BBS
Board of Behavioral Sciences

Memo

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To:	Board Members	**Date:**	January 21, 2022
From:	Gena Beaver, Manager Discipline and Probation Unit	**Telephone:**	(916) 574-7997

Subject: Petition Report

Historically, the Board has been hearing the petitioners on the first day of the Board meeting. Because the Board was experiencing a backlog in petitioner hearings last year, it was decided to assign petitions to be heard by an Administrative Law Judge (ALJ).

Petition Hearing Overview

Petitions can include modification of probation (including early termination of probation) or reinstatement of licensure.

The first day of the Board meeting consists of requests from probationers to modify the terms of their probation or from licensees seeking to reinstate their license. These petitioners submit a request to the Board and include all documentation to support their request. Board staff will review all documentation to determine if the individual is eligible to make the request. If so, the individual will be scheduled to appear at an upcoming Board meeting.

Prior to the Board meeting, Board staff will prepare the petition packets, include all relevant documentation, and upload the petition packets to Board members for their review. Board members should review the package thoroughly, noting any questions they may have about the documentation.

The petition hearings are conducted during an open session of the Board meeting with an ALJ presiding. A court reporter is present to document the testimony. Unless otherwise indicated, all testimony, questions, and comments are part of the record.

The hearing format begins with the ALJ announcing the petitioner's name and case number. The ALJ will explain the hearing process to the petitioner and ascertain if the petitioner has any questions. Once the ALJ is satisfied that the petitioner understands the process, the ALJ begins the hearing.

First, the deputy attorney general (DAG) appears on behalf of the Board and introduces the case. The DAG provides the history of the conduct that resulted in probation or license revocation and introduces the relevant evidence. The petitioner is provided an opportunity to testify in support of their request. The petitioner may or may not be represented by an attorney. The petitioner often reads a prepared statement or speaks freely. The petitioner may, or may not, call witnesses to provide testimony in support of the petitioner's request.

Next, the DAG will question the petitioner regarding their request, supporting documentation, and rehabilitation efforts. The DAG's questions may occur either before or after the Board members question the petitioner. Each Board member is provided the opportunity to question the petitioner.

In closed session, the Board determines their decision. The ALJ drafts the Board's decision and Board staff processes it as the final decision in the matter.

Administrative Law Judge Hearing Overview

Alternately, pursuant to Government Code 11512, the Board may assign the petition to an administrative law judge. The administrative hearing process is similar to any other court proceeding. The ALJ presides over the hearing; a DAG represents the Board and presents the case; and the respondent or the respondent's representative/attorney presents its case. Testimony and evidence are presented and there is a transcript of the proceedings.

Upon the conclusion of the petition hearing, the ALJ will consider all the testimony and evidence and will prepare a Proposed Decision. Once the hearing is concluded, the ALJ has 30 days to prepare the Proposed Decision and send it to Board staff. Board staff will upload it for the Board's review and vote. If adopted, it becomes the final decision in the matter.

Current Petition Volume

PETITIONS	FY 2019/2020	FY 2020/2021	FY 2021 to present
Received	39	32	16
Ineligible or Withdrawn	2	8	0

Recommendation

Conduct an open discussion and determine if the Board would prefer to resume hearing petitioners or would prefer to continue assigning them to an ALJ.