG will meet you. You should check in with him or her so the Board/ALJ knows you are present.

11. **Q. What happens if I am put on the agenda to be heard, but something prevents my attending?**

A. If you find that you cannot attend your hearing before the Board, you must call the Board's Decisions and Appeals Unit immediately or email BRNPetitioners@dca.ca.gov and notify the Board Hearing Coordinator, and request that your Board hearing be re-scheduled. If you do not notify the Board within 15 days of your hearing, you may need to resubmit your petition. Additionally, if you do not notify the Board before the beginning of the hearing, you may be considered absent and your petition may be **deemed denied**. You will then have to **wait one year to be heard**.

If you find that you cannot attend your hearing before the ALJ you must call the DAG. You may also have to submit in writing to the Office of Administrative Hearings a request for continuance that will need to be ruled on by an ALJ.

BOARD'S DECISION

1. **Q. When will I be notified of the Board's decision regarding my petition?**

A. The Board's **decision** to grant or deny your petition is usually mailed to petitioners within approximately eight to ten weeks. **THE DECISION IS NOT FINAL UNTIL THIS LEGAL DOCUMENT IS MAILED TO YOU.**

2. **Q. a) If my license is reinstated, will I have any restrictions on my license?**
b) Will I have to retake the national licensing exam?
- A. a) Yes. If the you are granted reinstatement, the license is usually placed on probation with terms and conditions.
- b) Under certain conditions, you may be required to retake the licensing exam (NCLEX). If your license has been revoked/surrendered or delinquent for eight years or more, Board regulation requires that you re-take and pass the NCLEX examination. You may also be required to re-take the NCLEX as a condition of reinstatement if it has been less than eight years since revocation/surrendering or license expiration, if deemed appropriate for your case.
3. **Q. If my request is not granted, may I petition again?**
- A. Yes. You may petition again **two years after the effective date** of the decision to deny your petition, unless a different time frame is specified.
4. **Q. If I have questions about why my petition was denied, who do I contact for further information?**
- A. The decision provides the reasons for the determination. Board staff cannot provide **more information than that which is provided in the decision**. If you have any questions about compliance with the decision, you may contact the Board Hearing Coordinator.