

ASSEMBLY BILL

No. 2131

Introduced by Assembly Member Morrell

February 20, 2014

An act to add Section 4310.5 to the Business and Professions Code, relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2131, as introduced, Morrell. Pharmacy licenses: letters of reprimand.

Under the Pharmacy Law the California State Pharmacy Board licenses and regulates pharmacists. The board may refuse to license an applicant guilty of unprofessional conduct or issue a probationary license to an applicant who has met all other licensure requirements.

This bill would authorize the board to issue a license to an applicant who has committed minor violations that the board deems, in its discretion, do not merit the denial of a certificate or require probationary status, and to concurrently issue a public letter of reprimand, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4310.5 is added to the Business and
- 2 Professions Code, to read:
- 3 4310.5. (a) Notwithstanding subdivision (c) of Section 4300,
- 4 the board may issue a license to an applicant who has committed
- 5 minor violations that the board deems, in its discretion, do not

1 merit the denial of a certificate or require probationary status under
2 Section 4300, and may concurrently issue a public letter of
3 reprimand.

4 (b) The letter of reprimand shall be in writing and shall describe
5 in detail the nature and facts of the violation, including a reference
6 to the statutes or regulations violated.

7 (c) The letter of reprimand shall inform the licensee that within
8 30 days of service of the letter of reprimand the licensee may do
9 either of the following:

10 (1) Submit a written request for an office conference to the
11 executive officer of the board to contest the letter of reprimand.

12 (A) Upon a timely request, the executive officer, or his or her
13 designee, shall hold an office conference with the licensee or the
14 licensee’s legal counsel or authorized representative. Unless so
15 authorized by the executive officer, or his or her designee, no
16 individual other than the legal counsel or authorized representative
17 of the licensee may accompany the licensee to the office
18 conference.

19 (B) Prior to or at the office conference, the licensee may submit
20 to the executive officer declarations and documents pertinent to
21 the subject matter of the letter of reprimand.

22 (C) The office conference is intended to be an informal
23 proceeding and shall not be subject to the provisions of the
24 Administrative Procedure Act (Chapter 3.5 (commencing with
25 Section 11340), Chapter 4 (commencing with Section 11370),
26 Chapter 4.5 (commencing with Section 11400), and Chapter 5
27 (commencing with Section 11500) of Part 1 of Division 3 of Title
28 2 of the Government Code).

29 (D) The executive officer, or his or her designee, may affirm,
30 modify, or withdraw the letter of reprimand. Within 14 calendar
31 days from the date of the office conference, the executive officer,
32 or his or her designee, shall personally serve or send by certified
33 mail to the licensee’s address of record with the board a written
34 decision. This decision shall be deemed the final administrative
35 decision concerning the letter of reprimand.

36 (E) Judicial review of the decision may be had by filing a
37 petition for a writ of mandate in accordance with the provisions
38 of Section 1094.5 of the Code of Civil Procedure within 30 days
39 of the date the decision was personally served or sent by certified
40 mail. The judicial review shall extend to the question of whether

1 or not there was a prejudicial abuse of discretion in the issuance
2 of the letter of reprimand.

3 (2) The licensee may accept the letter of reprimand without
4 challenge. The board shall inform the licensee that the letter of
5 reprimand shall be purged after three years if no letter of
6 admonishment, citation, notice of correction, or disciplinary action
7 is initiated by the board within those three years.

8 (d) The letter of reprimand shall be served upon the licensee
9 personally or by certified mail at the applicant's address of record
10 with the board. If the applicant is served by certified mail, service
11 shall be effective upon deposit in the United States mail.

12 (e) A public letter of reprimand issued concurrently with a board
13 license shall be purged three years from the date of issuance if no
14 letter of admonishment, citation, notice of correction, or
15 disciplinary action is initiated by the board during the three year
16 period.

17 (f) A public letter of reprimand issued pursuant to this section
18 shall be disclosed to an inquiring member of the public and shall
19 be posted on the board's Internet Web site.

20 (g) Nothing in this section shall be construed to affect the
21 board's authority to issue an unrestricted license.