



# MEMORANDUM

<b>DATE</b>	July 17, 2020
<b>TO</b>	Veterinary Medical Board
<b>FROM</b>	Virginia Gerard, Probation Monitor Rob Stephanopoulos, Enforcement Manager
<b>SUBJECT</b>	<b>Agenda Item 14E. Probation Report</b>

## Probation Statistics

As of July 8, 2020, the Veterinary Medical Board (Board) has 96 licensees on probation. The probationers are comprised of 76 veterinarians, 19 registered veterinarian technicians (RVTs), and one veterinary assistant controlled substance permit (VACSP) holder.

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. Tolerated probationers generally require significantly less monitoring.

The Board has 29 probationers participating in biological fluid testing. In addition, the Board is investigating 70 complaints against 21 probationers, nine of which have been referred to the Attorney General’s Office for Petitions to Revoke Probation.

The Board is also monitoring one licensee for compliance with their Interim Suspension Order conditions.

## Inadequate Staffing

The Board’s probation analyst monitors the compliance of licensees who have already been proven to be a consumer threat. In two years, the Board’s probation unit had a nearly 75% increase in probationers, which was reported at 62 in 2014-15, and has plateaued to around 100 since 2016-17. Similarly, the Board has seen a 72% increase in complaints since 2014-15, and as a result, received approval to hire six enforcement analysts to address the large backlog of complaints from this increase. Unfortunately, the probation unit has not received any additional staff to account for this increase.

In addition to the administrative duties and paying detailed attention to the terms and conditions of each probationer, the probation monitor is required to participate in the Board’s Rehabilitation Program for substance-abusing licensees. Further, the probation monitor must coordinate with the contracted drug and alcohol testing company to establishing a random testing cycle for probationers and receives and reviews all test results. The 29 probationers currently enrolled in biological fluid testing must submit to testing around three to four times per month.

Consequently, the probation monitor must review and document 1,044 to 1,392 test results, annually.

It should also be noted that the Board's probation monitor position has had a notoriously high turnover rate, with probation cases being handled by as many as six analysts. Board staff believes the turnover is partly a product of the increase in probationers and has hindered adequate monitoring and timely response to probation violations. The prior monitors all did their best to monitor compliance, but the sheer volume of probationers and workload associated with the position undoubtedly impacted morale. To remedy this issue, the Board is pursuing a budget change proposal (BCP) to obtain another probation monitor to split the workload with the current probation monitor.

In addition, the Board will be requesting an office technician (OT) position to be responsible for entering compliance data into the BreEZe system. These tasks are extremely time-consuming and prevent the monitor from focusing on other tasks, such as processing probationer investigations, speaking with the Attorney General's Office, testifying at hearings, approving compliance documents, meeting with probationers, etc.

The positions requested are essential and immediately necessary, as they permit the Board to adequately monitor probation compliance.

### **Pulling Enforcement Resources**

To allow the probation monitor to focus on probation compliance, Enforcement Analyst Wendy Garske has graciously assisted with the discipline workload associated with transmitting probation cases to the Attorney General's Office.

### **FY 2018/2019 Accomplishments**

#### **Supervision Clarification**

After noticing some concerns with supervision reports received last fiscal year, Board staff conducted a review of all disciplinary orders containing the Supervised Practice Condition. 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.

#### **Increased Utilization of Inspection Program**

In the middle of last fiscal year, the Board's probation and inspection programs worked together to increase inspections of those probationers with an inspection condition of probation and/or probationers who are currently serving as a managing licensee. Prior to this, many of the probationers had not been inspected while on probation. While conducting their inspections, the inspectors are also pulling some medical records previously reviewed and approved by probation supervisors to ensure the supervisors are adequately reviewing the records for compliance with applicable medical record keeping requirements. As a result of this comparison, some supervisors were unapproved.

#### **Initiated Probation File Cleanup**

The Enforcement unit, including the probation monitor, worked together to initiate a cleanup of all probation files. This was a significantly large project, as hundreds of probation documents are received monthly. The Enforcement unit now has a better picture of probation compliance

related to quarterly reports, monthly supervision reports, therapy reports, and tallies of required continuing education requirements.

#### Initiated Tracking of Non-Compliance Notifications

In May 2020, the Board began manually tracking potential non-compliance notifications sent to probationers. This data was not previously captured, but it is another time-consuming activity that must be captured to accurately track probation related workload. Since May 1, 2020, the Board has issued 16 non-compliance notifications.

#### FY 2019/2020 Goals

- Increase BreEZe Utilization. Historically, the Board has not fully utilized BreEZe to track probation compliance or run meaningful statistical reports. All statistics have been manually counted, which is incredibly cumbersome, and, with the high turnover in probation monitors, has an inherent risk of errors. To remedy this, Board staff is working closely with the Department of Consumer Affairs, Office of Information Services (OIS) to create a report that will enable the probation monitor to quickly pull probation statistics. The report is in its final stages and should be launched later this month.

In addition, once a probation OT is hired, the Board will begin to capture compliance data more frequently in BreEZe. As previously indicated, the Board receives hundreds of compliance documents monthly. These documents are not currently entered into BreEZe. Instead, they are manually reviewed and placed in each probation file. During a compliance review, the probation monitor must pull the physical file and create a manual probation status report.

Once all the compliance data is entered into BreEZe, the Board will be able to create probation compliance reports that will quickly pull compliance data, eliminating the manual workload.

- Continue probation file reviews and cleanup
- Complete complaint investigations against current probationers
- Continue to monitor the biological fluid testing program
- Continue to pursue action against probation violations