

**DEPARTMENT OF CONSUMER AFFAIRS  
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS  
DIVISION 13.**

**MEDICAL BOARD OF CALIFORNIA**

**MODIFIED TEXT  
Fees for Petitions for Penalty Relief**

Proposed changes to the current regulation language are shown by ~~strikethrough~~ for deleted language and underline for added language.

Modified changes to the proposed regulation language are shown by ~~double strikethrough~~ for deleted language and double underline for added language.

**Adopt Section 1352.3 in Article 15 of Chapter 1 of Division 13, of Title 16 of the California Code of Regulations and Amend Section 1359 of Article 3 of Chapter 2 of Division 13 to read as follows:**

**§ 1352.3. Fees for Petitions for Penalty Relief.**

(a) "Petitions for penalty relief" include petitions for modification or termination of probation and petitions for reinstatement of a revoked certificate or a certificate surrendered pursuant to a stipulation to settle a disciplinary action. ~~The fee required to process a petition for modification or termination of probation is \$1,949.~~

(b) The initial fee required to process a petition for modification or termination of probation is \$1,242. ~~The fee required to adjudicate a petition for modification or termination of probation once the petition is accepted by the Board to be set for hearing as specified in Section 1359 is \$19,043.~~

(c) The initial fee required to process a petition for reinstatement of a revoked certificate or a certificate surrendered pursuant to a stipulation to settle a disciplinary action is \$2,962. ~~3,738.~~

(d) The remaining fee required to cover the reasonable costs to process and adjudicate a petition for penalty relief shall be proposed by an administrative law judge (ALJ) from the Office of Administrative Hearings (OAH) and approved by the Board. The maximum fee that may be proposed by the ALJ and approved by the Board is \$22,000, less the initial fee already paid. The Board may remand the matter back to an ALJ for a finding on the fee where the proposed decision fails to make a finding on the fee. The Board may approve, reduce, or eliminate the remaining fee award. The Board may increase the fee award based on the evidence, but only in a decision after non-adoption of the ALJ's proposed decision. ~~The fee required to adjudicate a petition for reinstatement of a revoked certificate, or a certificate surrendered pursuant to a stipulation to settle a~~

~~disciplinary action, once the petition is accepted by the Board to be set for hearing as specified in Section 1359 is \$19,043.~~

(e) When determining the remaining fee, a certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the designee for the Office of the Attorney General (OAG) and OAH for their agency's respective services shall be prima facie evidence of a reasonable fee to impose to pay for processing and adjudicating the petition for penalty relief. It shall include the AGO and OAH costs for reviewing, preparing for, and participating in the hearing on the petition for penalty relief. The fee shall not include the ALJ or OAH cost for preparing and transmitting the proposed decision to the Board after the hearing. The ALJ and Board shall consider evidence of the petitioner's ability to pay the remaining fee, with or without entering into a payment plan with the Board, as well as the reasonableness of the fee. Granting or denying a petition for penalty relief shall not be the sole basis for reducing or denying the fee.

(f) Where the Board orders a petitioner to pay a fee for penalty relief and timely payment is not made as directed in the Board's decision or pursuant to a payment plan approved by the Board or its designee, the Board may pursue administrative action against the individual for unprofessional conduct, enforce the order for payment in any appropriate court, and take any other action allowed by law.

(g) In any action for recovery of the fee, proof of the Board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment. If the petitioner was permitted to enter into a payment plan approved by the Board or the Board's designee, a certified copy of the signed payment plan shall be conclusive evidence of the terms.

(h) This section shall apply only to petitions for penalty relief on disciplinary decisions ordered after the effective date of this section.

Note: Authority cited: Sections 2018 and 2307.5, Business and Professions Code.  
Reference: Section 2307 and 2307.5, Business and Professions Code.

### **§ 1359. Petitions for Penalty Relief ~~Reinstatement or Modification of Probation.~~**

(a) A petition for penalty relief as defined under Section 1352.3, subdivision (a) ~~modification or termination of probation or a petition for reinstatement of a revoked or surrendered certificate~~ shall be filed on a form provided by the division Board along with the applicable initial nonrefundable fee required by Section 1352.3, subdivision (b) or (c), for processing the petition for penalty relief.

~~(b) Consideration shall be given to a petition for reinstatement of license or modification or termination of probation only when a formal request for such has been filed in the division's office in Sacramento at least thirty (30) days before a regular meeting of the division or appropriate medical quality review panel.~~

(b) Fees paid to the Board as required by this section shall be submitted in the form of a money order, certified check, cashiers' check, preprinted personal or company check, which shall clearly indicate the name of the petitioner to whom it applies. Processing of any petition shall commence only after the applicable initial fee specified in Section 1352.3, subdivision (b) or (c) ~~subsection (a)~~ has been received, the payment clears the petitioner's bank, and the funds are deposited in the Board's account within 30 days of the check or money order being deposited.

~~(c) If payment is made in accordance with ~~subsection~~ subdivision (b), the petition is not withdrawn by the petitioner or rejected by the Board for failing to meet the requirements set forth in Section 2307 of the Code or this section, and the petition is eligible to be set for hearing through the Office of Administrative Hearings (OAH), the petitioner shall be provided written notice that the Board has accepted the petition to be set for a hearing. Written notice shall include that: (1) the petition has been accepted by the Board to be set for a hearing, (2) the proposed decision issued by the ALJ may include an order for the Board's consideration and approval for the petitioner to pay the remaining fee to cover the reasonable costs to process and adjudicate a petition for penalty relief up to \$22,000, less the initial fee already paid; (3) at the hearing on the petition, the petitioner may submit evidence regarding their ability to pay the remaining fee or challenge the reasonableness of the remaining fee being requested; and (4) the petitioner may be ordered to pay the remaining fee regardless of whether their petition is granted or denied. Additionally, the Board shall include a copy of Section 1352.3 with the notice. ~~the matter will be set for a petition hearing before an administrative law judge (ALJ) assigned by OAH upon payment to the Board of the applicable non-refundable fee for adjudication of the petition as set forth in Section 1352.3; and (3) payment must be made and cleared for deposit of funds with the Board within 90 days of the date the Board sent the written notification of acceptance of the petition to be set for hearing.~~~~

(d) Failure to comply with the requirements of this section shall result in the petition being rejected by the Board as incomplete. Written notice of such rejection and the reasons therefore shall be provided to the petitioner upon the Board's determination that the petitioner has not met the requirements of this section.

(e) The provisions of this section requiring payment of fees and notice thereof shall apply only to petitions for penalty relief on disciplinary decisions ordered after the effective date of this section.

NOTE: Authority cited: Section 2018 and 2307.5, Business and Professions Code.  
Reference: Section 2307 and 2307.5, Business and Professions Code.