

ASSEMBLY THIRD READING
AB 2141 (Patterson)
As Amended March 19, 2026
Majority vote

SUMMARY

Authorizes the California State Board of Pharmacy (BOP) to resolve a potential cause for discipline by a licensee through a stipulated settlement agreement prior to the filing of a formal accusation.

Major Provisions

- 1) Authorize the BOP and a licensee to enter into a stipulated settlement and disciplinary order to license discipline without and in advance of the filing of an accusation or other agency pleading.
- 2) Require a pre-accusation settlement to meet the following conditions:
 - a) Enforcement staff or investigators for the BOP conducted an inspection or investigation as provided for in the Pharmacy Law and substantiated violations of law.
 - b) Enforcement staff at the BOP provided the licensee with findings of the violations in writing, and a notice of possible eligibility for a stipulated settlement and disciplinary order.
 - c) The licensee, within 15 days of being provided with the findings of the violations, notified the BOP in writing of the licensee's willingness to waive the administrative adjudication provisions of the Administrative Procedure Act, including notice and hearing requirements, and to consider a stipulated settlement and disciplinary order as an alternative to action taken on the basis of a pleading.
 - d) The licensee submitted mitigation and rehabilitation information, as specified in the BOP's disciplinary guidelines.
- 3) Allow the BOP to extend the 15-day deadline for good cause.
- 4) Provide that a committee consisting of the BOP's executive officer, two members of the board, one public member, and one licensee member shall consider the mitigation and rehabilitation information and provides the committee with discretion to extend a stipulated settlement and disciplinary order offer to the licensee.
- 5) Require a stipulated settlement and disciplinary order, incorporating the findings of the violations, to be agreed to in writing between the committee and licensee within 60 calendar days of the date of the licensee's waiver of the Administrative Procedure Act (APA).
- 6) Allow the committee of the BOP to agree to extend the time period for an agreement at its discretion in writing and restricts extensions to instances where there is good cause or when good faith settlement discussions are ongoing.

- 7) Provide that a stipulated settlement and disciplinary order is contingent upon approval by the BOP, except that the members of the committee shall recuse themselves and not participate or vote on the stipulated settlement and disciplinary order.
- 8) Provide that a BOP-approved stipulated settlement and disciplinary order is public record.
- 9) Require the BOP to file the appropriate disciplinary pleading if the committee and the licensee fail to reach an agreement within the provided time limits or if the BOP fails to approve a proposed stipulated settlement and disciplinary order.
- 10) Provide that a stipulated settlement and disciplinary order that is not approved by the BOP has no force or effect and the BOP shall not be disqualified from further action by having offered or considered the stipulated settlement and disciplinary order.
- 11) Clarify that the process for reaching a pre-accusation settlement agreement does not limit or prohibit the BOP's ability to engage in good faith settlement negotiations or to negotiate and enter into a stipulated settlement and disciplinary order after the disciplinary pleading has been filed.

COMMENTS

Enforcement of the Pharmacy Law. The BOP is entrusted with administering and enforcing the Pharmacy Law. The BOP has its own enforcement staff, which includes field inspectors responsible for conducting investigations and inspections of pharmacies as well as sterile compounding and outsourcing facilities. The BOP's enforcement program is its largest budget expenditure, historically comprising about 64% of its total operating expenses. The BOP's Enforcement Unit regularly engages in investigations of licensees that may result in disciplinary action, as well as cases involving unlicensed activity. For example, between Fiscal Years 2021-22 through 2023-24, the BOP completed 8,719 investigations, referred 839 investigations for formal discipline, issued 4,092 citations, revoked or accepted surrender of 551 licenses, and placed 344 licensees on probation.

On average, the BOP consistently receives around 3,500 complaints from the public or other sources per year. High-priority complaints are referred to the Attorney General, where the BOP files formal accusations seeking discipline against the licensee. Tools such as interim suspension orders and are used to protect the public pending the outcome of the disciplinary action. Subject to judicial review, the BOP has final authority over its disciplinary cases. The BOP settles approximately 80 percent of its disciplinary cases post-accusation. A total of 413 post-accusation case settlements occurred between Fiscal Years 2021-22 through 2023-24.

For most cases resulting in a citation and fine or a letter of admonishment, the BOP is limited to issuing fines of \$5,000 to each licensee investigated in a single case. Some specified violations carry higher maximum fines; for example, the BOP may issue fines of \$25,000 per prescription for internet sales of drugs where no underlying appropriate examination occurred. When determining what fines to assess, the BOP considers the gravity of the violation, history of previous violations, extent to which the cited individual is cooperating with the investigation, and other elements suggesting good or bad faith on behalf of the licensee. As of 2022, the BOP has authority to bring an action for higher fines against pharmacies operating under common ownership or management within a chain community pharmacy.

Licensees may appeal a citation issued by the BOP by requesting an informal office conference. The office conference allows the licensee the opportunity to present additional or mitigating information to the BOP's executive officer or designee and a supervising inspector. Upon conclusion, staff may affirm, modify, or dismiss the citation or affirm or dismiss the letter of admonishment. A licensee may also submit a formal appeal to the BOP within thirty days of the issuance of a citation. Appeals are conducted pursuant to the APA by an administrative law judge who renders a decision, which is presented to the BOP for adoption or rejection.

Alternative Dispute Resolutions. The BOP does not have authority to settle cases in advance of filing of an accusation. When the BOP was entering the early stages of sunset review in 2019, its Enforcement Committee was in the process of developing an alternative enforcement model proposal that provides a mechanism for settlements pre-accusation. This topic was discussed in the BOP's 2020 sunset background paper, in which Issue #14 posed the question: "Would enabling the Board to participate in alternate disciplinary processes for licensees whose misconduct is likely to result in a citation and fine provide for speedier disciplinary cases and prove more cost efficient for Board staff?"

The sunset background paper went on to state:

An appeals process exists for licensees who are being subjected a citation and fine through a request for an informal office conference. As previously discussed, this office conference allows the licensee the opportunity to present additional or mitigating information to the Board's executive officer or designee and a supervising inspector. Stakeholders within the profession have suggested that a similar opportunity to meet informally with Board staff should be available when a licensee is being subjected to disciplinary action. Currently, the Board has no authority to settle a case prior to the filing of an action by the Attorney General. Allowing licensees to meet with Board staff and pursue a mutually agreeable outcome would likely alleviate case resolution timelines and provide cost savings to the Board.

The staff recommendation in the sunset background paper was for the BOP to inform the Committees of whether it believed some form of pre-accusation alternative dispute resolution would be of benefit and to provide any suggested language that it believed would achieve this goal. Subsequently, the BOP provided the Committees with language that would authorize the BOP to reach a stipulated settlement agreement with a licensee prior to filing a formal accusation. However, this language was not ultimately included in the BOP's sunset bill.

The concept of a pre-accusation settlement mechanism was raised again by stakeholders during BOP's 2025 sunset review. In April 2025, the sponsor of this bill provided written comments to the committee that included proposals intended to "improve communication and strengthen the working relationship between licensees and regulators." The written comments included a request for the consideration of language to establish "a structured update or mediation process before enforcement cases are referred to the Attorney General's Office." This proposal was not incorporated into the BOP's sunset bill, in part because it had not been previously discussed in the BOP's sunset background paper for that year.

This bill proposes to establish an alternative dispute resolution mechanism based on language originally provided by the BOP during its 2020 sunset review. The bill would authorize—not require—the BOP to enter into a stipulated settlement and disciplinary order to license discipline without and in advance of the filing of an accusation or other agency pleading. The bill would establish a formal process and timeline for these pre-accusation settlements to occur.

By allowing the BOP to enter into a settlement prior to the filing of an accusation, this bill would be establishing an exception to the administrative adjudication provisions of the APA. Under the APA, an adjudicative proceeding to determine whether an occupational license should be revoked, suspended, limited, or conditioned, a settlement may not be made before issuance of the agency pleading, including an accusation by a licensing board. The implications of establishing such an exception are within the jurisdiction of the Assembly Committee on Judiciary, which has also been referred this bill.

According to the Author

"This bill remedies a situation that requires formal accusations to be filed against licensees. Instead, this measure will allow the Board of Pharmacy and licensees to enter into stipulated settlements and disciplinary orders before an accusation is filed. This improves efficiency, conserves state resources, and allows the Board to focus its efforts on matters that jeopardize public health and safety."

Arguments in Support

The *Alliance for Pharmacy Compounding*, the sponsor of this bill, writes in support: "Creating a defined interim step would allow the Board and licensees to engage in a more solutions-oriented process, helping to resolve appropriate cases more efficiently while reserving formal referral and litigation for matters that warrant that level of enforcement. This approach can reduce administrative and state budgetary burden, shorten resolution timelines, and improve regulatory outcomes, all while maintaining the Board's authority to take disciplinary action where necessary."

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Assembly Committee on Appropriations, the BOP estimates 90 cases per year and costs of \$284,000 in 2026-27 and \$276,000 in 2027-28 and ongoing; the BOP states it could incur expenditures on implementation activities that will exceed the BOP's usual implementation costs that focus on education—however, the BOP is unable to quantify the costs. The DCA Office of Information Services estimates adding new enforcement codes will cost \$1,000, which is absorbable.

VOTES

ASM BUSINESS AND PROFESSIONS: 19-0-0

YES: Berman, Johnson, Addis, Ahrens, Alanis, Bains, Aguiar-Curry, Caloza, Chen, Elhawary, Hadwick, Haney, Hart, Irwin, Jackson, Lowenthal, Macedo, Nguyen, Pellerin

ASM JUDICIARY: 12-0-0

YES: Kalra, Macedo, Bauer-Kahan, Bryan, Connolly, Dixon, Harabedian, Pacheco, Papan, Sanchez, Stefani, Zbur

ASM APPROPRIATIONS: 15-0-0

YES: Wicks, Hoover, Aguiar-Curry, Calderon, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Ta, Tangipa

UPDATED

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