



## PETITION FOR EARLY TERMINATION OF PROBATION PROCESS

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### **Background:**

Business and Professions Code section (Section) 2760.1 allows for licensees placed on probation to petition for early termination of their probation. If petitioners meet the requirements to petition, all petitions are reviewed and processed. \* There are two possible processes for the petitioners – attending a hearing or entering into a stipulated settlement terminating the probation. These two processes are outlined along with the general petition process below.

### **Initial Review:**

Upon receipt of a Petition for Early Termination, Decisions and Appeals staff conducts an initial review. The initial review determines whether the petition is complete and whether it meets statutory requirements to move forward. This process generally takes two weeks to complete.

### **Determination of Processing:**

If the petition is deemed complete and eligible under statutory requirements, the petition is forwarded to the Probation Monitor to determine if a hearing is required or if a stipulated settlement will be offered to terminate the probation. A stipulated settlement is an agreement between both parties to end the probation. As the Board's mission and priority is public safety and welfare, a licensee is not entitled to a stipulated settlement; a stipulated settlement will only be offered if the Probation Monitor indicates a stipulated settlement is appropriate.

The Probation Monitor will review the petition and probation performance and determine whether a hearing or stipulated settlement is appropriate. A Compliance Report will be generated and sent back to the Decisions and Appeals Unit along with the petition and any violation notices. This process typically takes six weeks to complete.

### **Hearing:**

In the event a hearing is required, the Decisions and Appeals Unit will transmit the Compliance Report, violation notices, and petition to the regional Deputy Attorney General's office closest to the residence of the petitioner. A Deputy Attorney General will be assigned to the petition and will confer with the petitioner to determine a date that is available for all parties. The Deputy Attorney General will then set the hearing with the Office of Administrative Hearings. A hearing will typically

\* Pursuant to Section 2760.1(j), except where the petitioner has been disciplined pursuant to Section 822, the board may, in its discretion, deny without hearing or argument any petition that is filed within a period of two years from the effective date of a prior decision following a hearing on the prior petition.

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occur between 4-6 months from the time a petition is submitted to the Board.

Due to COVID-19, all hearings are being conducted via teleconference at this time. However, the decision to allow teleconference hearings is solely at the discretion of the Office of Administrative Hearings. As such, hearings may resume as in-person hearings at any time. On the scheduled date of the hearing, the petitioner will appear in front of an Administrative Law Judge and offer oral testimony in addition to their supporting documents submitted with the petition. The Deputy Attorney General will represent the People of the State of California. The Deputy Attorney General will ask relevant questions regarding the petition. The Deputy Attorney General's role is to ensure the Administrative Law Judge has adequate information to issue an appropriate Proposed Decision granting or denying the petition. The Administrative Law Judge may ask their own questions as well. The Administrative Law Judge will write a Proposed Decision based upon the petition, including oral testimony and documents submitted with the petition.

The Administrative Law Judge has 30 days to submit a Proposed Decision to the Board for review.

Upon receipt of the Proposed Decision, the Board will review and decide whether to adopt the Proposed Decision as written within 100 days pursuant to Government Code Section 11517(C)(2). If the Board votes to adopt the Proposed Decision, staff will generally process an order adopting the Proposed Decision within two weeks.

If the Proposed Decision grants the petition to terminate probation early, an order will be issued and mailed to the petitioner. ***Probation conditions are still in effect until the effective date of the Order.***

If the Proposed Decision denies the petition to terminate probation early, an order will be issued and mailed to the petitioner. Petitioner may petition for reconsideration at any point prior to the effective date of the decision.

### **Stipulated Settlement:**

In the event a stipulated settlement is deemed appropriate, the Decisions and Appeals Unit will transmit the Compliance Report, violation notices, and petition to the regional Deputy Attorney General's office closest to the residence of the petitioner. A Deputy Attorney General will be assigned to the petition. The Deputy Attorney General may draft a Stipulated Settlement to terminate probation and offer it to the petitioner. Once the settlement is signed, the Deputy Attorney General will transmit it to the Decisions and Appeals Unit. This process typically takes 6-8 weeks.

Upon receipt of the Stipulated Settlement, the Decisions and Appeals Unit will transmit the settlement and petition to the Board Members. Settlements are sent to the Board Members for review on a weekly basis. The Board typically takes one week to review the settlement. If the Board votes to adopt the stipulated settlement, Decisions and Appeals staff will process the adoption. An order will be issued and mailed to the petitioner. This process typically takes two weeks.

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***Stipulated Settlements are not effective and binding, even if signed by both parties, unless approved by the Board, and not until the effective date of an order adopting the Stipulated Settlement. Probation conditions are still in effect until the effective date of the Order.***

Stipulated Settlements are not offered if any of the following factors exist:

- Petitioner owes cost recovery
- Petitioner's probation has been extended for any reason
- Petitioner has not completed the six-month work requirement
- Petitioner's probation is tolled less than ten years

Any probation violation is taken into consideration when determining if a stipulated settlement is appropriate and may disqualify a petitioner from being offered a stipulated settlement.