



MEMORANDUM

DATE	October 23, 2020
TO	Veterinary Medical Board
FROM	Virginia Gerard, Probation Monitor
SUBJECT	Agenda Item 16.E. Probation Report

Probation Statistics

As of October 9, 2020, the Veterinary Medical Board (Board) has 91 licensees on probation. The probationers are comprised of 74 veterinarians and 17 registered veterinarian technicians (RVTs). The Board is no longer monitoring the veterinary assistant controlled substance permit (VACSP) holder previously reported.

Of those probationers, seven veterinarians and four RVTs are tolling. Pursuant to the Board’s Disciplinary Guidelines, tolling occurs due to lack of practice and/or residing in another state. When in tolling status, a probationer does not have to comply with certain conditions of probation. Any time period in tolling status is added to the length of probation. Tolloed probationers generally require significantly less monitoring.

The Board has 25 probationers participating in biological fluid testing. Since the last Board meeting, the Board closed 10 complaints against probationers, leaving 60 pending complaints against 23 probationers. In addition, two probationers surrendered their licenses after the Board filed Petitions to Revoke Probation, leaving seven probationers pending at the Attorney General’s Office. The Board sent nine letters raising compliance concerns to probationers in the last quarter.

Accusations/Petitions to Revoke Probation Hearings

This quarter, a considerable amount of time was been spent preparing for hearings. The Board currently has three scheduled hearings with the Office of Administrative Hearings this fall. Two of those hearings are over eight days long.

Supervised Practice Probation Condition

As previously reported [here](#), Board staff conducted a review of all disciplinary orders containing the Supervised Practice condition upon noticing some concerns with supervision reports received last fiscal year. After this review, and with the assistance of legal counsel, the Board provided clarification to all applicable probationers. Specifically, the clarification stated that the supervisor shall submit the required reports directly to the Board, and the reports cannot be sent through, or by, the probationer. It also stated the

supervisor (not the probationer) shall randomly pick the medical records to be reviewed. Board staff believes this process should be better clarified in the condition.

In addition, Board staff believes the Monthly Supervision Report and sample Supervision Review Log (attached) are inadequate for probationer supervisors to use to verify compliance with existing medical record keeping requirements. Most supervisor reports submitted to the Board include a “Satisfactory” Supervision Review Log, and the Board very rarely receives “Unsatisfactory” Supervision Review Logs. Yet, recent probation inspections have discovered most medical records maintained by the probationers continue to be out of compliance.

Further, inspectors find it challenging to identify records that were previously reviewed by the supervisor, since there is no unique record identifier on the logs. Animal patient names and treatment dates help identify some records, but clinic staff still have difficulty providing many records to inspectors. Board staff believes the Monthly Supervision Report and sample Supervision Review Log should be revised to provide clear expectations to the supervisor, probationers, and the Board.

The current Supervised Practice condition also appears to presume the probationer’s employer is the supervisor. However, in many cases, the supervisor is hired by the probationer to review medical records. The condition also does not address circumstances with the probationer is a relief veterinarian. For example, part of the condition states the following:

Should Respondent change employment, Respondent shall have his/her new supervisor, within fifteen (15) days after employment commences, submit a report to the Board in writing stating the supervisor has read the decision in case number [].

In cases where the probationer’s new employer is not the probationer’s supervisor, the supervisor may have already read the Decision, so requiring another report “stating the supervisor has read the decision” after the respondent has changed employment appears to be a redundant requirement. However, the supervisor should be notified of the new employment, so the supervisor knows where to pull records from. In cases where the probationer is a contracted relief veterinarian, there is no employer to notify or a requirement to notify the current supervisor.

Moreover, the “indirect supervision” provision of the Supervised Practice condition in the Board’s 2018 Disciplinary Guidelines (currently in the rulemaking process) creates confusion, as it conflicts with the definition of “indirect supervision” in California Code of Regulations, title 16, section [2034](#), subsection (f). Since the probation condition specifically refers to patient record reviews, Board staff recommends the term be changed to reflect what it does rather than use the term “supervision.”

Board staff also has concerns with the volume of medical records required to be reviewed. The volume of records to be reviewed has three tiers:

- Substantial – 75%
- Moderate - 50%
- Partial - 25%

It is estimated that a veterinarian sees around 200-250 patients per month, depending on the size of the clinic. At the lowest tier (Partial – 25%), the medical records reviewer is required to review 50 records per month for a probationer. Board staff believe the tiered review provision should be reconsidered in terms of the number of patient records the supervisor needs to review.

The Board staff further recommends re-evaluating the requirement for supervisors to submit monthly reports. With 90-100 probationers at any given month, Board staff is unable to adequately keep up with the volume of supervision reports (roughly 1,080-1,200) being sent to the Board per year. The Board may want to consider changing the report frequency from monthly to quarterly, which will align with the probationers' quarterly reports.

Over the next few months, Board staff will research how other healing arts boards are addressing these concerns and bring proposed revisions for Board consideration in January.

Probation Monitor Goals

- Continue case reviews.
- Work the complaints on probationers.
- Find and follow up on any discrepancies in the Biological Fluid Testing program.
- Pursue violations of probation.

Attachment:

1. Monthly Supervision Report and Sample Supervision Review Log



MONTHLY SUPERVISION REPORT

Case No: _____

Veterinarian Name: _____ VET # _____

Report for the Month of: (circle one)

Jan Feb March April May June July August Sept Oct Nov Dec

Instructions:

- (1) Please review the supervision agreement which includes the percentage and frequency of records that need to be reviewed.
- (2) **Make additional copies of this page and two types of Supervision Review logs to be turned in monthly (Satisfactory/Unsatisfactory).**
- (3) Fill this page completely with all up-to-date information and turn in monthly by the 5th of each month of supervision with corresponding logs.
- (4) Please fill out UNSATISFACTORY TREATMENT OR DOCUMENTATION review log for all patient care reviewed that required discussion, concerns or recommendations and provide your feedback to the Board (e.g. did you discuss the concerns with the probationer, were any changes made, what was the outcome, etc.)
- (5) Please fill out SATISFACTORY TREATMENT AND DOCUMENTATION for all patient care reviewed that was in total compliance.

THE BOX BELOW IS TO BE FILLED OUT AFTER ALL NECESSARY LOGS ARE FILLED OUT. HEREBY SUBMIT THIS REPORT OF COMPLIANCE AS REQUIRED BY THE VETERINARY MEDICAL BOARD AND THE TERMS AND CONDITIONS OF THE DISCIPLINARY ORDER IN THE MATTER REGARDING THE ABOVE REFERENCE PROBATIONER. I HEREBY CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAW OF THE STATE OF CALIFORNIA THAT ALL STATEMENTS GIVEN HERE ARE TRUE AND CORRECT.

SUPERVISOR NAME: _____ VET # _____

PROBATIONER'S EMPLOYER OR HOSPITAL:

ADDRESS: _____ TELEPHONE #: _____

NUMBER OF HOURS YOU SPEND REVIEWING PATIENT RECORDS: PER WEEK _____ PER MONTH _____

SUPERVISOR'S SIGNATURE: _____

REVIEW DATE: _____

Supervision Review Log
UNSATISFACTORY TREATMENT OR DOCUMENTATION

Patient Name	"Sam" Nelson	Treatment Date	12/17/19
Medical Care Provided spay			
Medical Records Documentation: <input type="checkbox"/> Compliant <input checked="" type="checkbox"/> Noncompliant			
Deficiencies (explain) <u>Failed to provide appropriate post-operative pain medication</u>			
Comments/ Recommendations given <u>document drug dosages in medical record and use appropriate medication to minimize post-op pain</u>			
Patient Name	"Dotty" Wilson	Treatment Date	12/18/19
Medical Care Provided Outpatient appointment			
Medical Records Documentation: <input type="checkbox"/> Compliant <input checked="" type="checkbox"/> Noncompliant			
Deficiencies (explain) <u>failed to record patient assessment and sign medical record entry</u>			
Comments/ Recommendations given <u>follow regulatory guidelines when completing medical records</u>			
Patient Name	"Ann" Smith	Treatment Date	12/17/14-12/19/14
Medical Care Provided Trauma/Suture wound			
Medical Records Documentation: <input type="checkbox"/> Compliant <input checked="" type="checkbox"/> Noncompliant			
Deficiencies (explain) <u>sedated patient prior to properly assessing patient status, failed to record P.E. prior to anesthesia</u>			
Comments/ Recommendations given <u>perform complete patient evaluation before instituting treatment plan. Document complete physical examination findings in medical record</u>			

Reviewing Vet Initials _____

Please add additional comments or concerns on the reverse side of this page or attach a separate page if necessary.

**Supervision Review Log
SATISFACTORY TREATMENT AND DOCUMENTATION**

Patient Name	<i>"Sam" Nelson</i>	Treatment Date	<i>12/17/14</i>
Medical Care Provided	<i>Spay</i>		

Patient Name	<i>Pet Name</i>	Treatment Date	<i>12/18/14</i>
Medical Care Provided	<i>Vaccines</i>		

Patient Name	<i>Pet Name</i>	Treatment Date	<i>12/19/14-12/21/14</i>
Medical Care Provided	<i>Trauma/Suture Wounds</i>		

Patient Name	<i>Pet Name</i>	Treatment Date	<i>1/2/15</i>
Medical Care Provided	<i>Spay</i>		

Patient Name	<i>Pet Name</i>	Treatment Date	<i>1/4/2015</i>
Medical Care Provided	<i>Vaccines</i>		

Patient Name	<i>"Pet Name"</i>	Treatment Date	<i>1/8/15</i>
Medical Care Provided	<i>Summary of Treatment provided</i>		

Patient Name	<i>Pet Name</i>	Treatment Date	<i>Date or Period of Treatment</i>
Medical Care Provided	<i>Summary of Treatment provided</i>		

Patient Name	<i>Pet Name</i>	Treatment Date	<i>Date or Period of Treatment</i>
Medical Care Provided	<i>Summary of Treatment provided</i>		

Patient Name	<i>Pet Name</i>	Treatment Date	<i>Date or Period of Treatment</i>
Medical Care Provided	<i>Summary of Treatment provided</i>		

Patient Name	<i>Pet Name</i>	Treatment Date	<i>Date or Period of Treatment</i>
Medical Care Provided	<i>Summary of Treatment provided</i>		

Patient Name	<i>Pet Name</i>	Treatment Date	<i>Date or Period of Treatment</i>
Medical Care Provided	<i>Summary of Treatment provided</i>		

Patient Name	<i>Pet Name</i>	Treatment Date	<i>Date or Period of Treatment</i>
Medical Care Provided	<i>Summary of Treatment provided</i>		

Reviewing Vet Initials _____

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