

AMENDED IN ASSEMBLY JUNE 19, 2014

AMENDED IN SENATE MAY 28, 2014

AMENDED IN SENATE APRIL 22, 2014

AMENDED IN SENATE APRIL 7, 2014

SENATE BILL

No. 960

Introduced by Senator Morrell

February 6, 2014

An act to amend Section 4315 of the Business and Professions Code, relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 960, as amended, Morrell. Pharmacy.

Existing law, the Pharmacy Law, provides for the regulation and licensure of pharmacists by the California State Board of Pharmacy. Existing law authorizes the executive officer of the board, or his or her designee, to issue a letter of admonishment to a licensee for the failure to comply with specified requirements. Existing law requires a letter of admonishment to be in writing, and sets forth procedures *to by which the licensee may* contest or comply with a letter of admonishment.

This bill would further authorize the executive officer of the California State Board of Pharmacy, or his or her designee, to issue a letter of admonishment to an applicant for licensure who has committed any violation of law that the board deems, in its discretion, does not merit the denial of a license or require probationary status. The bill would authorize a letter of admonishment that is issued to an applicant for licensure to be issued concurrently with a license.

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 4315 of the Business and Professions
2 Code is amended to read:

3 4315. (a) The executive officer, or his or her designee, may
4 issue a letter of admonishment to a licensee for failure to comply
5 with Section 733, for failure to comply with this chapter or
6 regulations adopted pursuant to this chapter, or for failure to
7 comply with Division 116 (commencing with Section 150200) of
8 the Health and Safety Code, directing the licensee to come into
9 compliance.

10 (b) The executive officer, or his or her designee, may issue a
11 letter of admonishment to an applicant for licensure who has
12 committed any violation of law that the board deems, in its
13 discretion, does not merit the denial of a license or require
14 probationary status under Section 4300. The letter of admonishment
15 may be issued concurrently with a license.

16 (c) The letter of admonishment shall be in writing and shall
17 describe in detail the nature and facts of the violation, including a
18 reference to the statutes or regulations violated.

19 (d) The letter of admonishment shall inform the licensee or
20 applicant that within 30 days of service of the order of
21 admonishment the licensee or applicant may do either of the
22 following:

23 (1) Submit a written request for an office conference to the
24 executive officer of the board to contest the letter of admonishment.

25 (A) Upon a timely request, the executive officer, or his or her
26 designee, shall hold an office conference with the licensee or
27 applicant or his or her legal counsel or authorized representative.
28 Unless so authorized by the executive officer, or his or her
29 designee, no individual other than the legal counsel or ~~his or her~~
30 authorized representative *of the licensee or applicant* may
31 accompany the licensee or applicant to the office conference.

32 (B) Prior to or at the office conference, the licensee or applicant
33 may submit to the executive officer declarations and documents
34 pertinent to the subject matter of the letter of admonishment.

35 (C) The office conference is intended to be an informal
36 proceeding and shall not be subject to the Administrative Procedure
37 Act (Chapter 3.5 (commencing with Section 11340), Chapter 4
38 (commencing with Section 11370), Chapter 4.5 (commencing with

1 Section 11400), or Chapter 5 (commencing with Section 11500)
2 of Part 1 of Division 3 of Title 2 of the Government Code).

3 (D) The executive officer, or his or her designee, may affirm,
4 modify, or withdraw the letter of admonishment. Within 14
5 calendar days from the date of the office conference, the executive
6 officer, or his or her designee, shall personally serve or send *the*
7 *board's written decision* by certified mail to the licensee's or
8 applicant's address of record with the board a written decision.
9 ~~record~~. This decision shall be deemed the final administrative
10 decision concerning the letter of admonishment.

11 (E) Judicial review of the decision may be had by filing a
12 petition for a writ of mandate in accordance with the provisions
13 of Section 1094.5 of the Code of Civil Procedure within 30 days
14 of the date the decision was personally served or sent by certified
15 mail. The judicial review shall extend to the question of whether
16 or not there was a prejudicial abuse of discretion in the issuance
17 of the letter of admonishment.

18 (2) Comply with the letter of admonishment and, *if required*,
19 submit a written corrective action plan to the executive officer
20 documenting compliance. If an office conference is not requested
21 pursuant to this section, compliance with the letter of
22 admonishment shall not constitute an admission of the violation
23 noted in the letter of admonishment.

24 (e) The letter of admonishment shall be served upon the licensee
25 or applicant personally or by certified mail at his or her address
26 of record with the board. If the licensee or applicant is served by
27 certified mail, service shall be effective upon deposit in the United
28 States mail.

29 (f) The licensee or applicant shall maintain and have readily
30 available a copy of the letter of admonishment and corrective action
31 plan, if any, for at least three years from the date of issuance of
32 the letter of admonishment.

33 (g) Nothing in this section shall in any way limit the board's
34 authority or ability to do either of the following:

35 (1) Issue a citation pursuant to Section 125.9, 148, or 4067, or
36 pursuant to Section 1775 of Title 16 of the California Code of
37 Regulations.

38 (2) Institute disciplinary proceedings pursuant to ~~Article 19~~
39 ~~(commencing with Section 4300)~~. *this article*.

1 (h) The issuance of a letter of admonishment pursuant to
2 subdivision (b) shall not be construed as a disciplinary action or
3 discipline for purposes of licensure or the reporting of discipline
4 for licensure.

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