



MEMORANDUM

DATE	January 20, 2021
TO	Veterinary Medical Board (Board)
FROM	Jessica Sieferman, Executive Officer
SUBJECT	Agenda Item 11.B. Section 2006, Article 1, Division 20, Title 16 of the CCR Regarding Disciplinary Guidelines

During the July and October 2020 meetings, the Board’s probation monitor raised concerns related to the terms and conditions for Notice to Employer (Standard Term No. 8) and Supervised Practice (Optional Term No. 6) in the Board’s pending 2018 Disciplinary Guidelines. Below is a breakdown of those concerns and recommended solutions.

- Notice to Employer (Standard Term No. 8)
A recent probationer asserted he did not have to provide notice to any “employer” of his disciplinary decision because he provided veterinary services as a contract relief veterinarian, not as an employee. As such, he asserted he did not need to notify anyone that he was on probation. To resolve this issue, Board staff recommends the proposed 2018 Disciplinary Guidelines be modified to clarify the Board’s intent to require respondents to notify an employer, individual, or entity contracting for the provision of veterinarian services by the respondent as a relief veterinarian.
- Supervision vs. Medical Chart Review (Optional Term No. 6)
The provision for “indirect supervision” in Optional Term No. 6 for Supervised Practice creates confusion, as it conflicts with the definition of “indirect supervision” in California Code of Regulations, title 16, section [2034](#), subsection (f). In addition, the term “supervision” may appear to refer to some sort of physical supervision of the probationer’s practice. Since “indirect supervision” in the Supervised Practice term and conditions specifically refers to patient record reviews, Board staff recommends separating Medical Chart Review from Supervised Practice, placing it within a new term for Medical Records Review (new Term No. 7) and revise it to eliminate the term “indirect supervision” to reflect what a medical records reviewer does, rather than continuing to use the term “indirect supervision.”
- Supervisor’s Conclusions, Opinions, and Patient Chart Reviews
The fourth paragraph of Supervised Practice states the following:

Respondent's supervisor shall file monthly reports with the Board. These reports shall be in a form designated by the Board and shall include a narrative section where the supervisor provides his or her **conclusions and opinions concerning the issues described above and the basis for his or her opinions**. Additionally, the supervisor shall maintain and submit with his or her monthly reports a log designating the patient charts reviewed, the date(s) of service reviewed, and the date upon which the review occurred. [Emphasis added.]

When this probationary term is placed in a Stipulated Settlement, there are no "issues described above." Assuming this provision is referring to either a Proposed Decision or issues outlined in the Accusation or Statement of Issues, the Board does not need an opinion from the supervisor on what has already occurred. Instead, the supervisor should ensure and regularly report, going forward, that the causes for discipline are not being repeated.

In addition, it is unclear why a supervisor would need to perform monthly patient chart reviews for RVT and VACSP probationers when the treating veterinarians are responsible for their patients' medical records. Since veterinarian chart reviews are already covered under paragraph 10 of Supervised Practice, Board staff recommends striking the following sentence: "Additionally, the supervisor shall maintain and submit with his or her monthly reports a log designating the patient charts reviewed, the date(s) of service reviewed, and the date upon which the review occurred."

- Medical Chart Review (New Optional Term No. 7)
As previously reported [here](#), Board staff conducted a review of all disciplinary orders containing the Supervised Practice term and conditions upon noticing some concerns with supervision reports received in the 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 the proposed 2018 Disciplinary Guidelines should be modified to better clarify this process in new Optional Term No. 7.

In addition, Board staff believes the Monthly Supervision Report and sample Supervision Review Log (attached) are inadequate for probationer chart reviewers to use to verify compliance with existing medical recordkeeping requirements. Most supervisor reports submitted to the Board include a "Satisfactory" Supervision Review Log, and the Board 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 revised the Supervision Review Log to address these concerns and provide clear expectations to the supervisor, probationers, inspectors, and the Board.

Moreover, Board staff also has concerns with the volume of medical records required to be reviewed. The volume of records to be reviewed under the current regulatory proposal would have 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 would be required to review 50 records per month for a probationer. Board staff recommends the regulatory proposal be modified to replace the tiered review with a minimum percentage (e.g., 10%) or set number of patient records (e.g., 15 patient records) that must be reviewed for a minimum of twelve (12) times a year.

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

Action Requested:

If the Board determines the proposed modifications to the rulemaking text are necessary, please entertain a motion to approve the proposed modifications to the text for a 15-day comment period, and if there are no adverse comments received during that 15-day public comment period, delegate to the Executive Officer the authority to adopt the proposed regulatory changes as modified, and delegate to the Executive Officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file.

Attachments:

1. Regulatory Proposal to Modify Notice to Employer and Supervised Practice Terms and Add New Medical Chart Review Term
2. Current Supervisor Review Log
3. Proposed Medical Chart Review Log

[Standards Terms and Conditions]

58	<p>Notice to Employers</p> <p>During the period of probation, Respondent shall notify all present and prospective employers of the decision in this case Decision and the terms, conditions, and restrictions imposed on Respondent by the decision in this case Decision, as follows:</p> <p>Within thirty (30) days of the effective date of this decision Decision and within fifteen (15) days of Respondent undertaking any new employment, Respondent shall cause his or her employer supervisor and/or managing licensee (licensee manager) to report to the Board in writing, acknowledging that the employer listed individual(s) has/have read the Accusation and decision in this case and understands Respondent's Decision, including the terms and, conditions, of probation and restrictions imposed. It shall be Respondent's responsibility to ensure that his or her supervisor and/or licensee manager submit timely acknowledgment(s) to the Board.</p> <p>If Respondent provides veterinary services as a relief veterinarians, Respondent shall notify employers immediately each individual or entity with whom Respondent is employed or contracted and require the supervisor and/or licensee manager to submit to the Board timely acknowledgement of receipt of the notice.</p>
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[Optional Terms and Conditions]

6. Supervised Practice

Respondent shall not practice veterinary medicine until a supervisor is approved by the Board or its designee. If the supervisor terminates or is otherwise no longer available, Respondent shall not practice until a new supervisor has been approved by the Board or its designee. Any potential costs associated with practice supervision shall be borne by Respondent.

Respondent shall submit to the Board or its designee, for its prior approval, the name and qualifications of one or more proposed supervisors of Respondent's choice. Each supervisor shall have been licensed in California and have held a valid California license for at least five (5) years and not have ever been subject to any disciplinary action by the Board.

Upon approval by the Board or its designee and within thirty (30) days of the effective date of this Decision, Respondent shall have his or her supervisor submit a report to the Board in writing stating the supervisor has read the Decision in case number . Should Respondent change employment, Respondent shall have his/ or 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 .

Respondent's supervisor shall file monthly quarterly reports with the Board. These reports shall be in a form designated by the Board and shall include a narrative section where the supervisor provides his or her conclusions and opinions concerning the

~~issues described above veterinary services performed by Respondent and the basis for his or her those conclusions and opinions. Additionally, the supervisor shall maintain and submit with his or her monthly reports a log designating the patient charts reviewed, the date(s) of service reviewed, and the date upon which the review occurred.~~

Respondent's supervisor shall submit the reports directly to the Board's Probation Monitor within seven (7) calendar days after the end of the preceding quarter. The quarterly reporting periods and due dates are as follows:

<u>Reporting Time Period</u>	<u>Due No Later Than</u>
<u>January 1 to March 31 (Quarter I)</u>	<u>April 7</u>
<u>April 1 to June 30 (Quarter II)</u>	<u>July 7</u>
<u>July 1 to September 30 (Quarter III)</u>	<u>October 7</u>
<u>October 1 to December 31 (Quarter IV)</u>	<u>January 7</u>

~~If Respondent is an employee rather than a veterinary hospital owner, the supervisor shall additionally notify the Board of the dates and locations of all employment of where the Respondent rendered services during each month covered by his or her report.~~

[The following terms of supervision is optional language that apply applies to licensed veterinarians only and should be included in the Disciplinary Order on a case-by-case basis:]

The supervision shall be, ~~as required by the Board or its designee, either~~ direct ~~or indirect~~. Direct supervision is defined as the physical presence of the supervisor 100% of the time Respondent provides treatment or consultation to the animal patient.

~~Indirect supervision is defined as review and evaluation of patient records for those patients for whom Respondent provides treatment or consultation during the period of supervised practice. Levels of indirect supervision shall be established as follows:~~

- ~~Substantial—75%~~
- ~~Moderate—50%~~
- ~~Partial—25%~~

The level of supervised practice may be modified as determined necessary by the Board or its designee. Respondent will not be eligible for a decrease in supervised practice until such time as:

- 1) Respondent has successfully completed at least 25% of the probationary term;
- 2) Respondent is deemed to be in full compliance with all terms and conditions of the probationary order;
- 3) Respondent has consistently received favorable ~~monthly~~ quarterly supervised practice reports; and,
- 4) the Board has received a written recommendation by the supervisor.

7. Medical Records Review

Within 30 calendar days of the effective date of this Decision, Respondent shall provide to the Board or its designee the name and qualifications of one or more proposed reviewer of the medical records of animal patients created and maintained by Respondent. Each reviewer shall be a licensed veterinarian in California, have held a valid California license for at least five (5) years, and has never been subject to any disciplinary action by the Board.

Commented [WT1]: All optional conditions after this must be renumbered.

The Board or its designee shall provide the approved reviewer with copies of this Decision. Within fifteen (15) calendar days of the reviewer's receipt of this Decision, the reviewer shall sign an affirmation that he or she has reviewed the terms and conditions of this Decision and fully understands the role of the reviewer.

If Respondent fails to obtain the Board's or its designee's approval of a reviewer within sixty (60) calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease practicing veterinary medicine within three (3) calendar days after being notified. Respondent shall cease practice until a reviewer is approved to provide medical records review services.

The reviewer shall review a minimum of ten percent (10%) of Respondent's animal patient medical records or fifteen (15) records (whichever is greater), a minimum of twelve (12) times per year. The reviewer shall determine the method of random selection of medical records to review and shall access the medical records directly from where the medical records are being kept. Review of Respondent's medical records shall not be delegated to Respondent or Respondent's staff. The reviewer's random selection of medical records shall include medical records that correlate to the animal patient care issues or other issues identified in the disciplinary action that resulted in this Decision. Respondent is required to make all animal patient medical records available for immediate inspection and copying by the reviewer at all times during business hours. The reviewer shall immediately notify the Board's Probation Monitor if Respondent fails or refuses to make the medical records available for inspection and/or copying.

Any potential costs associated with conducting the medical records review shall be borne by Respondent.

~~Respondent's supervisor shall, on a frequency to be determined by the Board, review and evaluate all or a designated portion of patient records of those patients for whom Respondent provides treatment or consultation during the period of supervised practice.~~

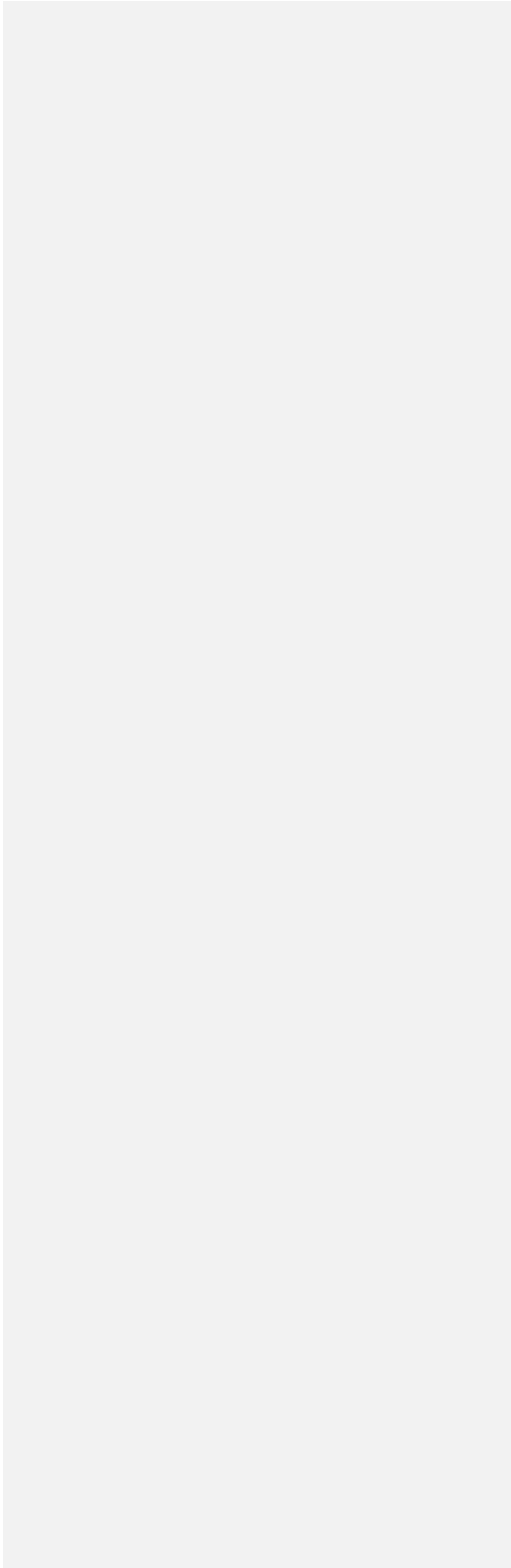
The ~~supervisor~~ reviewer shall ~~review~~ evaluate these ~~medical~~ records to assess:

- 1) ~~‡~~The medical necessity and appropriateness of Respondent's treatment;
- 2) Respondent's compliance with minimum standards of practice in the diagnosis and treatment of animal patients;
- 3) Respondent's maintenance of necessary and appropriate treatment;

- 4) Respondent's maintenance of necessary and appropriate records and chart entries; and,
- 5) Respondent's compliance with existing statutes and regulations governing the practice of veterinary medicine.

The reviewer shall submit quarterly reports to the Board on a form designated by the Board. The reports shall be submitted by the reviewer directly to the Board's Probation Monitor within seven (7) calendar days after the end of the preceding quarter. The quarterly reporting periods and due dates are as follows:

<u>Reporting Time Period</u>	<u>Due No Later Than</u>
<u>January 1 to March 31 (Quarter I)</u>	<u>April 7</u>
<u>April 1 to June 30 (Quarter II)</u>	<u>July 7</u>
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<u>October 1 to December 31 (Quarter IV)</u>	<u>January 7</u>





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: 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	"Sam" Nelson	Treatment Date	12/17/14
Medical Care Provided	Spay		

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

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

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

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

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

Patient Name	Pet Name	Treatment Date	Date or Period of Treatment
Medical Care Provided	Summary of Treatment provided		

Patient Name	Pet Name	Treatment Date	Date or Period of Treatment
Medical Care Provided	Summary of Treatment provided		

Patient Name	Pet Name	Treatment Date	Date or Period of Treatment
Medical Care Provided	Summary of Treatment provided		

Patient Name	Pet Name	Treatment Date	Date or Period of Treatment
Medical Care Provided	Summary of Treatment provided		

Patient Name	Pet Name	Treatment Date	Date or Period of Treatment
Medical Care Provided	Summary of Treatment provided		

Patient Name	Pet Name	Treatment Date	Date or Period of Treatment
Medical Care Provided	Summary of Treatment provided		

Reviewing Vet Initials _____

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

