

**COMMONWEALTH OF MASSACHUSETTS  
DIVISION OF HEALTH PROFESSIONS LICENSURE**

**Division Policy 15 – 01**

<b>Title</b>	<b>DELEGATION OF AUTHORITY FOR STAFF ACTIONS RELATIVE TO MONITORING LICENSURE CONDITIONS</b>
<b>Purpose</b>	The Division of Health Professions Licensure (“Division”) recognizes that the Boards of Registration within the Division may impose Licensure Conditions on the licenses issued within their respective jurisdictions and that they require a monitoring mechanism to determine whether the conditions have been met by the license holder. The Division has established a Probation Monitoring Unit for all boards. The purpose of this policy is to establish the scope of authority delegated from each of the boards to act on the respective Board’s behalf with respect to such monitoring.
<b>Date Adopted</b>	Division: June 1, 2015 Board of Registration in Pharmacy: adopted June 2, 2015 Board of Registration in Dentistry: adopted June 3, 2015 Board of Registration in Nursing: has not been adopted Board of Registration in Nursing Home Administrators: has not been adopted Board of Registration in Respiratory Care: has not been adopted Board of Registration of Physician Assistants: has not been adopted Board of Registration of Perfusionists: has not been adopted Board of Registration of Genetic Counselors: has not been adopted Board of Certification of Community Health Workers: has not been adopted
<b>Definitions</b>	<p><u>Division</u>: Division of Health Professions Licensure within the Department of Public Health.</p> <p><u>Boards (plural)</u>: The Boards of Registration within the Division of Health Professions Licensure under the supervision of the Commissioner of the Department of Public Health.</p> <p><u>Board (singular)</u>: The particular Board that has issued a license to a Monitored Licensee and imposed conditions on such licensure.</p> <p><u>Evaluative Requirements</u>: Licensure Conditions that a third party submit qualitative information concerning the Monitored Licensee’s professional practice, physical health, mental health or mental status.</p> <p><u>License</u>: As used in this policy, the term license refers to a license, registration, certificate or authorization issued or granted by a Board, whether current or expired.</p>

<p><b>Definitions, continued</b></p>	<p><u>Licensure Conditions</u>: The conditions imposed on a license pursuant to a Board Order or a Consent Agreement, or as modified thereafter by agreement or by Board Order, irrespective of whether such conditions correspond to a disciplinary status.</p> <p><u>Minimum Monitoring Period</u>: The minimum period of time during which the Monitored Licensee remains subject to the Licensure Conditions, as set by a Board Order or a Consent Agreement, or as modified thereafter by agreement or by Board Order, irrespective of whether the Monitored Licensee’s license is under a disciplinary license status.</p> <p><u>Monitored Licensee</u>: A person or entity who holds a license that is subject to Licensure Conditions.</p>
<p><b>Probation Monitor</b></p>	<ol style="list-style-type: none"> <li>1. The Division shall designate one or more Division employees to serve as Probation Monitors. The role of the Probation Monitor shall be to: <ol style="list-style-type: none"> <li>a. Monitor the compliance of a Monitored Licensee with his or her Licensure Conditions;</li> <li>b. Communicate with the Monitored Licensee for the purpose of determining compliance with Licensure Conditions;</li> <li>c. Request from the Monitored Licensee all documentation relevant to the compliance of a Monitored Licensee with his or her Licensure Conditions</li> <li>d. Collect from the Monitored Licensee and from third parties all documentation relevant to the determination of a Monitored Licensee’s compliance with his or her Licensure Conditions;</li> <li>e. Present a Monitored Licensee’s compliance history to the Board;</li> <li>f. Maintain a record of all correspondence, submissions and other documentation and information relevant to the compliance of a Monitored Licensee with his or her Licensure Conditions; and</li> <li>g. Prepare reports and recommendations for the Boards and Executive Directors pertinent to the compliance of a Monitored Licensee with his or her Licensure Conditions.</li> </ol> </li> </ol>
<p><b>Board Authorization</b></p>	<ol style="list-style-type: none"> <li>2. A Board’s adoption of this policy authorizes the Probation Monitor and the Board’s Executive Director to act on the Board’s behalf as specified in this policy. The Board further authorizes the Executive Director to subdelegate his or her authority under this policy to any Division staff person who reports directly to the Executive Director provided that the Executive Director supervises the authority exercised.</li> <li>3. A Board may, by specific vote authorize additional actions that the Probation Monitor or Executive Director may take on behalf of that particular Board.</li> </ol>

<b>Report to Board</b>	4. The Probation Monitor shall provide a written report to each Board setting forth all actions taken on the Board's behalf pursuant to this policy since the previous meeting of the Board.
<b>Extensions</b>	<p>5. The Probation Monitor may not grant any request for an extension pursuant to this policy unless:</p> <ol style="list-style-type: none"> <li>a. The Monitored Licensee has submitted his or her request for extension in writing on a Division approved form;</li> <li>b. The Monitored Licensee agrees, in writing, to extend the Minimum Monitoring Period for a length of time as may be necessary to accommodate the extension on time; and</li> <li>c. The Monitored Licensee is in compliance with all other Licensure Conditions.</li> </ol> <p>6. The Probation Monitor may grant a request for an extension on time, up to a maximum of six months total from the original deadline, to complete continuing education requirements or examination requirements provided that the Monitored Licensee has submitted his or her request for extension prior to the date that the Licensure Condition was due to be fulfilled;</p> <p>7. The Probation Monitor may grant a request for an extension on time to obtain employment that will qualify to fulfill the minimum period of supervised professional practice, for three months at a time up to a total maximum of one year, provided that:</p> <ol style="list-style-type: none"> <li>a. The Monitored Licensee has submitted his or her request on a Division approved form as follows <ol style="list-style-type: none"> <li>i. If the Licensee is unemployed on the Effective Date of the Licensure Conditions, the request must be submitted within ten days immediately following such Effective Date;</li> <li>ii. If the Licensee is employed on the Effective Date of the Licensure Conditions, but becomes unemployed thereafter, the request must be submitted within ten days immediately following the date that the Licensee becomes unemployed;</li> <li>iii. If the Licensee remains unemployed after having been granted an extension on time to obtain employment, the request must be submitted prior to the expiration of any such extension; and</li> </ol> </li> <li>b. The Monitored Licensee has provided information, submitted on a Division approved form, concerning the efforts made to secure employment.</li> </ol> <p>8. The Probation Monitor may grant a request for an extension on time, up to no later than the date of the next scheduled board meeting to satisfy any Licensure Condition, provided that:</p> <ol style="list-style-type: none"> <li>a. the Monitored Licensee has submitted his or her request for extension prior to the date that the Licensure;</li> <li>b. the Board has not previously provided notice that it would deny any requests for an extension in connection with the Licensure Condition at issue; and</li> <li>c. the Probation Monitor presents the request to the Board at the next scheduled board meeting if the Licensure Condition remains unsatisfied as of that date.</li> </ol> <p>9. The Probation Monitor shall include a list of all extensions granted pursuant to this policy in the Probation Monitor's report pursuant to paragraph 4 of this policy.</p>

<b>Evaluative Requirements</b>	<p>10. A Board may by vote set specific criteria by which a Probation Monitor, an Executive Director, or both, shall review and process evaluative requirements. Unless a Board has by specific vote set such criteria, the Probation Monitor shall bring to the next scheduled meeting of the Board, all documents submitted in compliance with evaluative requirements.</p>
<b>Continuing Education Requirements</b>	<p>11. The Executive Director is authorized to determine whether a continuing education course identified or completed by the Monitored Licensee meets the topic and hours requirements set forth in the Licensure Conditions.</p>
<b>Violations – Opportunity to Cure</b>	<p>12. The Probation Monitor is authorized to send a Notice of Violation and Opportunity to Cure to a Monitored Licensee who has no prior history of non-compliance with his or her Licensure Conditions.</p> <p>13. The Probation Monitor is authorized to offer 14 days to cure non-compliance with the following types of requirements:</p> <ul style="list-style-type: none"> <li>a. Renewal of licensure;</li> <li>b. Submission of certificates of completion for continuing education requirement(s);</li> <li>c. Completion of examination requirement(s);</li> <li>d. Submission of reports related to professional practice supervision;</li> <li>e. Submission of evaluation reports;</li> <li>f. Submission of proof that the Monitored Licensee has provided notification to other licensing jurisdictions; and</li> <li>g. Submission of affidavits;</li> </ul> <p>14. The Probation Monitor is authorized to offer 7 days to cure non-compliance with the following types of requirements:</p> <ul style="list-style-type: none"> <li>a. Submission of a plan of correction;</li> <li>b. Submission of updated policies and procedures;</li> <li>c. Submission of spore testing results; and</li> <li>d. Enrollment with the Division Drug Testing Management Company</li> </ul> <p>15. The Probation Monitor is authorized to send notice to the Monitored Licensee that he or she has re-established compliance with his or her Licensure Conditions if the Monitored Licensee cures the violation within the time offered.</p> <p>16. The Probation Monitor shall include in the monthly report to the Board a list of all instances of Opportunity to Cure offered pursuant to this policy and all instances of re-established compliance.</p>

<p><b>Violations – Lifting Stay on formal disciplinary Probationary Status</b></p>	<p>17. The Probation Monitor shall report to the Executive Director for the Board all instances where a Monitored Licensee whose license is on a “stayed probation” status, and the Probation Monitor has offered the Monitored Licensee an opportunity to cure a violation and the Monitored Licensee failed to respond to the Probation Monitor within the deadline for curing.</p> <p>18. The Executive Director is authorized to issue a Notice of Violation and Imposition of Discipline (Lifting Stay) to a Monitored Licensee who is the subject of such report and to implement the corresponding license status change to disciplinary probation status.</p>		
<p><b>Violations – Presentation to the Board</b></p>	<p>19. The Probation Monitor shall present the compliance history of a Monitored Licensee to the Board at its next scheduled Board meeting if one or more of the following circumstances arises:</p> <ul style="list-style-type: none"> <li>a. The Probation Monitor has offered the Monitored Licensee an opportunity to cure a violation and the Monitored Licensee failed to cure within 30 days; or</li> <li>b. The Monitored Licensee has violated one or more of the Licensure Conditions and the Probation Monitor does not have authority to offer an opportunity to cure.</li> </ul>		
<p><b>Violations - Failure to Request a Hearing</b></p>	<p>20. Where the Board has previously authorized the issuance of one of the following Initial Notices of Violation and the Monitored Licensee has not provided a request for a hearing within the time allotted, or has provided a request but has not provided a written statement of facts relevant to the alleged violation, the Executive Director is authorized to issue the corresponding final notice:</p> <table data-bbox="427 1102 1474 1249" style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <p><u>Initial Notice</u></p> <p>Imposition of Discipline (Lifting Stay)</p> <p>Modification of Probation Terms</p> <p>Intent to Suspend</p> </td> <td style="width: 50%; vertical-align: top;"> <p><u>Final Notice</u></p> <p>Imposition of Discipline</p> <p>Modification of Probation Terms</p> <p>Suspension</p> </td> </tr> </table> <p>21. The Executive Director shall include in the monthly report to the Board a list of all instances where a final notice has been issued pursuant to this policy.</p>	<p><u>Initial Notice</u></p> <p>Imposition of Discipline (Lifting Stay)</p> <p>Modification of Probation Terms</p> <p>Intent to Suspend</p>	<p><u>Final Notice</u></p> <p>Imposition of Discipline</p> <p>Modification of Probation Terms</p> <p>Suspension</p>
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<p><b>Restoration of License to Unrestricted Status</b></p>	<p>22. The Probation Monitor is authorized to (1) send the Monitored Licensee notice that his or her license has been restored to an unrestricted status, (2) close the monitoring record, and (3) implement the corresponding license status change to current status in the following circumstances:</p> <ul style="list-style-type: none"> <li>a. The Monitored Licensee’s license is not expired;</li> <li>b. The Licensure Conditions include no evaluative requirements that have not yet been reviewed by the Board;</li> <li>c. The Board has not reserved for itself a final review prior to restoration of unrestricted status; and</li> <li>d. The Probation Monitor and Executive Director agree that all requirements have been met.</li> </ul> <p>23. The Probation Monitor shall include in the monthly report to the Board a list of all instances where a notice has been issued pursuant to this policy.</p>
<p><b>Special Circumstances</b></p>	<p>24. <u>Medical Incapacity</u>. The Probation Monitor shall bring to the next scheduled meeting of the Board, any request for accommodation for medical incapacity submitted in writing by the Monitored Licensee on a Division approved form, provided that such form is accompanied by a letter from the Monitored Licensee’s physician which includes the following information:</p> <ul style="list-style-type: none"> <li>a. Whether the physician has reviewed the agreement or order that contains the Licensure Conditions;</li> <li>b. Whether the physician is of the opinion that the Monitored Licensee is able or unable to fulfill the Licensure Conditions due to one or more medical conditions</li> <li>c. If the physician is of the opinion that the Monitored Licensee is unable to fulfill the Licensure Conditions due to one or more medical conditions, the physician shall specify <ul style="list-style-type: none"> <li>a. The diagnosis and prognosis for each such condition;</li> <li>b. Whether the Monitored Licensee is capable of safely practicing his or her profession;</li> <li>c. Whether the Monitored Licensee is expected to recover sufficiently to be able to practice safely and fulfill the Licensure Conditions in the future, with an estimated date</li> </ul> </li> </ul> <p>25. <u>Death</u>. The Probation Monitor is authorized to close the monitoring record and implement a license status change to “deceased” upon receipt of reliable information that a Monitored Licensee has passed way.</p>