



Board of Behavioral Sciences

Memo

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To: Board Members **Date:** September 9, 2024

From: Steve Sodergren
Executive Officer

Subject: Probation Program Statistics

At the Board meeting in May 2024, staff was requested to provide a brief report as to whether the enforcement has recognized an increase in probationers having a difficult time complying with their probationary terms at the later part of their probationary period due to financial strains.

The Board's probation program ensures that registrants or licensees who are disciplined by the Board comply with the identified terms and conditions as outlined in each disciplinary order. While the length of the probationary term contributes to the overall cost, the cost of a probationary period depends on the terms agreed to by the registrant or licensee and the Board. Currently, the Board does monitor the reasons that a probationer may surrender their license, so it is unclear if financial strain has become an increasing factor.

The specific terms that add to the overall cost of probation are:

- **Probation Monitoring Fee:** The Board requires a \$100 fee per each month of probation. Probationers can pay this monthly or in different amounts but must pay \$1,200 every year of probation.
- **Cost Recovery:** This term is used exclusively in decisions related to accusations filed against a licensee or registrant, with the intent to recover costs associated with Attorney General and expert witness fees. It does not apply to decisions arising from This term is only seen in decisions stemming from accusations filed against a licensee/registant and is meant to recoup the cost of Attorney General and expert witness fees. This term does not apply to decisions resulting from a Statement of issues.
- **Education:** The probationer will have to pay for any remedial coursework or continuing education that is required.
- **Supervision:** If supervision is required, all costs of supervision is borne by the licensee or registant.
- **Therapy:** If therapy is required, the cost of this therapy is to be borne by the probationer.

- **Drug and Alcohol Testing:** The probationer is responsible for covering the cost of testing, though the amount may vary based on the specific terms of the agreement.
- **Psychological Evaluation:** If the probationer is required to perform a psychological evaluation, the cost of the service shall be borne by the probationer.
- **Billing Monitor:** Although this is extremely rare, some probationers will need to pay for a billing monitor. The cost of this shall be borne by the probationer.

There are different factors that can reduce the cost of the probationary period.

- **Petitions for Modification/Termination:** Most Probationary terms are set between three and five years with most of the probationary terms being three years. Statute allows a probationer to petition for modification of a condition after one year and petition for early termination of probation after at least two years for those whose probation period is three years or more.
- **Drug and Alcohol Testing Frequency:** Each registrant or licensee on probation is tested randomly according to the testing frequency schedule established in the uniform standards related to substance abuse guidelines. During the first year of probation (Level 1) the guidelines recommend a range between 52 and 104 times per year. In subsequent years (Level II) within a five-year limit, the guidelines recommend a range between 36 to 104 times per year. The guidelines establish testing frequency exceptions. Because of these exceptions, most terms begin at 36 times per year unless the circumstances surrounding the violation do not fall within an exception.
- **Drug Testing Costs:** Each probationer must pay for their drug and alcohol testing. The Board recently entered a contract with a new drug and alcohol testing vendor Recovery Trek. This contract offers lower fees and an added benefit of remote blood testing. With the past vendor, probationers were paying approximately \$100 per test. Probationers are now paying approximately \$80 per test.
- **Therapy Frequency:** The Board's uniform standard require that counseling shall be at least once a week unless otherwise determined by the Board. The probationer shall undergo and continue treatment until the Board, or its designee determines that no further psychotherapy is necessary. Board staff are often able to reduce, but not negate psychotherapy, upon a written request by the probationer's therapist.

Anecdotally, the most consistent complaint regarding probation has been the cost and the time and effort it takes to meet the requirements of testing, supervision, and psychotherapy. Over the years with the advent of new technology and testing methods, the burden of driving to a test site every day has been reduced. Additionally, with recent law changes that allows for supervision via video conferencing, the ability for a probationer to attend psychotherapy appointments without major schedule and travel commitments has increased.

Board staff reviewed the number of licensees and registrants placed under probation terms and conditions in the last five years (July 2019 to June 2024). The following reveals the data collected, as of August 21, 2024:

- A total of 48 petitions for early termination of probation were granted; 14 of those petitions for early termination of probation were granted to probationers that began their probation terms in and after July 2019.
- A total of 6 petitions for modifications of probation were granted to probationers from July 2019 to June 2024, with 4 of those petitions for modifications of probation granted to probationers with probation terms that began in and after July 2019.
- A total of 68 probationers surrendered their license/registration from July 2019 to June 2024, with 34 of probationers that began their probation term in and after July 2019 surrendering their license/registration.

The Board's probation program serves as an essential mechanism for maintaining the integrity of the profession while providing registrants and licensees with a structured opportunity for rehabilitation and continued practice. The program's detailed and thorough oversight ensures that individuals are held accountable to the public and their profession, while also giving them a clear path toward compliance.

While probation comes with financial and logistical obligations, the Board has made attempts to reduce these burdens through initiatives such as lowering drug testing costs, allowing virtual supervision, and accommodating requests for modifications or early terminations. These improvements reflect the Board's commitment to supporting probationers on their path to recovery and professional growth. Ultimately, the probation program is designed not only to uphold professional standards but also to foster successful rehabilitation. By continuing to evolve and adapt, the program strikes a balance between accountability and support, while ensuring public safety and trust.

Recommendation

Conduct an open discussion regarding if probationers are having a difficult time complying with their probationary terms at the later part of their probationary period due to financial strains.