

INSTRUCTIONS FOR COMPLETING AN OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA PETITION FOR PENALTY RELIEF

Prior to completing the Petition package, ensure that you qualify to submit a Petition at this time. Review the time frames for the three different types of Petitions below. If you do qualify to petition, please read all these instructions thoroughly. Type or print your answers clearly. If an item does not apply, enter "N/A." Attach a separate sheet of paper if additional space is needed to answer a question. Petitions that are not legible, fully completed, or not prepared in accordance with these instructions will be returned.

- (1) **Petition for Reinstatement** - For those disciplinary orders issued prior to January 1, 2024, a person may file a Petition for Reinstatement after a period of at least three (3) years has elapsed from the effective date of the surrender or revocation. For those disciplinary orders issued **on or after January 1, 2024**, a person may file a Petition for Reinstatement after a period of at least five (5) years has elapsed from the effective date of the surrender or revocation. If the reinstatement is due to a license surrender or revocation for mental or physical illness, a person may file a Petition for Reinstatement after one (1) year has elapsed from the effective date of the disciplinary order.
- (2) **Petition for Early Termination of Probation** - For those disciplinary orders issued prior to January 1, 2024, if the ordered period of probation is three (3) years or more, a person may file a Petition for Early Termination of Probation after serving at least two (2) years of their probation term. For those disciplinary orders issued **on or after January 1, 2024**, a person may file a Petition for Early Termination of Probation after serving at least two (2) years of their probation term or more than one-half (1/2) of their probation term, whichever is greater. For all disciplinary orders, if the ordered period of probation is less than three (3) years, a person may file a Petition for Early Termination of Probation after one (1) year has elapsed from the effective date of the disciplinary order.
- (3) **Petition for Modification** - A person may file a Petition for Modification when at least one year has elapsed from the effective date of the disciplinary action or the date the license was issued in probationary status.

If you meet any one of the criteria described above, your Petition package must specify the facts and be accompanied by at least two verified recommendations from physicians and surgeons licensed in any state who have personal knowledge of your activities since the effective date of the disciplinary order. You must also provide a narrative statement with your Petition package (see instructions below).

The Board may deny without a hearing or argument any Petition filed within a period of three (3) years from the effective date of the prior decision following a Petition hearing.

No Petition will be considered if:

- (1) you are under sentence for any criminal offense, including any court-imposed probation or parole, or
- (2) an accusation or petition to revoke probation is currently pending or is filed against you after you submitted a Petition for Early Termination and/or Modification of Probation.

No Petition for Reinstatement will be considered if:

- (1) you surrendered based on commission of an act of sexual abuse, misconduct, or relations with a patient, or sexual exploitation,
- (2) revocation was based on a finding by the Board that you committed an act of sexual abuse, misconduct, or relations with a patient, or sexual exploitation,
- (3) you were convicted in a court in or outside of this state of any offense that, if committed or attempted in this state, based on the elements of the convicted offense, would have been punishable as one or more of the offenses described in subdivision (c) of Section 290 of the Penal Code, and you engaged in the offense with a patient or client, or with a former patient or client if the relationship was terminated primarily for the purpose of committing the offense, or,
- (4) you were required to register as a sex offender pursuant to the provisions of Section 290 of the Penal Code, regardless of whether the conviction has been appealed, and you engaged in the offense with a patient or client, or with a former patient or client if the relationship was terminated primarily for the purpose of committing the offense.

Letters of Recommendation

Attach at least two verifiable letters of recommendation from physicians and surgeons licensed in any state who have personal knowledge of your activities since the effective date of the disciplinary order. The letters cannot be dated more than six months before the date you sign your Petition. Instruct your colleagues to verify their letters of recommendation by including the following declaration above the signature line:

"I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct."

Letters of recommendation without the above declaration cannot be admitted as evidence during the administrative hearing.

Letters of recommendation containing mere conclusions and few facts have little persuasive value (e.g., I think he is a fine doctor and a credit to the profession). It is more effective when letters from colleagues, who are aware of the action against your license, provide personal information about the way in which you have changed since the ordered discipline. Be sure to submit the original letters; copies will not be accepted. Letters should be part of the original Petition package and not submitted separately. All letters are verified by the Board. Therefore, they must contain the physician's current address and a valid phone number where the physician and surgeon can be contacted.

Narrative Statement Sheet

The Petition package must include a brief and concise narrative statement on a separate sheet of paper attached to the Petition. In the narrative statement, tell the Board what you want and the reasons your request should be granted. Give a brief factual description of the offense that was the basis of the action which prompted the disciplinary order. If applicable, give the history of prior action and the history of prior petitions. Give details (schools, class names, credit hours, certificates, dates) and copies (with appropriate back-up documentation) of your continuing medical education, training programs, seminars, or educational courses, as well as what medical journals you read on a regular basis. Give details and documented proof of your rehabilitative efforts and results, including programs, psychotherapy, medical treatment, and their duration.

Attach any appropriate supervisor's performance evaluations pertaining to your current assignments in the medical field, laboratory studies, and teaching assignments. Finally, attach a copy of your current resume/curriculum vitae.

If you are petitioning for **Reinstatement**, include in your narrative statement responses to these questions: During the period of time that your license has been revoked or surrendered, how have you earned a living? What aspect of your rehabilitation do you feel will protect against the recurrence of your prior conduct? What are your plans if your license is reinstated? Where will you practice? At a particular hospital, medical group, clinic, urgent care facility, HMO, etc.? What type of practice?

Petitions for Reinstatement

Fingerprints must be obtained and submitted with the Petition as follows:

- ▶ If you reside in California, you must complete a "Request for Live Scan Service." form. California's Department of Justice (DOJ) provides statewide Live Scan, which is an electronic fingerprinting system. The form must be completed in triplicate, therefore, three copies of the form will be printed automatically. A list of the names and locations of approved fingerprint sites can be accessed at: <http://ag.ca.gov/fingerprints/publications/contact.htm>.
- ▶ **Note:** The last section of the Live Scan form requires information from the fingerprint agency. Please ensure this information is completed or the forms will be voided. The petitioner must ensure that the person scanning the fingerprints submits two digital prints, one for DOJ and one for the FBI. After the fingerprint agency has signed and completed the request, a copy must be returned with your Petition.
- ▶ If you reside outside of California, you must complete and return two fingerprint cards. Both cards must be taken to any law enforcement agency for completion. Your Petition cannot be processed without two completed fingerprint cards. **DO NOT STAPLE THE CARDS TO THE PETITION. DO NOT PHOTOCOPY THE CARDS.**
- ▶ To obtain the fingerprint cards, contact the Probation Monitor, Mr. Ralph Correa, at (916) 999-3422, or by email at Ralph.Correa@dca.ca.gov.

Administrative Hearing

An administrative hearing is held for all three types of Petitions. Below is some general information regarding the hearing:

- ▶ Approximately 120 days after your Petition has been filed and processed by the appropriate Attorney General's Office, their staff will contact you with a written notice of the time, date, and place of the Petition hearing. Hearings are scheduled in cities in Southern and Northern California on a rotating basis.
- ▶ You should be present a half hour before your appointed time. Most cases are set for one hour. You may appear with or without an attorney.
- ▶ An Administrative Law Judge (ALJ) sitting alone will preside over the hearing. You will be asked questions under oath. You should apprise the ALJ of any circumstances that have changed since you filed your Petition.
- ▶ Emphasis should be put on evidence of rehabilitation, rather than a discussion of the merits of the previous case that resulted in the disciplinary action or the probationary license.

Proposed Decision

After the hearing, the ALJ is permitted 30 days to render a decision, upon which the Board will act. The proposed decision in your case will be mailed approximately 60 days after the hearing. The decision will not be announced orally at the hearing.

PLEASE NOTE: The ALJ's proposed decision is not binding on the Board and can be changed by the Board members through the appropriate actions provided in the law.

The entire Petition process can take approximately one year from the date the completed Petition is received by the Board until the Board renders a final decision in the matter.

Submitting a Petition

- Complete and assemble the original Petition, which includes the original letters of recommendation and narrative statement.
- Make two photocopies of the package. Once you submit the original and two copies of the Petition package to the Board, you cannot submit any additional information until you attend the administrative hearing.
- Staple or use a binder clip for each package (do not bind).
- If this is for a Petition for Reinstatement, include the copy of the Live Scan form or the completed fingerprint cards (if you reside out of California).
- Mail the Petition and copies to:

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA
Attention: Probation Unit
1300 National Drive, Suite 150
Sacramento, CA 95834

- Direct any questions you have regarding your Petition package to Probation Monitor at (916) 999-3422.