

DRAFT
Virginia Board of Health Professions
Department of Health Professions
FULL BOARD MEETING
February 14, 2012

TIME AND PLACE: The meeting was called to order at 12:47 p.m. on Tuesday, February 14, 2012 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room 2, Henrico, VA, 23233

PRESIDING OFFICER: Michael Stutts, Acting Chair

MEMBERS PRESENT: Maureen Clancy, Citizen Member
Paul T. Conway, Citizen Member
Allison Gregory, Nursing
Yvonne Haynes, Social Work
Jeffrey Levin, Dentistry
Charlotte Markva, Counseling
Robert Maroon, Physical Therapy
Jonathan Noble, Optometry
Constance Pozniak, Veterinary Medicine
Michael Stutts, Psychology

MEMBERS NOT PRESENT: Amanda Gannon, Long Term Care Administrators
Blair Nelsen, Funeral Directors & Embalmers
Wanda, Pritekel, ASLP
Robert Rhodes, Pharmacy

STAFF PRESENT: Elizabeth A. Carter, Ph.D., Executive Director for the Board
Dr. Dianne Reynolds-Cane, MD, DHP Director
Arne Owens, DHP Chief Deputy Directory
Elaine Yeatts, DHP Senior Policy Analyst
Diane Powers, DHP Director of Communications
Justin Crow, Research Assistant
Laura Chapman, Operations Manager

BOARD COUNSEL: No Board counsel was present.

OTHERS PRESENT: Rebecca Perdue, VSCLS – ASCLS VA
Teresa Nadder, VCU
Emy Morris, VCU & VSCLS
Lynn Onesty, RRMG
Shelby Wilber, Sentara Healthcare
Nancy Barrow, MT, AMT
Bill Korzan, VCU
Susan Ward, VHHA
Ann Hughes, MSV

QUORUM: With 10 members present a quorum was established.

AGENDA: No changes or additions were made to the agenda.

PUBLIC COMMENT:

There was no public comment.

APPROVAL OF MINUTES:

Meeting minutes from October 24, 2011 were approved by motion of Dr. Levin and properly seconded by Dr. Noble, all members were in favor.

BOARD ORIENTATION:

Introduction of all Board members were made.

DEPARTMENT DIRECTOR'S REPORT:

Dr. Reynolds-Cane stated that three DHP bills have been moving forward expeditiously in the General Assembly. She also noted that the Secretary is hosting a strategic goals meeting with agency heads related to human resources, information technology and finance issues. She stated that the Prescription Monitoring Program is now interactive with three other states; two more will be online soon. She reported that the Virginia Health Workforce Development Authority has an Executive Director and is preparing a Health Resource Services Administration Area Health Education Center grant due tomorrow.

LEGISLATIVE/REGULATORY UPDATE:

Ms. Yeatts provided handouts of the Regulatory Actions in Process, a report of the 2012 General Assembly Board of Health Professions bills. (Attachment 1)

Ms. Yeatts discussed the status of the periodic review of §18-VAC 75-20 Regulations Governing Practitioner Self Referral, §18-VAC 75-30 Regulations Governing Standards for Dietitians and Nutritionists, and §18-VAC 75-40 Regulations Governing Certification of Dialysis Technicians. (Attachment 2). The only comment received related to dietitian and nutritionist but involved a need for statutory change rather than amendment to the existing regulations. Ms. Yeatts recommended the Board continue the existing regulations without change.

On properly seconded motion by Dr. Noble, the Board voted unanimously to continue without change the Regulations Governing Practitioner Self Referral.

On properly seconded motion by Ms. Gregory, the Board voted unanimously to continue without change the Regulations Governing Standards for Dietitians and Nutritionists.

On properly seconded motion by Dr. Levin, the Board voted unanimously to continue without change the Regulations Governing Certification of Dialysis Technicians.

SANCTION REFERENCE POINTS

Mr. Kauder of Visual Research provided a PowerPoint presentation to the Board regarding the results of the Sanctions Reference Point Evaluation Study. In addition to the findings, Mr. Kauder presented the resulting amendments to the SRP scoring and provided a demonstration of the new electronic format for the forms to be used by the Board of Nursing. (Attachment 3)

AGENCY COMMUNICATIONS & EDUCATION:

Ms. Diane Powers discussed the technology initiatives that the agency is currently undertaking. These technologies will assist the Department in saving money, reducing travel and improving communication between boards, licensees and the public.

Ms. Powers also noted that the state of Oregon has reportedly saved \$2 million in travel costs by utilizing videoconferencing.

COMMITTEE REPORT:

Regulatory Research Committee

Dr. Noble reported that the Committee deemed that the appropriate regulation for Medical Laboratory Scientists and Medical Laboratory Technicians is licensure. On properly seconded motion by Dr. Levin, the Board recommended that licensure is the appropriate level of regulation for Medical Laboratory Scientists and Medical Laboratory Technicians.

Dr. Noble noted that the earlier verbal inquiry from Lactation Consultants requesting the Board to conduct a sunrise review has not yet been followed-up with their formal application in keeping with the Policies and Procedures for the Evaluation of the Need for Regulation of Health Professions and Occupations. However, the Virginia Perfusion Society has sent a written request which was just received on January 17, 2012.

Upon consideration of the Committee's current workload and on properly seconded motion by Mr. Maroon, the Board voted to table consideration of the request from the Perfusionists until the level of urgency can be ascertained by staff. (Attachment 4)

Dr. Noble reported that the Committee's study of Nurse Practitioner Scope of Practice is being revised to reflect the significant changes resulting from House Bill 346. He also noted that the Committee will be moving forward with its Pharmacy review and will be exploring team delivery within the context of how "patient care team" is defined in House Bill 346. (Attachment 5).

BOARD REPORTS:

There were no reports from the Boards.

EXECUTIVE DIRECTOR'S REPORT:

CY2012 Board Work Plan

Dr. Carter indicated that the Board's Workplan will need to be adjusted to enable the Regulatory Research Committee to timely address study requests anticipated from the General Assembly in addition to its existing studies.

Healthcare Workforce Data Center (HWDC)

Dr. Carter noted that the Audiology and Speech-Language Pathology and Long-Term Care Administrator workforce survey groups will be meeting for the first time this month to review respective draft surveys. The latest Nursing Education Program Survey Report has been published and is posted to the

Center's website.

Nurse Practitioner Scope of Practice & Team Delivery Study

Dr. Carter stated that staff will be reframing future study reports in light of the impact of HB346 in defining Nurse Practitioner practice within a patient care team approach.

BHP Budget

Dr. Carter reported that the Board of Health Professions' expenditures, to date, have remained well within budget at 47% at the end of FY 2012 (2) and are expected to do so for the remainder of the year.

NEW BUSINESS

Dr. Carter distributed the DHP Patient Care Key Performance Measure results from FY 2012 (2) noting continued strong agency performance..

ADJOURNMENT:

The meeting adjourned at 2:52 p.m.

Michael Stutts, Ph.D.
Board Acting Chair

Elizabeth A. Carter, Ph.D.
Executive Director for the Board

**Regulatory Actions
February 14, 2012**

Board		Board of Audiology and Speech-Language Pathology	
Chapter		Action / Stage Information	
Regulations of the Board of Audiology and Speech-Language Pathology [18 VAC 30 - 20]		<u>Action:</u> Requirements for practice of fiberoptic endoscopic evaluation by speech-language pathologists	
		<u>Stage:</u> Proposed - At Secretary's Office for 197 days	
Regulations of the Board of Audiology and Speech-Language Pathology [18 VAC 30 - 20]		<u>Action:</u> Promulgate Chapter 21 & repeal existing Chapter 20	
		<u>Stage:</u> Proposed - At Secretary's Office for 126 days	
Board		Board of Counseling	
Chapter		Action / Stage Information	
Regulations Governing the Practice of Professional Counseling [18 VAC 115 - 20]		<u>Action:</u> Periodic review 11	
		<u>Stage:</u> NOIRA - Register Date: 8/1/11 Proposed regulations adopted	
Board		Board of Dentistry	
Chapter		Action / Stage Information	
Regulations Governing Dental Practice [18 VAC 60 - 20]		<u>Action:</u> Sedation and anesthesia permits for dentists	
		<u>Stage:</u> Emergency/NOIRA - At Governor's Office for 61 days	
Regulations Governing Dental Practice [18 VAC 60 - 20]		<u>Action:</u> Periodic review; reorganization of chapter	
		<u>Stage:</u> NOIRA - Register Date: 8/2/10 Proposed regulations adopted	
Regulations Governing Dental Practice [18 VAC 60 - 20]		<u>Action:</u> Training in pulp capping for dental assistants II	
		<u>Stage:</u> Fast-Track - At Governor's Office for 182 days	
Regulations Governing Dental Practice [18 VAC 60 - 20]		<u>Action:</u> Radiation certification	
		<u>Stage:</u> Fast-Track - At Governor's Office for 119 days	
Regulations Governing Dental Practice [18 VAC 60 - 20]		<u>Action:</u> Recovery of disciplinary costs	
		<u>Stage:</u> Final - At Governor's Office for 180 days	
Board		Board of Funeral Directors and Embalmers	
Chapter		Action / Stage Information	
Regulations of the Board of Funeral Directors and Embalmers [18 VAC 65 - 20]		<u>Action:</u> Identification of human remains	
		<u>Stage:</u> Emergency/NOIRA - At Governor's Office for 460 days	
Regulations of the Board of Funeral Directors and Embalmers [18 VAC 65 - 20]		<u>Action:</u> Fee increase	
		<u>Stage:</u> Proposed - At Secretary's Office for 414 days	
Regulations for Preneed Funeral Planning [18 VAC 65 - 30]		<u>Action:</u> Termination of irrevocable trusts	

**Regulatory Actions
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		<u>Stage:</u> Fast-Track - At Governor's Office for 460 days
Board	Board of Long-Term Care Administrators	
Chapter	Action / Stage Information	
Regulations Governing the Practice of Nursing Home Administrators [18 VAC 95 - 20]	<u>Action:</u> Fee increase <u>Stage:</u> Proposed - At Secretary's Office for 379 days	
Regulations Governing the Practice of Assisted Living Facility Administrators [18 VAC 95 - 30]	<u>Action:</u> Oversight of acting administrators in an AIT program <u>Stage:</u> Proposed - DPB Review in progress for 41 days	
Board	Board of Medicine	
Chapter	Action / Stage Information	
Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, and Chiropractic [18 VAC 85 - 20]	<u>Action:</u> Periodic review <u>Stage:</u> Final - At Governor's Office for 119 days	
Regulations Governing the Practice of Physician Assistants [18 VAC 85 - 50]	<u>Action:</u> Supervision of physician assistant practice <u>Stage:</u> Proposed - At Governor's Office for 180 days	
Regulations Governing the Practice of Licensed Midwives [18 VAC 85 - 130]	<u>Action:</u> Disclosure requirements for high-risk pregnancies <u>Stage:</u> Final - At Secretary's Office for 99 days	
Regulations Governing the Practice of Polysomnographic Technologists [18 VAC 85 - 140]	<u>Action:</u> Initial regulations for licensure <u>Stage:</u> Proposed - At Secretary's Office for 102 days	
Board	Board of Nursing	
Chapter	Action / Stage Information	
Regulations of the Board of Nursing [18 VAC 90 - 20]	<u>Action:</u> Provisional licensure as a registered nurse <u>Stage:</u> Emergency/NOIRA - At Secretary's Office for 109 days	
Regulations of the Board of Nursing [18 VAC 90 - 20]	<u>Action:</u> Review of requirements for clinical nurse specialists <u>Stage:</u> NOIRA - Register Date: 12/19/11 Board to consider proposed regulations	
Regulations of the Board of Nursing [18 VAC 90 - 20]	<u>Action:</u> Continued competency requirements <u>Stage:</u> Proposed - At Governor's Office for 277 days	
Regulations of the Board of Nursing [18 VAC 90 - 20]	<u>Action:</u> Requirements for approval of nursing education programs <u>Stage:</u> Proposed - At Secretary's Office for 176 days	
Regulations of the Board of Nursing [18 VAC 90 - 20]	<u>Action:</u> Grounds for disciplinary action for failure to report child or elder abuse <u>Stage:</u> Fast-Track - At Secretary's Office for 132 days	

**Regulatory Actions
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Board		Board of Pharmacy
Chapter	Action / Stage Information	
Virginia Board of Pharmacy Regulations [18 VAC 110 - 20]	<u>Action:</u> Continuous quality improvement programs	<u>Stage:</u> Emergency/NOIRA - At Governor's Office for 62 days
Virginia Board of Pharmacy Regulations [18 VAC 110 - 20]	<u>Action:</u> Modifications to requirements for automated dispensing devices	<u>Stage:</u> NOIRA - Register Date: 11/21/11 Close of comment - 12/21/11
Virginia Board of Pharmacy Regulations [18 VAC 110 - 20]	<u>Action:</u> Change to run-dry requirement for automated counting devices	<u>Stage:</u> NOIRA - At Secretary's Office for 7 days
Virginia Board of Pharmacy Regulations [18 VAC 110 - 20]	<u>Action:</u> Repackaging in CSB's and BHA's	<u>Stage:</u> Proposed - Register Date: 11/21/11 Close of comment - 1/20/12
Virginia Board of Pharmacy Regulations [18 VAC 110 - 20]	<u>Action:</u> Administrative fees for duplicate licenses and verification	<u>Stage:</u> Proposed - At Secretary's Office for 194 days
Virginia Board of Pharmacy Regulations [18 VAC 110 - 20]	<u>Action:</u> Amendments to address on-hold prescriptions	<u>Stage:</u> Proposed - At Secretary's Office for 33 days

Board		Board of Physical Therapy
Chapter	Action / Stage Information	
Regulations Governing the Practice of Physical Therapy [18 VAC 112 - 20]	<u>Action:</u> Traineeship changes; continuing education	<u>Stage:</u> Final - At Secretary's Office for 165 days

Board		Board of Psychology
Chapter	Action / Stage Information	
Regulations Governing the Practice of Psychology [18 VAC 125 - 20]	<u>Action:</u> Periodic review recommendations; acceptance of pre-internship hours	<u>Stage:</u> Final - At Governor's Office for 121 days

Board		Board of Social Work
Chapter	Action / Stage Information	
Regulations Governing the Practice of Social Work [18 VAC 140 - 20]	<u>Action:</u> Fee increase and renewal cycle	<u>Stage:</u> Proposed - At Secretary's Office for 416 days
Regulations Governing the Practice of Social Work [18 VAC 140 - 20]	<u>Action:</u> Licensure requirements	<u>Stage:</u> Proposed - At Governor's Office for 277 days

Board		Board of Veterinary Medicine
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**Regulatory Actions
February 14, 2012**

Chapter	Action / Stage Information
Regulations Governing the Practice of Veterinary Medicine [18 VAC 150 - 20]	<u>Action:</u> Addition to grounds for finding of unprofessional conduct <u>Stage:</u> Fast-Track - <i>At Governor's Office for 180 days</i>
Regulations Governing the Practice of Veterinary Medicine [18 VAC 150 - 20]	<u>Action:</u> Fee increase <u>Stage:</u> Final - <i>At Secretary's Office for 356 days</i>

Notice of Periodic Review of Regulations
Request for Comment

Virginia Board of Health Professions

The Virginia Board of Health Professions is conducting a periodic review and is requesting comment on the following current regulations:

18VAC75-20-10 et seq. Regulations Governing Practitioner Self-Referral
18VAC75-30-10 et seq., Regulations Governing Standards for Dietitians and Nutritionists
18VAC75-40-10 et seq. Regulations Governing Certification of Dialysis Technicians

The Board will consider whether the existing regulations are essential to protect the health, safety and welfare of the public in providing assurance that licensed practitioners are competent to practice. Alternatives to the current regulations or suggestions for clarification of the regulation will also be received and considered.

Comment Begins: November 21, 2011

Comment Ends: January 20, 2012

If any member of the public would like to comment on these regulations, please send comments by the close of the comment period to:

Elaine J. Yeatts
Senior Policy Analyst
Department of Health Professions
9960 Mayland Drive, Suite 300
Richmond, VA 23233

Comments may also be e-mailed to: Elaine.yeatts@dhp.virginia.gov or faxed to: (804) 257-4434

Regulations may be viewed on-line at www.dhp.virginia.gov or copies will be sent upon request.

**Report of the 2012 General Assembly
Board of Health Professions
February 14, 2012**

HB 98 Athletic training; amends definition.

Chief patron: Bell, Richard P.

Summary as introduced:

Athletic training; definition. Amends the definition of the practice of athletic training so that licensed physical therapists may no longer direct such practice.

01/26/12 House: Read second time and engrossed
01/27/12 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
01/30/12 Senate: Referred to Committee on General Laws and Technology

HB 181 Registered nurse or physician assistant; authority to pronounce death.

Chief patron: O'Bannon

Summary as introduced:

Registered nurse or physician assistant; authority to pronounce death. Adds registered nurses employed by and physician assistants working at continuing care retirement communities to the list of individuals who may pronounce death under certain circumstances.

01/23/12 House: Read second time and engrossed
01/24/12 House: Read third time and passed House BLOCK VOTE (100-Y 0-N)
01/24/12 House: VOTE: BLOCK VOTE PASSAGE (100-Y 0-N)
01/25/12 Senate: Constitutional reading dispensed
01/25/12 Senate: Referred to Committee on Education and Health

HB 265 Health Professions, Board of; required to meet annually rather than quarterly.

Chief patron: Peace

Summary as introduced:

Board of Health Professions; meetings. Requires the Board of Health Professions to meet at least annually, rather than quarterly.

01/19/12 House: Read second time and engrossed
01/20/12 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
01/20/12 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)
01/23/12 Senate: Constitutional reading dispensed
01/23/12 Senate: Referred to Committee on Education and Health

HB 266 Surgery; definition and who may perform.

Chief patron: Peace

Summary as passed House:

Definition of surgery. Defines "surgery" and provides that no person shall perform surgery unless he is (i) licensed by the Board of Medicine as a doctor of medicine, osteopathy, or podiatry; (ii) licensed by the Board of Dentistry as a doctor of dentistry; (iii) jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner; (iv) a physician assistant acting under the supervision of a

doctor of medicine, osteopathy, or podiatry; (iv) a midwife performing episiotomies during childbirth; or (vi) acting pursuant to the orders and under the appropriate supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry. The bill is identical to SB 543.

01/30/12 Senate: Referred to Committee on Education and Health
02/09/12 Senate: Reported from Education and Health (14-Y 0-N)
02/10/12 Senate: Constitutional reading dispensed (38-Y 0-N)
02/13/12 Senate: Read third time
02/13/12 Senate: Passed Senate (40-Y 0-N)

HB 267 Dental laboratories; register with Board of Dentistry.

Chief patron: Peace

Summary as introduced:

Dental laboratories; register with the Board of Dentistry. Requires any individual or business entity engaged in the manufacture or repair of dental prosthetic appliances to register with the Board of Dentistry. The bill also requires the Board to develop regulations governing the operation of dental laboratories.

01/10/12 House: Prefiled and ordered printed; offered 01/11/12 12100510D
01/10/12 House: Referred to Committee on Health, Welfare and Institutions
01/23/12 House: Impact statement from DPB (HB267)
01/24/12 House: Continued to 2013 in Health, Welfare and Institutions

HB 268 Occupational therapy; definition.

Chief patron: Peace

Summary as passed House:

Practice of occupational therapy. Provides that the definition of "practice of occupational therapy" is amended to make clear that "practice of occupational therapy" includes the therapeutic use of occupations for habilitation and rehabilitation to enhance physical health, mental health, and cognitive functioning and that it includes the design of adaptive equipment and assistive technologies and consultation concerning the adaptation of sensory and social, as well as physical, environments. The bill requires the Board of Medicine to promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment. This bill is identical to SB340.

01/19/12 House: Read second time and engrossed
01/20/12 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
01/20/12 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)
01/23/12 Senate: Constitutional reading dispensed
01/23/12 Senate: Referred to Committee on Education and Health

HB 272 Death, marriage, or divorce records; changes time period before becomes public.

Chief patron: Peace

Summary as introduced:

Death, marriage, or divorce records; when public. Changes the time period before which death, marriage, divorce, or annulment records become public from 50 years to 25 years.

01/23/12 Senate: Referred to Committee on Education and Health
02/09/12 Senate: Reported from Education and Health (14-Y 0-N)
02/10/12 Senate: Constitutional reading dispensed (38-Y 0-N)
02/13/12 Senate: Read third time
02/13/12 Senate: Passed Senate (40-Y 0-N)

HB 337 Professions and occupations; unlawful procurement of certificate, license, or permit.

Chief patron: Wilt

Summary as introduced:

Professions and occupations; unlawful procurement of certificate, license, or permit. Clarifies language prohibiting the use, disclosure, or release of questions and answers for examinations for certification or licensure.

01/25/12 House: Reconsideration of passage agreed to by House
01/25/12 House: Passed House BLOCK VOTE (99-Y 0-N)
01/25/12 House: VOTE: PASSAGE #2 (99-Y 0-N)
01/26/12 Senate: Constitutional reading dispensed
01/26/12 Senate: Referred to Committee on General Laws and Technology

HB 344 Dental and dental hygiene school faculty; licensure.

Chief patron: O'Bannon

Summary as introduced:

Dental and dental hygiene school faculty; licensure. Clarifies what patient care activities are allowed for a person enrolled in a Virginia dental education program who has a temporary license to practice dentistry while in the program, clarifies requirements for the Board to issue a faculty license to a qualified person from out of state to teach dentistry or dental hygiene in a Virginia dental school or program, and specifies that a restricted license for a foreign dentist to teach dentistry in Virginia is a temporary appointment and extends this restricted license expiration from one year to two years. This bill is identical to SB384.

01/23/12 Senate: Referred to Committee on Education and Health
02/09/12 Senate: Reported from Education and Health (14-Y 0-N)
02/10/12 Senate: Constitutional reading dispensed (38-Y 0-N)
02/13/12 Senate: Read third time
02/13/12 Senate: Passed Senate (40-Y 0-N)

HB 346 Nurse practitioners; practice as part of patient care teams.

Chief patron: O'Bannon

Summary as passed House:

Practice of nurse practitioners; patient care teams. Amends provisions governing the practice of nurse practitioners. The bill provides that nurse practitioners shall only practice as part of a patient care team and shall maintain appropriate collaboration and consultation, as evidenced in a written or electronic practice agreement, with at least one patient care team physician licensed to practice medicine in the Commonwealth. The bill also establishes requirements for written or electronic practice agreements for nurse practitioners, provides that physicians practicing as part of a patient care team may require nurse practitioners practicing as part of that patient care team to be covered by professional malpractice insurance, and amends requirements related to the prescriptive authority of nurse practitioners practicing as part of a patient care team.

01/19/12 House: Engrossed by House - committee substitute HB346H1
01/20/12 House: Read third time and passed House (96-Y 1-N)
01/20/12 House: VOTE: PASSAGE (96-Y 1-N)
01/23/12 Senate: Constitutional reading dispensed
01/23/12 Senate: Referred to Committee on Education and Health

HB 347 Prescription Monitoring Program; disclosures.

Chief patron: Miller

Summary as introduced:

Prescription Monitoring Program; disclosures. Modifies the Prescription Monitoring Program to (i) require dispensers of covered substances to report the method of payment for the prescription, (ii) require the Director of the Department of Health Professions to report information relevant to an investigation of a prescription recipient, in addition to a prescriber or dispenser, to any federal law-enforcement agency with authority to conduct drug diversion investigations, (iii) allow the Director to disclose information indicating potential misuse of a prescription by a recipient to the State Police for the purpose of investigation into possible drug diversion, and (iv) allow prescribers to delegate authority to access the Program to an unlimited number, rather than the current limit of two, of regulated health care professionals under their direct supervision. This bill is identical to SB321.

01/25/12 Senate: Referred to Committee on Education and Health
02/09/12 Senate: Reported from Education and Health (14-Y 0-N)
02/10/12 Senate: Constitutional reading dispensed (38-Y 0-N)
02/13/12 Senate: Read third time
02/13/12 Senate: Passed Senate (40-Y 0-N)

HB 378 Funeral services licensees; continuing education requirements.

Chief patron: Pogge

Summary as introduced:

Funeral services licensees; continuing education requirements. Changes the continuing education requirements for funeral services licensees, funeral directors, and embalmers from 10 hours every two years to five hours per year, and allows the one hour covering compliance with laws and regulations governing the profession to include federal or state law.

02/07/12 House: Read second time and engrossed
02/08/12 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
02/08/12 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)
02/09/12 Senate: Constitutional reading dispensed
02/09/12 Senate: Referred to Committee on General Laws and Technology

HB 439 Veterans; disposition and identification of unclaimed cremains.

Chief patron: Tata

Summary as introduced:

Veterans; disposition of cremains. Requires a funeral director to determine whether unclaimed cremains are those of a veteran prior to disposing of such cremains, and provides that a funeral director may transfer cremains of a veteran to a veterans service organization for purposes of disposition. The bill also provides that absent bad faith or malicious intent, no funeral director who transfers the cremains of a veteran or veterans service organization that receives the cremains of a veteran for purposes of disposition shall be liable for civil negligence.

02/01/12 House: Read third time and passed House BLOCK VOTE (99-Y 0-N)
02/01/12 House: VOTE: BLOCK VOTE PASSAGE (99-Y 0-N)
02/02/12 Senate: Constitutional reading dispensed
02/02/12 Senate: Referred to Committee on General Laws and Technology
02/03/12 House: Impact statement from DPB (HB439H1)

HB 508 Cannabinoids, synthetic; amends provisions regarding criminalization.

Chief patron: Garrett

Summary as introduced:

Synthetic cannabinoids; bath salts; penalties. Amends provisions added to the Code last year regarding the criminalization of synthetic cannabinoids and chemicals known as "bath salts" to add newly identified chemical combinations. The bill adds a more generic chemical description of synthetic cannabinoids so that new combinations will be illegal without the precise chemical combination being added to the Code.

02/06/12 House: Assigned App. sub: Public Safety
02/10/12 House: Subcommittee recommends reporting (7-Y 0-N)
02/10/12 House: Reported from Appropriations (21-Y 0-N)
02/12/12 House: Read first time
02/13/12 House: Read second time and engrossed

HB 543 Massage therapists; licensure required by Board of Nursing.

Chief patron: Robinson

Summary as passed House:

Licensed massage therapists. Requires that massage therapists be licensed, rather than certified, by the Board of Nursing, includes "bodywork" in the definition of "massage therapy," and identifies activities that do not constitute massage therapy and bodywork. The bill also allows the Board of Nursing to issue a provisional license valid until July 1, 2014, to any individual who meets the current requirements for certification as a massage therapist, and requires the Board of Nursing to promulgate regulations to implement the provisions of the act with 280 days.

02/06/12 House: Engrossed by House - committee substitute HB543H1
02/07/12 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
02/07/12 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)
02/08/12 Senate: Constitutional reading dispensed
02/08/12 Senate: Referred to Committee on Education and Health

HB 733 Pharmacists; compounding authority.

Chief patron: Jones

Summary as passed House:

Pharmacists; compounding authority. Increases pharmacists' authority to compound to allow the compounding of (i) a commercially manufactured drug whose manufacturer has notified the FDA that the drug is unavailable due to a current drug shortage or (ii) a commercially manufactured drug when the prescriber has indicated in the written or oral prescription for an individual patient that there is an emergent need for a drug that is not readily available within the time medically necessary.

02/03/12 House: Read third time and passed House (99-Y 0-N)
02/03/12 House: VOTE: PASSAGE (99-Y 0-N)
02/06/12 House: Impact statement from DPB (HB733E)
02/07/12 Senate: Constitutional reading dispensed
02/07/12 Senate: Referred to Committee on Education and Health

HB 885 Nurses; licensure exemption.

Chief patron: Hodges

Summary as passed House:

Nursing; licensure exemption. Exempts from licensure any nurse who holds a current unrestricted license in another state, the District of Columbia, or a United States possession or territory while such nurse is in the Commonwealth temporarily and is practicing nursing in a summer camp or in conjunction with clients who are participating in specified recreational or educational activities. This bill is identical to SB415.

01/24/12 House: Read third time and passed House (100-Y 0-N)
01/24/12 House: VOTE: PASSAGE (100-Y 0-N)
01/24/12 House: Impact statement from DPB (HB885E)
01/25/12 Senate: Constitutional reading dispensed
01/25/12 Senate: Referred to Committee on Education and Health

HB 937 Spouses of military service members; expediting issuance of business licenses, etc.

Chief patron: Lingamfelter

Summary as introduced:

Professions and occupations; expediting the issuance of licenses for spouses of military service members. Requires a regulatory board within the Department of Professional and Occupational Regulation, the Department of Health Professions, or any board named in Title 54.1 to establish procedures to expedite the issuance of a license, permit, certificate, or other document, however styled or denominated, required for the practice of any business, profession, or occupation in the Commonwealth, including the issuance of a temporary permit, to an applicant (i) holding the same or similar license, permit, certificate, or other document required for the practice of any business, profession, or occupation issued by another jurisdiction, (ii) whose spouse is the subject of a military transfer to the Commonwealth, and (iii) who left employment to accompany the applicant's spouse to Virginia, if, in the opinion of the board, the requirements for the issuance of the license, permit, certificate, or other document in such other jurisdiction are substantially equivalent to those required in the Commonwealth. The bill limits to six months the duration of any temporary permit issued.

02/07/12 House: Engrossed by House - committee substitute HB937H1

02/08/12 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)

02/08/12 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)

02/09/12 Senate: Constitutional reading dispensed

02/09/12 Senate: Referred to Committee on General Laws and Technology

HB 938 Military training, etc.; regulatory boards to accept as equivalent to requirements for licensures.

Chief patron: Lingamfelter

Summary as introduced:

Professions and occupations; qualifications for licensure; substantially equivalent military training and education. Requires the regulatory boards within the Department of Professional and Occupational Regulation, the Department of Health Professions, or any board named in Title 54.1 to accept the military training, education, or experience of a service member returning from active military service in the armed forces of the United States, to the extent that such training, education, or experience is substantially equivalent to the requirements established by law and regulations of the respective board for the issuance of any license, permit, certificate, or other document, however styled or denominated, required for the practice of any business, profession, or calling in the Commonwealth. The bill provides that to the extent that the service member's military training, education or experience, or portion thereof, is not deemed substantially equivalent, the respective board shall credit whatever portion of the military training, education, or experience that is substantially equivalent toward meeting the requirements for the issuance of the license, permit, certificate, or other document. The bill authorizes a regulatory board to require the service member to provide such documentation of his training, education, or experience as deemed necessary to determine substantial equivalency. The bill defines the term "active military service."

02/07/12 House: Engrossed by House - committee substitute HB938H1

02/08/12 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)

02/08/12 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)

02/09/12 Senate: Constitutional reading dispensed

02/09/12 Senate: Referred to Committee on General Laws and Technology

HB 1106 Behavior and assistant behavior analysts; licensure by Board of Medicine.

Chief patron: Greason

Summary as passed House:

Behavior analysts; licensure by Board of Medicine. Gives the Board of Medicine authority to license behavior analysts and assistant behavior analysts. The bill also requires the Board to promulgate emergency regulations within 280 days of enactment and contains an emergency clause.

EMERGENCY

01/31/12 House: Impact statement from DPB (HB1106ER)
01/31/12 House: Signed by Speaker
02/01/12 Senate: Signed by President
02/07/12 Governor: Approved by Governor-Chapter 3 (effective 2/7/12)
02/07/12 Governor: Acts of Assembly Chapter text (CHAP0003)

HB 1107 Public schools; administration of auto-injectable epinephrine.

Chief patron: Greason

Summary as introduced:

Public schools; administration of auto-injectable epinephrine. Provides that local school boards may develop policies to maintain a supply of auto-injectable epinephrine. The school nurse, or a trained and authorized school board employee if a nurse is unavailable, would be able to administer or provide auto-injectable epinephrine to a student with a prescription on file or a student believed to be having an anaphylactic reaction. Neither the school nurse nor the authorized and trained school board employee shall be liable for any civil damages for ordinary negligence when acting in good faith.

02/09/12 House: Read first time
02/10/12 House: Read second time
02/10/12 House: Committee substitute agreed to 12105132D-H1
02/10/12 House: Engrossed by House - committee substitute HB1107H1
02/13/12 House: Read third time and passed House (95-Y 1-N)

HB 1140 Carisoprodol; added to list of Schedule IV controlled substances.

Chief patron: Hodges

Summary as introduced:

Carisoprodol added to list of Schedule IV controlled substances. Adds carisoprodol to the list of Schedule IV controlled substances in the Drug Control Act.

02/03/12 House: Assigned App. sub: Public Safety
02/09/12 House: Subcommittee recommends reporting (7-Y 0-N)
02/10/12 House: Reported from Appropriations (21-Y 0-N)
02/12/12 House: Read first time
02/13/12 House: Read second time and engrossed

HB 1141 Ezogabine; added to list of Schedule V controlled substances.

Chief patron: Hodges

Summary as introduced:

Ezogabine; add to Schedule V. Adds ezogabine to Schedule V of the Drug Control Act.

02/03/12 House: Assigned App. sub: Public Safety
02/09/12 House: Subcommittee recommends reporting (7-Y 0-N)
02/10/12 House: Reported from Appropriations (21-Y 0-N)
02/12/12 House: Read first time
02/13/12 House: Read second time and engrossed

HB 1161 Methamphetamine precursors; sale and tracking, penalties.

Chief patron: Cline

Summary as introduced:

Methamphetamine precursors; sale and tracking; penalties. Requires the Department of State Police to enter into a memorandum of understanding to establish the Commonwealth's participation in a real-time electronic recordkeeping and monitoring system for the

nonprescription sale of ephedrine or related compounds. Most pharmacies and retail distributors will be required to enter nonprescription sales of ephedrine or related compounds into the electronic system. The bill retains the existing sales limit of no more than 3.6 grams of ephedrine or related compounds per day per individual retail customer and no more than 9 grams per 30-day period. The bill is effective January 1, 2013.

02/03/12 House: Reported from Courts of Justice (18-Y 0-N)
02/07/12 House: Read first time
02/08/12 House: Read second time and engrossed
02/09/12 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
02/09/12 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)

HB 1199 Administrative Process Act; right to counsel in rule-making proceedings.

Chief patron: Herring

Summary as introduced:

Administrative Process Act; right to counsel in rule-making proceedings. Provides that in formulating any regulation or in evidentiary hearings on regulations, an interested party shall be entitled to be accompanied by and represented by counsel or other qualified representative. The bill contains technical amendments.

02/07/12 House: Read second time and engrossed
02/08/12 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)
02/08/12 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)
02/09/12 Senate: Constitutional reading dispensed
02/09/12 Senate: Referred to Committee on General Laws and Technology

HJ 51 Health care provider; option for accepting military training, etc., as requirements for licensure.

Chief patron: Stolle

Summary as introduced:

Study; options for accepting military training and experience as satisfying requirements for licensure, certification, or registration as a health care provider; report. Requests the Department of Health Professions to study options for accepting military training and experience as satisfying requirements for licensure, certification, or registration as a health care provider. In conducting its study, the Department of Health Professions shall review existing state laws governing licensure, certification, and registration of health care providers, compare these requirements to similar Military Occupational Specialties in health care, and develop recommendations for statutory and regulatory changes to allow the Department of Health Professions to accept evidence of military training and experience as satisfying educational and experiential requirements for licensure, certification, or registration as a health care provider in cases in which such training and experience is not currently accepted as satisfying the educational and experiential requirement for licensure, certification, or registration. The Department of Health Professions shall also develop recommendations related to options for increasing awareness among veterans and citizens of the Commonwealth for submitting evidence of military training and experience to satisfy educational and experiential requirements for licensure or certification to practice the arts.

01/10/12 House: Prefiled and ordered printed; offered 01/11/12 12101611D
01/10/12 House: Referred to Committee on Rules
01/20/12 House: Assigned Rules sub: Studies
01/26/12 House: Subcommittee recommends laying on the table

SB 106 Physician assistants; use of fluoroscopy.

Chief patron: Edwards

Summary as passed Senate:

Physician assistants; fluoroscopy. Allows a licensed physician assistant who (i) is working under the supervision of a licensed doctor of medicine or osteopathy specializing in the field of radiology, (ii) has been trained in the proper use of equipment for the

purpose of performing radiologic technology procedures to use fluoroscopy for guidance of diagnostic and therapeutic procedures, and (iii) has successfully completed the exam administered by the American Registry of Radiologic Technologists for physician assistants. The bill requires the Board of Medicine to promulgate emergency regulations to implement the provisions of this bill.

02/07/12 Senate: Read third time and passed Senate (40-Y 0-N)
02/09/12 Senate: Impact statement from DPB (SB106E)
02/13/12 House: Placed on Calendar
02/13/12 House: Read first time
02/13/12 House: Referred to Committee on Health, Welfare and Institutions

SB 146 Dental hygienists; remote supervision by a public health dentist.

Chief patron: Puckett

Summary as introduced:

Dental hygienists; scope of practice. Expands an earlier trial program to allow licensed dental hygienists employed by the Department of Health to provide educational and preventative dental care pursuant to a standing protocol. Also, the bill requires an annual report of services provided by such dental hygienists, including their impact upon the oral health of the citizens of the Commonwealth, to be prepared by the Department of Health and submitted to the Virginia Secretary of Health and Human Resources.

02/06/12 Senate: Engrossed by Senate - committee substitute SB146S1
02/07/12 Senate: Read third time and passed Senate (40-Y 0-N)
02/13/12 House: Placed on Calendar
02/13/12 House: Read first time
02/13/12 House: Referred to Committee on Health, Welfare and Institutions

SB 313 Surgical assistants and surgical technologists; licensure and certification by Board of Medicine.

Chief patron: Blevins

Summary as introduced:

Surgical assistants and surgical technologists; licensure and certification by the Board of Medicine. Requires surgical assistants to be licensed and surgical technologists to be certified by the Board of Medicine. The bill also grandfathers in surgical assistants and surgical technologists practicing at any time during the six months prior to July 1, 2012, and allows a 12-month grace period in order to meet licensure and certification requirements for those completing a training program between July 1, 2012, and July 1, 2013.

01/10/12 Senate: Prefiled and ordered printed; offered 01/11/12 12103511D
01/10/12 Senate: Referred to Committee on Education and Health
01/18/12 Senate: Assigned Education sub: Health Licensing
01/27/12 Senate: Impact statement from DPB (SB313)
02/09/12 Senate: Continued to 2013 in Education and Health (15-Y 0-N)

SB 517 Nursing education programs; requires Board of Nursing to implement certain due process requirements.

Chief patron: Wagner

Summary as introduced:

Nursing education programs; due process. Requires the Board of Nursing to implement certain due process requirements to be followed before restricting the enrollment of any nursing education program.

02/13/12 Senate: Reading of substitute waived
02/13/12 Senate: Committee substitute agreed to 12105291D-S1
02/13/12 Senate: Engrossed by Senate - committee substitute SB517S1
02/13/12 Senate: Constitutional reading dispensed (40-Y 0-N)
02/13/12 Senate: Passed Senate (40-Y 0-N)

SB 584 Kinesiotherapists; licensure required.

Chief patron: Miller, Y.B.

Summary as introduced:

Kinesiotherapists; licensure required. Requires the Board of Medicine to license and regulate kinesiotherapists.

01/18/12 Senate: Presented and ordered printed 12103416D

01/18/12 Senate: Referred to Committee on Education and Health

01/24/12 Senate: Impact statement from DPB (SB584)

01/26/12 Senate: Failed to report (defeated) in Education and Health (4-Y 11-N)

SB 592 Tramadol; added to list of Schedule IV controlled substances.

Chief patron: Puckett

Summary as introduced:

Tramadol added to list of Schedule IV controlled substances. Adds tramadol, an opiate painkiller, to the list of Schedule IV controlled substances.

02/06/12 Senate: Read second time and engrossed

02/07/12 Senate: Read third time and passed Senate (40-Y 0-N)

02/13/12 House: Placed on Calendar

02/13/12 House: Read first time

02/13/12 House: Referred to Committee on Health, Welfare and Institutions

Assessing the Effectiveness of Sanctioning Reference Points

February 14, 2012

Prepared for:
Department of Health Professions
Board of Health Professions

Neal Kauder, President
804.794.3144
vis-res.com



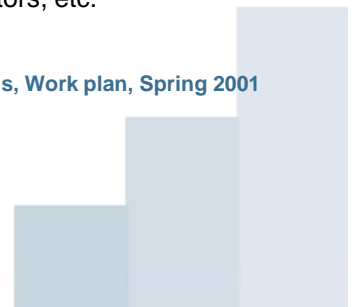
SRP Background

Questions raised relating to consistency, neutrality, and appropriateness of Health Regulatory Board sanctions

Only anecdotal information previously available

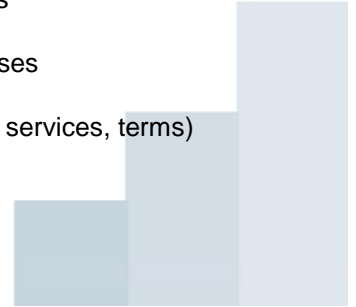
Hard data unavailable on factors that relate to sanction decisions – aggravating or mitigating factors, etc.

Virginia Board of Health Professions, Work plan, Spring 2001



Purpose of the SRPs

- Make sanctioning more predictable
- Education tool for new board members
- Add empirical element to a process
- A resource for staff and attorneys
- “Neutralize” unwarranted inconsistencies
- Validate board member recall of past cases
- Help ‘predict’ future caseloads (need for services, terms)



SRP Guiding Principle

“... for any sanction reference system to be successful, it must be developed with complete board oversight, be value-neutral and grounded in sound data analysis, and be totally voluntary...”

DHP Internal Committee & Staff, Fall 2001



SRP System Theoretical Framework

Overall sanctioning goals

Purpose of reference points

Analytical approach

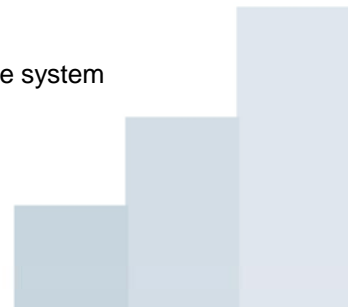
Measuring case complexity & factors to collect

Key features of reference system



How the SRP System Was Developed...

1. Conduct personal interviews
2. Profile other states
3. Build consensus for theoretical framework & methods
4. Identify sample & collect data
5. Identify "historically relevant factors"
6. Translate factors into usable reference system
7. Train, implement and monitor



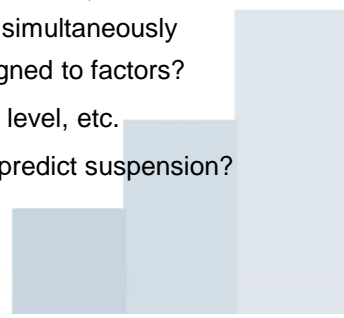
Descriptive & Multivariate Analysis

Descriptive – describes cases in a basic way

- What sanctions do respondents receive (by offense)?
- How many respondents have prior record?
- How many respondents have ongoing substance problems?
- What injury levels occur?

Multivariate – Tests the influence of factors simultaneously

- How much weight have boards assigned to factors?
- How influential is prior history, injury level, etc.
- What respondent or offense factors predict suspension?



Nursing Worksheet

Inability to Safely Practice Worksheet Board of Nursing Adopted 3/22/11

Offense Score	Points	Score
a. Two or more concurrent founded cases	20	_____
b. Concurrent sanction by employer	20	_____
c. Impaired at the time of the incident	20	_____
d. Patient injury	20	_____
e. Patient especially vulnerable	20	_____
f. Any patient involvement	15	_____
g. Injury to self	10	_____
h. Act of commission	10	_____
Total Offense Score:		<input type="text"/>

Respondent Score	Points	Score
a. Concurrent criminal conviction	30	_____
b. Any prior Board violations	20	_____
c. License ever taken away	20	_____
d. Been sanctioned by another state/entry	20	_____
e. Past difficulties (substances, mental/physical)	10	_____
f. Three or more employers in past 5 years	5	_____
Total Respondent Score:		<input type="text"/>

Offense Score

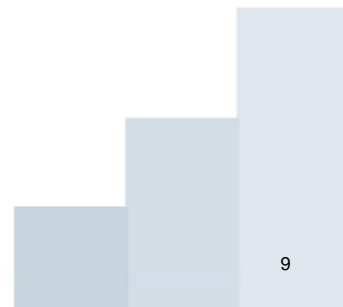
		0-25	26-45	46 or more
Respondent Score	0-5	No Sanction ... to > Reprimand/ Monetary Penalty	Reprimand/ Monetary Penalty ... to > Treatment/Monitoring	Treatment/Monitoring ... to > Reprimand/Final/ Suspension or Revocation
	6-40	Reprimand/ Monetary Penalty ... to > Treatment/Monitoring	Treatment/Monitoring ... to > Reprimand/Final/ Suspension or Revocation	Treatment/Monitoring ... to > Reprimand/Final/ Suspension or Revocation
	41 or more	Treatment/Monitoring	Treatment/Monitoring ... to > Reprimand/Final/ Suspension or Revocation	Reprimand/Final/ Suspension or Revocation

Grid cells give a single recommendation or a range of recommendations for imposing sanctions.

Confidential pursuant to § 54.1-2400.2 of the Code of Virginia.



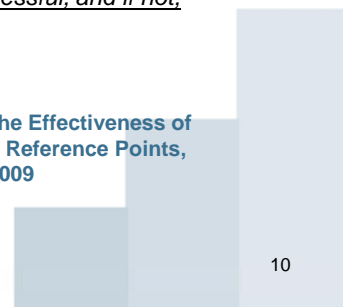
Results of the Effectiveness Study



Purpose of the Effectiveness Study

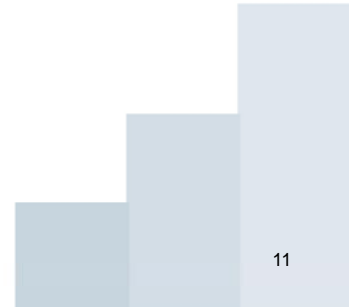
“... to evaluate the SRP system against its own unique set of objectives. The SRPs were designed to aid board members, staff and the public in a variety of ways. The study seeks to examine whether or not the SRPs were successful, and if not, what areas require improvement”

**Assessing the Effectiveness of
Sanctioning Reference Points,
December 2009**



Effectiveness Study Seeks to Evaluate:

- Worksheet factors and point values
- Sanctioning recommendations
- Agreement monitoring and departures
- How board polices fit within SRPs (CCAs, PHCOs, etc.)
- Consistency, proportionality and neutrality
- Unintended consequences
- Opportunities for ongoing SRP training



Effectiveness Study Tasks

- Conduct user satisfaction interviews
- Code and key data from worksheets
- Collect, code and key extralegal factors
- Convert, merge and create databases from various sources
- Present preliminary descriptive data
- Revise worksheets and manuals
- Conduct Board and public trainings
- Conduct analysis to determine consistency, proportionality & neutrality



Initial BON Interview Results

(3 Board Members, 3 Staff and 3 Agency Subordinates)

All interviewees **agreed** or **strongly agreed** that

- SRPs have aided Board members in sanctioning decisions.
- The SRP system particularly helped new board members.

All interviewees **disagreed** or **strongly disagreed** that

- The sanctions recommended by the SRP worksheets are too harsh.

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Comparison of Samples Used in Effectiveness Study

Nurses

Completed SRP Worksheets

560 cases
June 2006 to June 2010
based on WS completion date

Original SRP Sample Cases (comparison group)

294 cases
Jan 2002 to Dec 2004

Factors Compared

3 Worksheets/Case Types
8 Offense Factors*
8 Respondent Factors
3 Extra-legal Factors

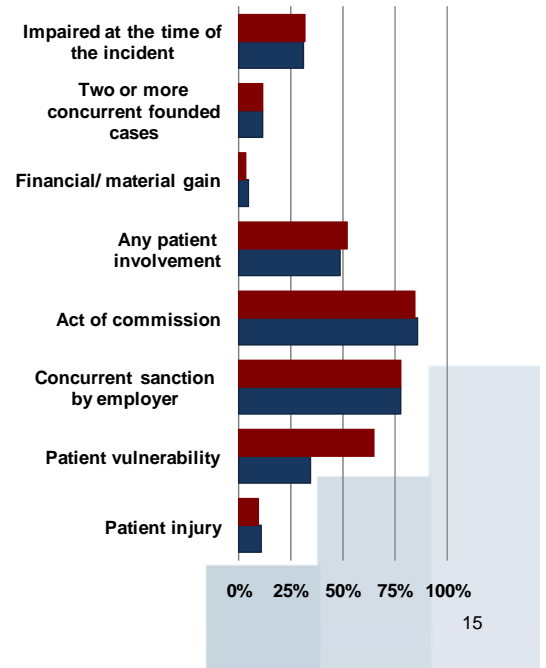
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*not all offense factors are on every worksheet



Comparing Nursing Worksheet Offense Factors to the Original Sample

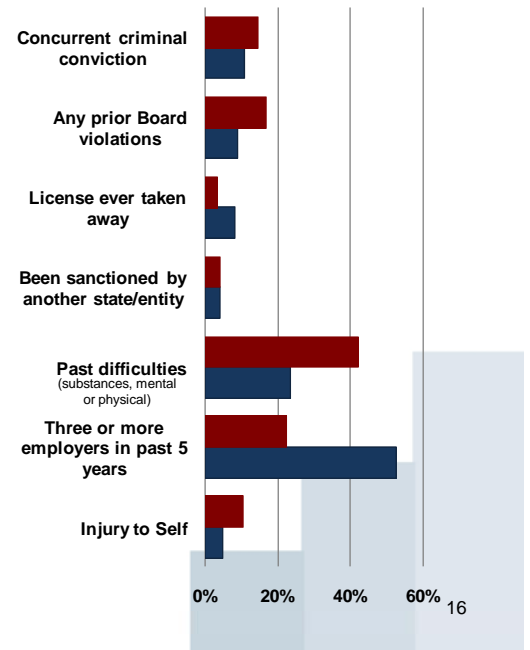
■ Current SRP Worksheets
■ Original SRP Sample



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Comparing Nursing Worksheet Respondent Factors to the Original Sample

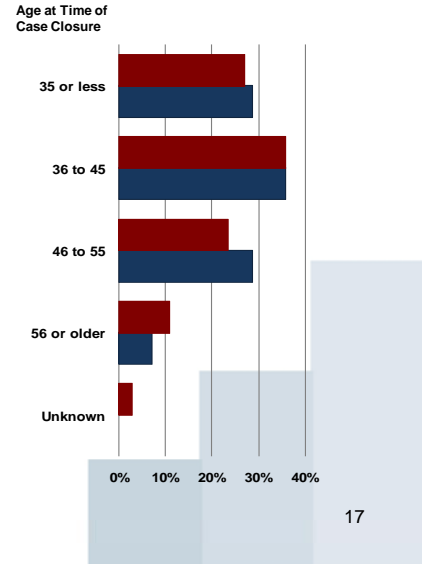
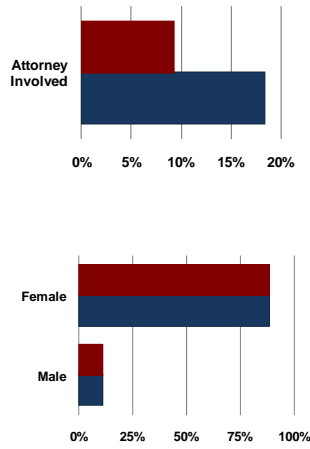
■ Current SRP Worksheets
■ Original SRP Sample



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Comparing Nursing Extra-legal Factors to the Original Sample

■ Completed SRP Worksheets
■ Original SRP Sample Cases



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Worksheets Were Modified to Reflect Changes in Sanctioning Culture

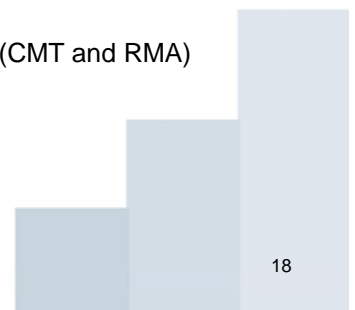
Impact of agency subordinates on sanctioning

CCAs and Advisory Letters are now an option for case closure

Pre-defined sanctions have been adopted as guidance documents

Board staff has more authority to close cases via PHCO

Additional occupations now being regulated (CMT and RMA)



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Measuring and Evaluating Consistency, Proportionality & Neutrality

Consistency: Are similarly situated respondents treated the same way in terms of sanctions handed down?

Proportionality: Are the most serious cases getting the most serious sanctions? Likewise, are less serious cases getting less serious sanctions?

Neutrality: Do “extra-legal” factors effect sanctioning outcomes? Are sanctions neutral with regard to age, sex, attorney representation, and race?

Moving CE to Reprimand/Monetary Penalty Achieves More Consistency (BON Recommendation 1)

Nursing Sanction Grid Result	Available Sanctions
Recommend Formal/C.O. for Indefinite Suspension or Revocation	Recommend Formal (revocation or suspension may result) C.O. for indefinite suspension or revocation C.O. to suspend or revoke privilege to renew C.O. for stayed suspension with terms
Education/Monitoring	Take No Action – contingent upon terms Probation with Terms Terms: <ul style="list-style-type: none"> • continuing education - general or specific • continuing education - record keeping/documentation • continuing education - drug administration • HIPPI (enter/continue) • quarterly self reports • inform Board of beginning or changing employment (10 days) • return license to receive stamped probation • written notification to employer/employees/associates • oversight by physician/LPN/RN • quarterly job performance evaluations • provide current/future treating practitioners with copy of order • supervised unannounced drug screens • impairment/incapacitation - evaluation • therapy with progress reports • shall abstain from the use of alcohol and drugs • shall be active in AA/NA/Caduceus/other • probation/parole officer send progress report to Board • drug administration - restrictions • practice restriction - specific • provide Board with final order placed on record by court
Reprimand/Monetary Penalty	Reprimand Monetary Penalty
No Sanction	No Sanction

Moving CE to Reprimand/Monetary Penalty Achieves More Consistency

BON Recommendation 1

Standard of Care (n=158)

Percentages in grid cells represent departures

		Total Offense Score		
		0-40	41-70	71 or more
Total Respondent Score	0-29	No Sanction ... to > Reprimand/ Monetary Penalty n=29, 41% → 14%	Reprimand/Monetary Penalty n=88, 44% → 21%	Reprimand/Monetary Penalty ... to > Education/Monitoring n=22, 27% → 27%
	30 or more	Reprimand/Monetary Penalty n=4, 75% → 50%	Education/Monitoring ... to > Recommend Formal/ C.O. for Indefinite Suspension or Revocation n=13, 15% → 31%	Education/Monitoring ... to > Recommend Formal/ C.O. for Indefinite Suspension or Revocation n=2, 50% → 50%

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Agreement Rates are Improved by Moving CE to Reprimand/Monetary Penalty

BON Recommendation 1

Overall Agreement Rate moves from 75% to 79%

Standard of Care moves from 60% to 77% (original prediction, 79.5%)

Impairment moves from 82% to 79% (original prediction, 79%)

Unlicensed Activity/Fraud steady at 79% (original prediction, 83.3%)

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Add Recommend Formal to Grid Cell 3 on the ISP Worksheet

BON Recommendation 1

Inability to Safely Practice (n=359)

Percentages in grid cells represent departures

		Total Offense Score		
		0-25	26-45	46 or more
Total Respondent Score	0-5	No Sanction ... to > Reprimand/ Monetary Penalty n=5, 60% 1	Reprimand/Monetary Penalty ... to > Education/Monitoring n=23, 17% 2	n=70, 51% → 14% 3 Education/Monitoring ... to > Recommend Formal/C.O. for Indefinite Suspension or Revocation
	6-40	Reprimand/Monetary Penalty ... to > Education/Monitoring n=25, 60% 4	Education/Monitoring ... to > Recommend Formal/ C.O. for Indefinite Suspension or Revocation n=42, 2% 5	Education/Monitoring 6 ... to > Recommend Formal/ C.O. for Indefinite Suspension or Revocation n=162, 0%
	41 or more	Education/Monitoring n=4, 75% 7	Education/Monitoring ... to > Recommend Formal/ C.O. for Indefinite Suspension or Revocation n=5, 0% 8	Recommend Formal C.O. for Indefinite Suspension or Revocation 9 n=23, 17%

Adding Recommend Formal to Grid Cell 3 on ISP Worksheet Enhances Proportionality

BON Recommendation 2

Impairment worksheet agreement moves from 82% to 89%

89% represents cumulative impact of all changes to the Impairment worksheet

Neutrality – Attempts to Measure the Influence of Extra-Legal Factors

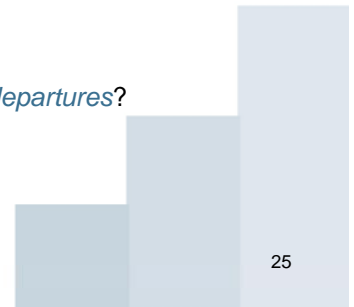
In 2003 we asked...

Are extra-legal factors influencing *sanctioning*?

In 2010 we are asking...

Are extra-legal factors influencing *departures*?

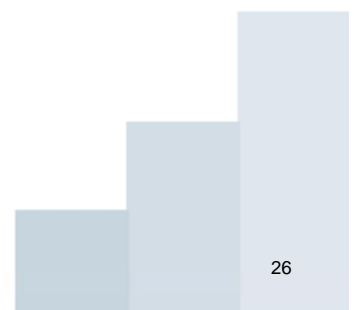
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Why Are We Assessing Neutrality Differently?

1. There were not enough completed SRP worksheets to do a before and after, comparative analysis by sanction type.

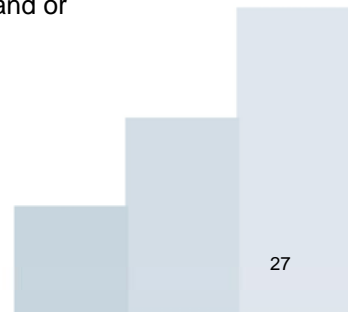
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Why Are We Assessing Neutrality Differently?

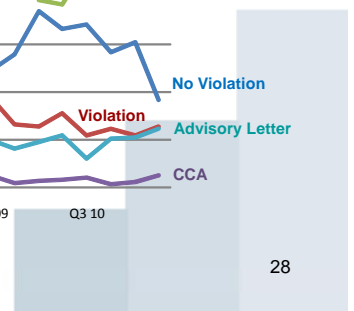
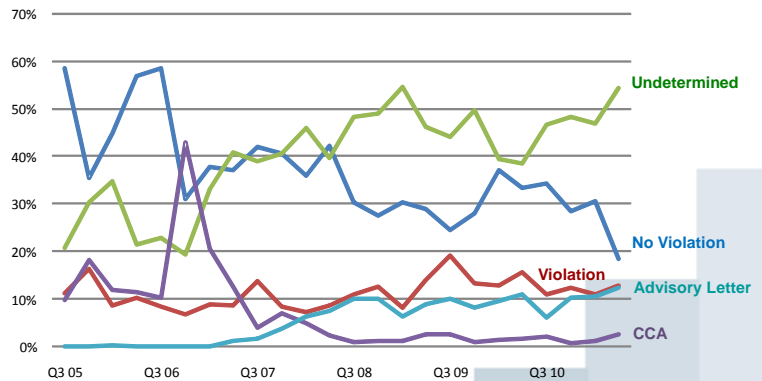
2. There was not enough variation in sanctioning outcomes (where SRPs were completed) to predict what factors were related to each sanction type handed down.

89% of sanctions from the Medicine SRP worksheets fall into either Reprimand or Treatment/Monitoring



Why Are We Assessing Neutrality Differently?

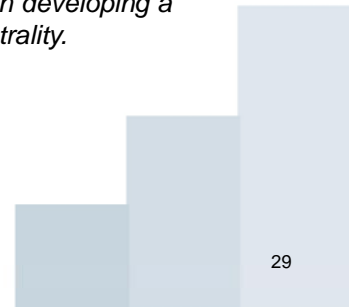
3. The overall Medicine sanctioning culture related to disciplinary cases has changed significantly; even disposition methods have changed dramatically.



Why Are We Assessing Neutrality Differently?

4. Of all completed BOM SRP worksheets, nearly all departures were mitigated (n=39), only 1 aggravated. In contrast, the 2003 sample was validated with a 30% departure rate, with 15% aggravating and 15% mitigating.

This may be the most important distinguishing feature of the two databases when developing a conceptual framework to test neutrality.



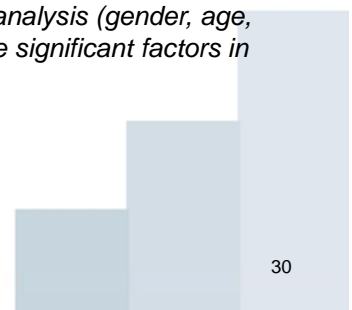
Neutrality Analysis Summary

In 2003, both total respondent score and total offense score were statistically significant in predicting departures.

In 2010, offense score was no longer a significant factor; respondent score continues to be significant.

When departures occur, the Board is more likely to mitigate.

Extra legal factors that were available for analysis (gender, age, attorney involvement) were not found to be significant factors in determining departures.



SRP Agreement Analysis

thru December 31, 2011

Board	Start Date	Completed Worksheets	Agreement		Aggravating Departures		Mitigating Departures		Agreement by Board
			#	%	#	%	#	%	
Medicine	Aug-04	182	136	75%	8	4%	38	21%	Medicine 75%
Nursing	Jul-05	944	693	73%	214	23%	37	4%	Nursing 73%
CNA	Jul-05	480	462	96%	11	2%	7	2%	CNA 96%
Dentistry	Jun-06	126	106	84%	8	6%	12	10%	Dentistry 84%
Funeral	May-07	21	15	71%	1	5%	5	24%	Funeral 71%
Vet. Medicine	May-07	68	55	81%	10	15%	3	4%	Vet. Medicine 81%
Pharmacy	Nov-07	64	46	72%	3	5%	15	23%	Pharmacy 72%
Optometry	Dec-08	8	7	88%	1	13%			Optometry 88%
Social Work	Jun-09	5	2	40%	2	40%	1	20%	Social Work 40%
Psychology	Jun-09	3	2	67%			1	33%	Psychology 67%
Counseling	Jun-09	5	4	80%			1	20%	Counseling 80%
Physical Therapy	Nov-09								Physical Therapy N/A
Long-Term Care	Mar-10	4	2	50%			2	50%	Long-Term Care 50%
Audiology	Jun-10								Audiology N/A
DHP Total		1910	1530	80%	258	14%	122	6%	DHP Total 80%

Data Analytics & Information Design

Questions?

Assessing the Effectiveness of Sanctioning Reference Points

February 14, 2012

Prepared for:
Department of Health Professions
Board of Health Professions

Neal Kauder, President
804.794.3144
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VisualResearch inc
Data Analytics & Information Design



Virginia Perfusion Society
 Inova Fairfax Hospital, Cardiovascular Perfusion
 3300 Gallows Road, Falls Church, VA 22042



David Fitzgerald, CCP President
Richard Zacour, CCP Vice President
Mike Brown, CCP Board Member
Zack Beckman, CCP, Board Member

Elizabeth Carter, Ph.D.
 Executive Director
 Virginia Department Of Health Professions
 Perimeter Center
 9960 Mayland Drive, Suite 300
 Henrico, VA 23233-1463

Dear Dr. Carter:

The Virginia Perfusion Society (VPS) respectfully requests that the Department of Health Professions initiate a study that assesses the need for licensure of perfusionists. With filing of this Sunrise Proposal, we are aware of the criteria underlying this application and have included quantitative and qualitative evidence-based information to assist with the study and recommendation to the General Assembly of the Commonwealth.

The VPS and its elected and voluntary leadership, as governed by the members of the Society, and perfusionists who are not members, believe that licensure is the only level of regulation for adequately protecting the public. There are currently 90 practicing perfusionists in the Commonwealth. Between 2003 and 2010, approximately 48,000 residents of the state have received open heart surgeries or relevant organ transplants. Approximately 6,000 persons of all ages each year require the services of a perfusionist. Reliable statistical evidence supports the potential for 5 to 6 persons each year suffering a serious long-term adverse surgical outcome or possible death attributable to device malfunctions and incompetent practice.

Perfusionists are not now regulated by the State. There are no mandated educational or training standards, national professional certification standards for entry to practice, and no educational competency standards. For these and other reasons, the VPS believes that licensure will ensure the public health and safety for thousands of Virginians each year that require cardiovascular and cardiothoracic surgical procedures. Please refer to the attached documents that we believe provide support for our claim that perfusionists meet the Virginia Department of Health Professions' criteria for regulation by licensure.

Sincerely,

Mike Brown, CCP
 VPS Board Member
 Chief of Perfusion
 Cardiovascular and Thoracic Surgery
 Virginia Heart & Vascular Institute
 Mary Washington Hospital
 Fredericksburg, Virginia 22401

David Fitzgerald, CCP
 VPS Board Member
 Chief of Perfusion
 INOVA Fairfax Hospital
 Falls Church, Virginia 22030

2012 SESSION

HB 346 Nurse practitioners; practice as part of patient care teams.Introduced by: *John M. O'Bannon, III* | [all patrons](#) ... [notes](#) | [add to my profiles](#) | [history](#)**SUMMARY AS PASSED HOUSE:**

Practice of nurse practitioners; patient care teams. Amends provisions governing the practice of nurse practitioners. The bill provides that nurse practitioners shall only practice as part of a patient care team and shall maintain appropriate collaboration and consultation, as evidenced in a written or electronic practice agreement, with at least one patient care team physician licensed to practice medicine in the Commonwealth. The bill also establishes requirements for written or electronic practice agreements for nurse practitioners, provides that physicians practicing as part of a patient care team may require nurse practitioners practicing as part of that patient care team to be covered by professional malpractice insurance, and amends requirements related to the prescriptive authority of nurse practitioners practicing as part of a patient care team.

SUMMARY AS INTRODUCED:

Practice of nurse practitioners; patient care teams. Amends provisions governing the practice of nurse practitioners. The bill provides that nurse practitioners shall only practice as part of a patient care team, which shall include at least one patient care team physician licensed to practice medicine in the Commonwealth who provides management of and leadership in the care of a patient or patients. The bill also establishes requirements for written or electronic practice agreements for nurse practitioners, provides that physicians practicing as part of a patient care team may require nurse practitioners practicing as part of that patient care team to be covered by professional malpractice insurance, and amends requirements related to the prescriptive authority of nurse practitioners practicing as part of a patient care team.

Virginia Department of Health Professions

Patient Care Disciplinary Case Processing Times:

Quarterly Performance Measurement, Q2 2008 - Q2 2012

Dianne Reynolds-Cane, M.D.
Director

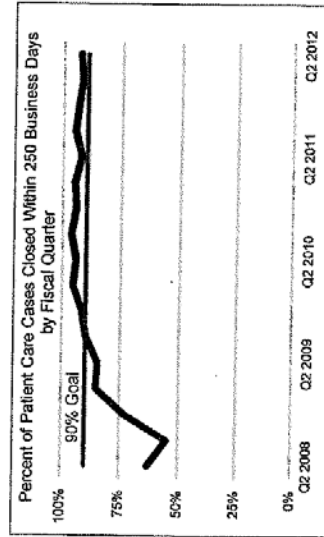
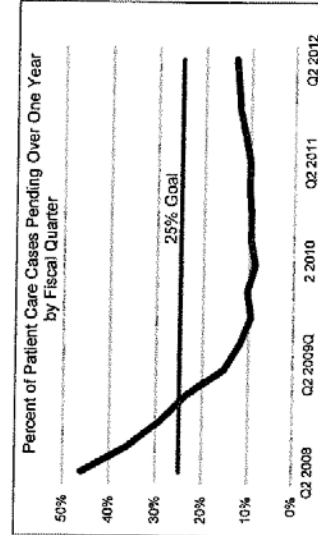
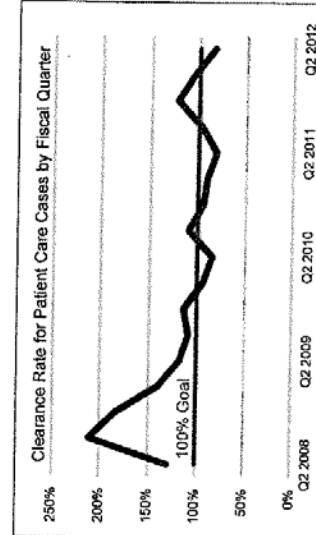
"To ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public."
DHP Mission Statement

In order to uphold its mission relating to discipline, DHP continually assesses and reports on performance. Extensive trend information is provided on the DHP website, in biennial reports, and, most recently, on Virginia Performs through Key Performance Measures (KPMs). KPMs offer a concise, balanced, and data-based way to measure disciplinary case processing. These three measures, taken together, enable staff to identify and focus on areas of greatest importance in managing the disciplinary caseload; Clearance Rate, Age of Pending Caseload and Time to Disposition uphold the objectives of the DHP mission statement. The following pages show the KPMs by board, listed in order by caseload volume; volume is defined as the number of cases received during the previous 4 quarters. In addition, readers should be aware that vertical scales on the line charts change, both across boards and measures, in order to accommodate varying degrees of data fluctuation.

Clearance Rate - the number of closed cases as a percentage of the number of received cases. A 100% clearance rate means that the agency is closing the same number of cases as it receives each quarter. DHP's goal is to maintain a 100% clearance rate of allegations of misconduct through the end of FY 2012. The current quarter's clearance rate is 84%, with 885 patient care cases received and 744 closed.

Age of Pending Caseload - the percent of open patient care cases over 250 business days old. This measure tracks the backlog of patient care cases older than 250 business days to aid management in providing specific closure targets. The goal is to maintain the percentage of open patient care cases older than 250 business days at no more than 25% through the end of FY 2012. That goal continues to be achieved with the percent of cases pending over 250 business days dropping dramatically from 45% to 13%. For the last quarter shown, there were 1819 patient care cases pending, with 242 pending over 250 business days.

Time to Disposition - the percent of patient care cases closed within 250 business days for cases received within the preceding eight quarters. This moving eight-quarter window approach captures the vast majority of cases closed in a given quarter and effectively removes any undue influence of the oldest cases on the measure. The goal is to resolve 90% of patient care cases within 250 business days through the end of FY 2012. That goal continues to be achieved with 93% percent of patient care cases being resolved within 250 business days this past quarter. During the last quarter, there were 868 patient care cases closed, with 807 closed within 250 business days.



Submitted: 2/14/2012

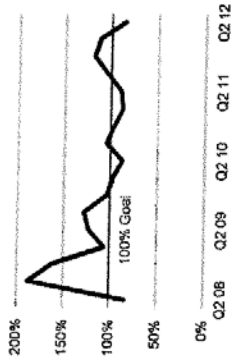
Prepared by: VisualResearch, Inc.

Virginia Department of Health Professions - Patient Care Disciplinary Case Processing Times, by Board

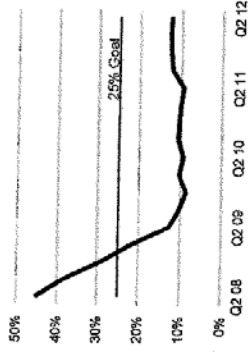
Nursing - In Q2 2012, the clearance rate was 82%, the Pending Caseload older than 250 business days was 12% and the percent closed within 250 business days was 93%.

Q2 2012 Caseloads:
 Received=420, Closed=359
 Pending over 250 days=115
 Closed within 250 days=333

Clearance Rate

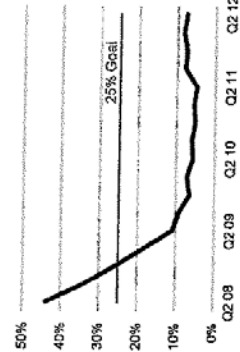
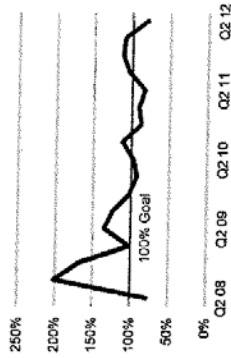


Age of Pending Caseload (percent of cases pending over one year)



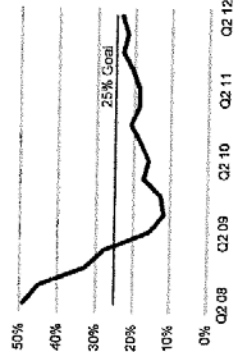
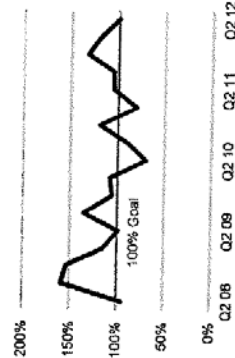
Nurses - In Q2 2012, the clearance rate was 80%, the Pending Caseload older than 250 business days was 8% and the percent closed within 250 business days was 91%.

Q2 2012 Caseloads:
 Received=306, Closed=245
 Pending over 250 days=49
 Closed within 250 days=222

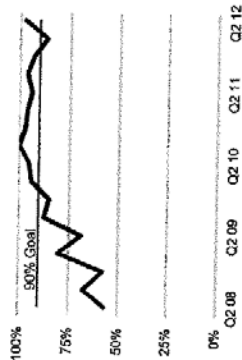
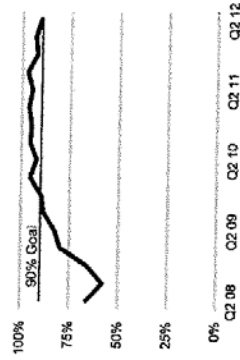
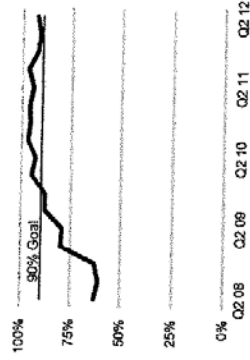


CNA - In Q2 2012, the clearance rate was 100%, the Pending Caseload older than 250 business days was 23% and the percent closed within 250 business days was 97%.

Q2 2012 Caseloads:
 Received=114, Closed=114
 Pending over 250 days=66
 Closed within 250 days=111



Percent Closed in 250 Business Days



Note: Vertical scales on line charts change, both across boards and measures, in order to accommodate varying degrees of data fluctuation.

Submitted: 2/14/2012

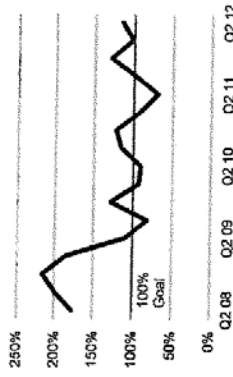
Prepared by: VisualResearch, Inc.

Virginia Department of Health Professions - Patient Care Disciplinary Case Processing Times, by Board

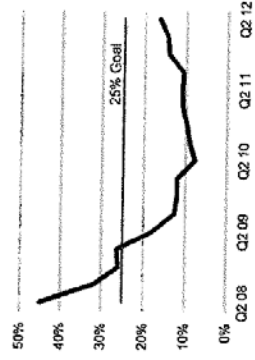
Medicine - In Q2 2012, the clearance rate was 116%, the Pending Caseload older than 250 business days was 17% and the percent closed within 250 business days was 93%.

Q2 2012 Caseloads:
 Received=277, Closed=320
 Pending over 250 days=76
 Closed within 250 days=299

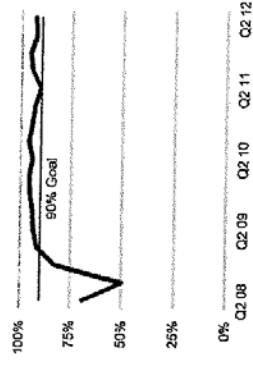
Clearance Rate



Age of Pending Caseload (percent of cases pending over one year)

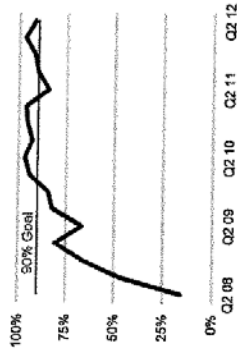
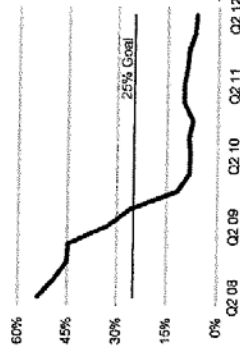
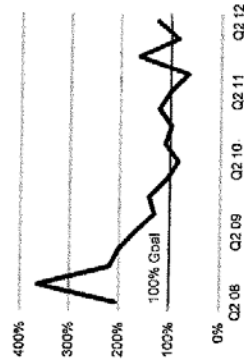


Percent Closed in 250 Business Days



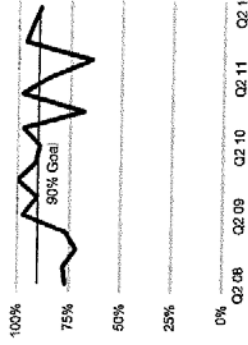
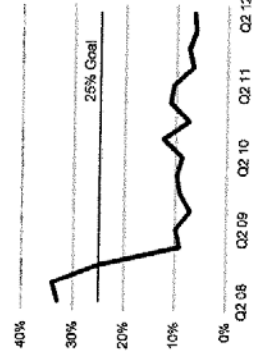
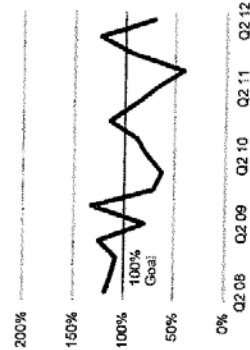
Dentistry - In Q2 2012, the clearance rate was 125%, the Pending Caseload older than 250 business days was 7% and the percent closed within 250 business days was 92%.

Q2 2012 Caseloads:
 Received=68, Closed=85
 Pending over 250 days=10
 Closed within 250 days=78



Pharmacy - In Q2 2012, the clearance rate was 72%, the Pending Caseload older than 250 business days was 7% and the percent closed within 250 business days was 89%.

Q2 2012 Caseloads:
 Received=39, Closed=28
 Pending over 250 days=7
 Closed within 250 days=25



Note: Vertical scales on line charts change, both across boards and measures, in order to accommodate varying degrees of data fluctuation.

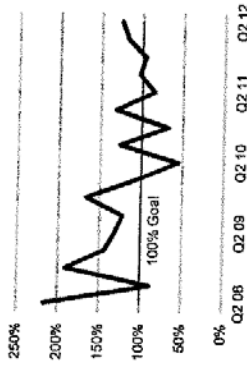
Submitted: 2/14/2012

Prepared by: VisualResearch, Inc.

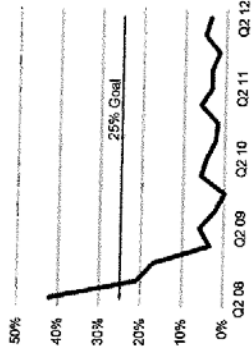
Virginia Department of Health Professions - Patient Care Disciplinary Case Processing Times, by Board

Veterinary Medicine - In Q2 2012, the clearance rate was 126%, the Pending Caseload older 250 business days was 4% and the percent closed within 250 business days was 91%.
Q2 2012 Caseloads:
 Received=27, Closed=34
 Pending over 250 days=2
 Closed within 250 days=31

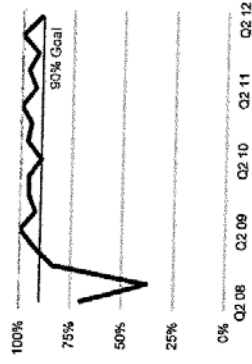
Clearance Rate



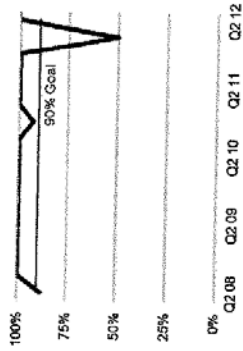
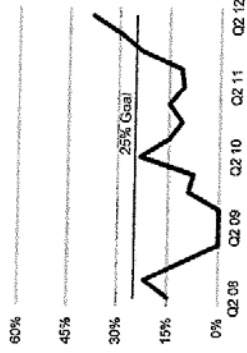
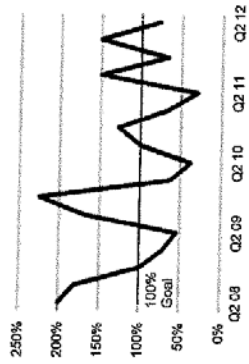
Age of Pending Caseload (percent of cases pending over one year)



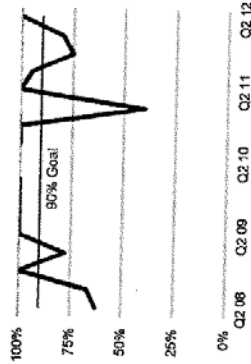
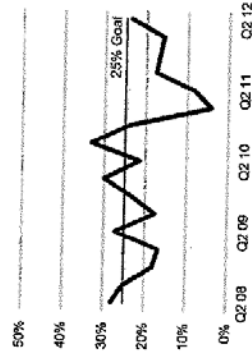
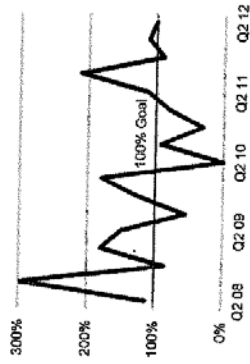
Percent Closed in 250 Business Days



Counseling - In Q2 2012, the clearance rate was 78%, the Pending Caseload older than 250 business days was 38% and the percent closed within 250 business days was 100%.
Q2 2012 Caseloads:
 Received=9, Closed=7
 Pending over 250 days=11
 Closed within 250 days=7



Social Work - In Q2 2012, the clearance rate was 100%, the Pending Caseload older than 250 business days was 24% and the percent closed within 250 business days was 100%.
Q2 2012 Caseloads:
 Received=6, Closed=6
 Pending over 250 days=5
 Closed within 250 days=6



Note: Vertical scales on line charts change, both across boards and measures, in order to accommodate varying degrees of data fluctuation.

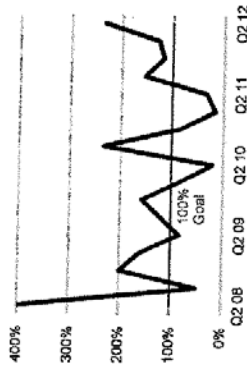
Submitted: 2/14/2012

Prepared by: VisualResearch, Inc.

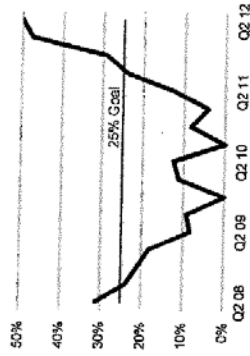
Virginia Department of Health Professions - Patient Care Disciplinary Case Processing Times, by Board

Psychology - In Q2 2012, the clearance rate was 233%, the Pending Caseload older than 250 business days was 50% and the percent closed within 250 business days was 86%.
Q2 2012 Caseloads:
 Received=3, Closed=7
 Pending over 250 days=8
 Closed within 250 days=6

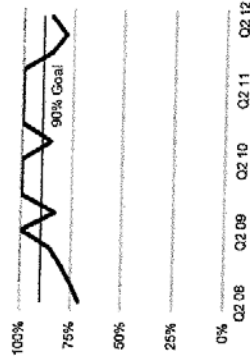
Clearance Rate



Age of Pending Caseload (percent of cases pending over one year)

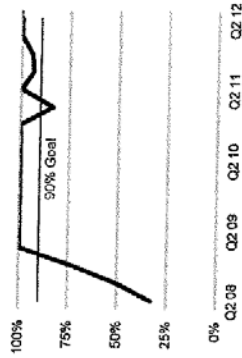
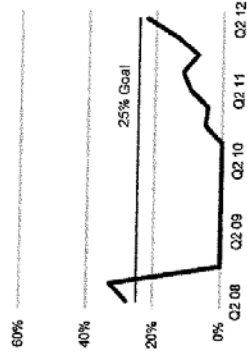
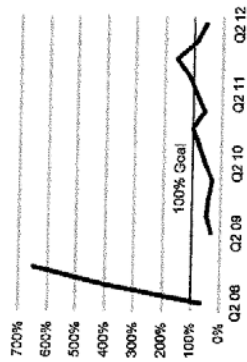


Percent Closed in 250 Business Days

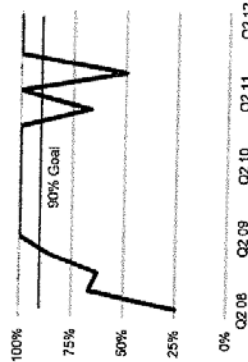
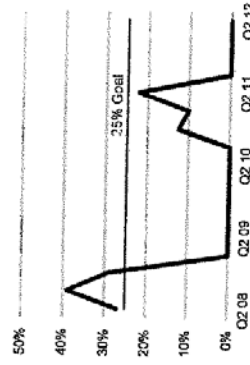
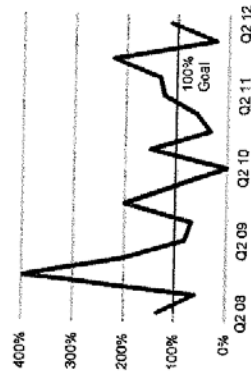


Long-Term Care

Administrators - In Q2 2012, the clearance rate was 58%, the Pending Caseload older than 250 business days was 23% and the percent closed within 250 business days was 100%.
Q2 2012 Caseloads:
 Received=12, Closed=7
 Pending over 250 days=7
 Closed within 250 days=7



Optometry - In Q2 2012, the clearance rate was 113%, the Pending Caseload older than 250 business days was 0% and the percent closed within 250 business days was 100%.
Q2 2012 Caseloads:
 Received=6, Closed=9
 Pending over 250 days=0
 Closed within 250 days=9



Note: Vertical scales on line charts change, both across boards and measures, in order to accommodate varying degrees of data fluctuation.

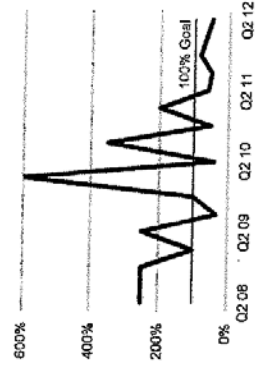
Submitted: 2/14/2012

Prepared by: VisualResearch, Inc.

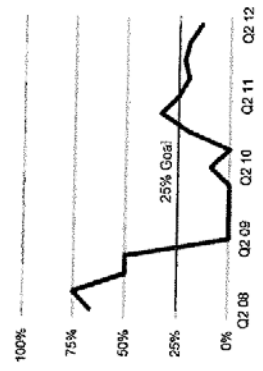
Virginia Department of Health Professions - Patient Care Disciplinary Case Processing Times, by Board

Physical Therapy - In Q2 2012, the clearance rate was 50%, the Pending Caseload older than 250 business days was 14% and the percent closed within 250 business days was 100%.
 Q2 2012 Caseloads:
 Received=8, Closed=4
 Pending over 250 days=2
 Closed within 250 days=4

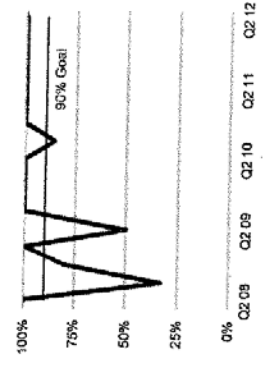
Clearance Rate



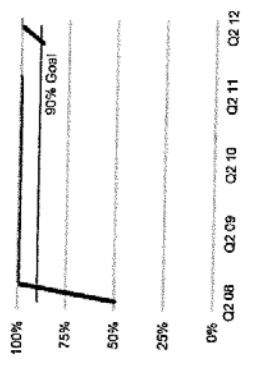
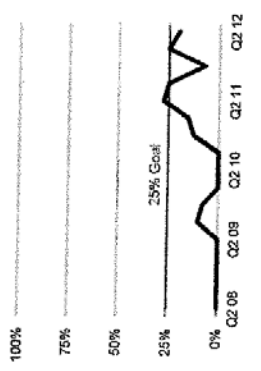
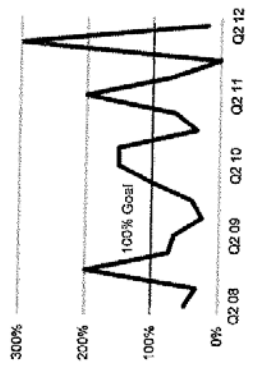
Age of Pending Caseload
(percent of cases pending over one year)



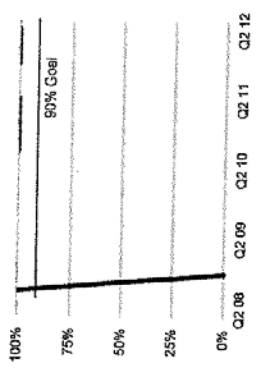
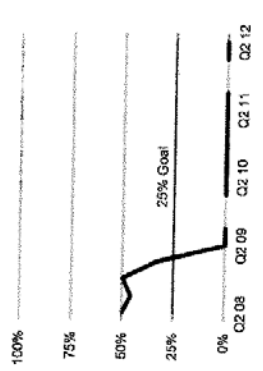
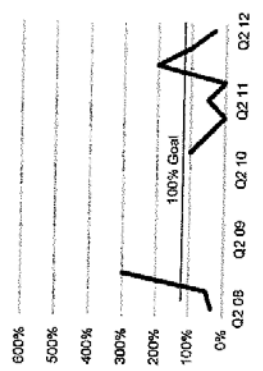
Percent Closed in 250 Business Days



Funeral - In Q2 2012, the clearance rate was 20%, the Pending Caseload older than 250 business days was 20% and the percent closed within 250 business days was 100%.
 Q2 2012 Caseloads:
 Received=5, Closed=1
 Pending over 250 days=2
 Closed within 250 days=1



Audiology - In Q2 2012, the clearance rate was 33%, the Pending Caseload older than 250 business days was 0% and the percent closed within 250 business days was 100%.
 Q2 2012 Caseloads:
 Received=3, Closed=1
 Pending over 250 days=0
 Closed within 250 days=1



Note: Vertical scales on line charts change, both across boards and measures, in order to accommodate varying degrees of data fluctuation.

Submitted: 2/14/2012

Prepared by: VisualResearch, Inc.

