

DRAFT
Department of Health Professions
Board of Health Professions
ENFORCEMENT COMMITTEE
May 14, 2013

TIME AND PLACE: The meeting was called to order at 10:02 a.m. on Tuesday, May 14, 2013, Department of Health Professions, 9960 Mayland Drive, 2nd Floor, Board Room 2, Henrico, VA, 23233.

PRESIDING OFFICER: Chair: Constance Pozniak

MEMBERS PRESENT: Constance Pozniak
Jeffrey Levin
Blair Nelsen
Wanda Pritekel

MEMBERS NOT PRESENT: All members were present

STAFF PRESENT: Elizabeth A. Carter, Ph.D., Executive Director for the Board
Justin Crow, Research Assistant
Laura Jackson, Operations Manager

GUEST Neal Kauder, VisualResearch, Inc.
Kim Small, VisualResearch, Inc.

OTHERS PRESENT: No signatures on the public comment sheet.

QUORUM: A quorum was established with four members in attendance.

AGENDA: There were not edits made to the agenda.

PUBLIC COMMENT: There was no public comment.

APPROVAL OF MINUTES: There were no prior meeting minutes for approval.

PRESENTATION Mr. Kauder and Ms. Small reviewed a PowerPoint presentation with the committee regarding Key Performance Measures (KPM) and Sanctioning Reference Points (SRP) update. Mr. Kauder stated that DHP needs to establish an SRP training program schedule for DHP staff, the public and attorneys. It was recommended that training be held at least every two (2) years. (Attachment 1)

MOTION: On properly seconded motion by Ms. Pritekel, the Committee recommended that general SRP training be scheduled every two years, at a minimum, for Board staff, public and attorneys. All committee members were in favor.

ADJOURNMENT:

With no other business to conduct, the meeting adjourned at 11:00 a.m.

Constance Pozniak, DVM
Chair

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

KPM and Sanctioning Reference Points Update

May 14, 2013

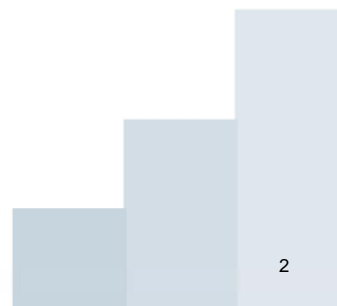
Prepared for:
Department of Health Professions
Board of Health Professions

Neal Kauder, President
804.794.3144
vis-res.com



Topics for Discussion

- Pending Caseload KPM goal adjustment
- Effectiveness Study status report
 - RMA study completed (pending board adoption)
 - Pharmacy in progress
 - SRP training opportunities
 - Dissemination of documents
- SRP Agreement Monitoring



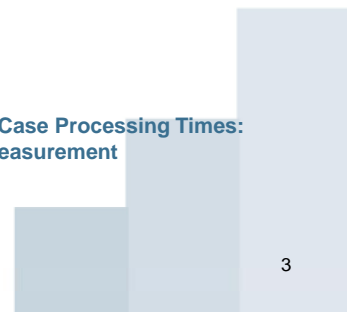
Age of Pending Caseload

percent of open patient care cases over 250 business days old

“... tracks the backlog of patient care cases older than 250 business days. The goal is to maintain the percentage of open patient care cases older than 250 business days at no more than 25%...”

-- Patient Care Disciplinary Case Processing Times:
Quarterly Performance Measurement

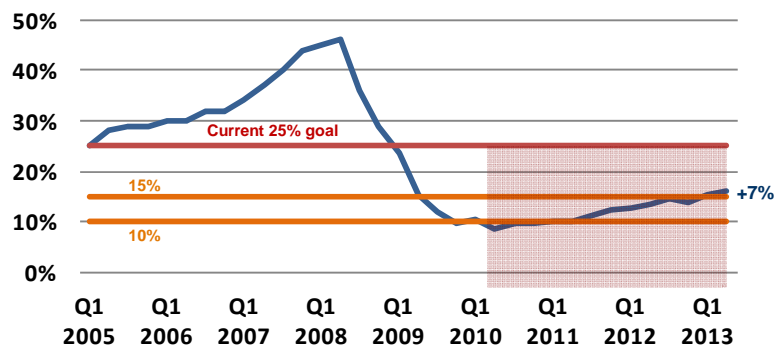
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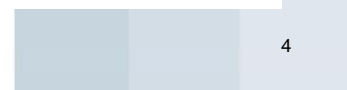
Age of Pending Caseload

Is the goal of 25% a legitimate target given the Board's past ability to reach a 10%-15% pending caseload?

Percent of Patient Care Cases Pending Over 250 Business Days,
by fiscal quarter



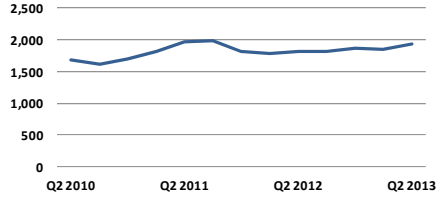
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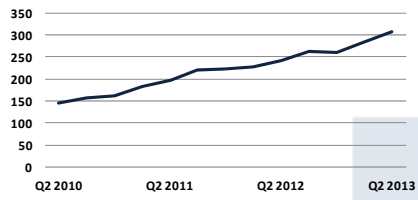
Number of Pending Cases vs. Number Pending Over 250 Days

* Note vertical axis changes

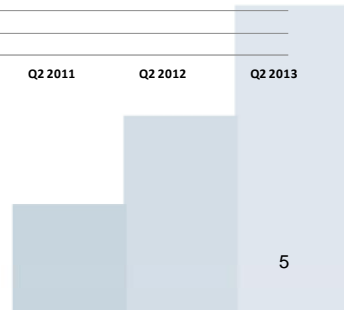
Total Cases Pending



Total Cases Pending Over 250 Business Days

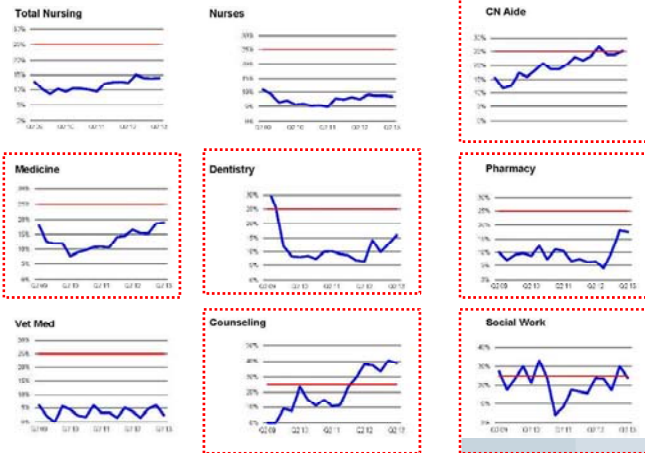


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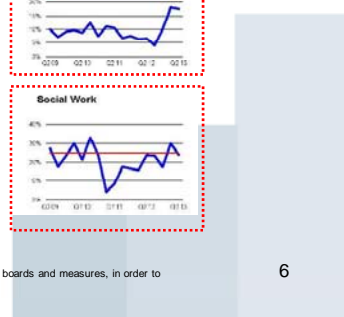
Age of Pending Caseload

Most boards have seen an increase in the % of cases older than 250 days



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

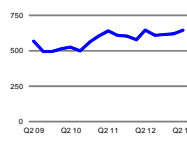


Total Number of Pending Patient Care Cases

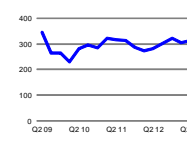
Total Nursing



Nurses



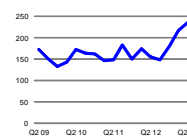
CN Aide



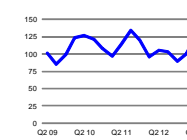
Medicine



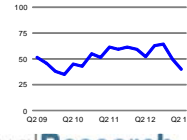
Dentistry



Pharmacy



Vet Med



Counseling



Social Work



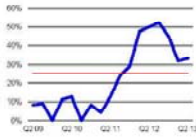
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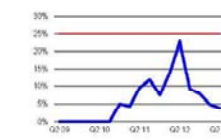
Age of Pending Caseload

Percent of Patient Care Cases Pending Over 250 Business Days

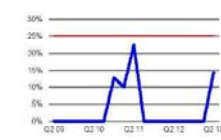
Psychology



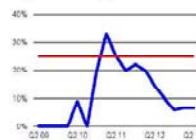
Long-Term Care



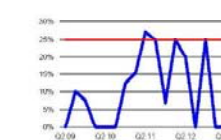
Optometry



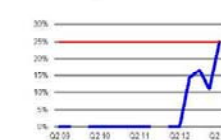
Physical Therapy



Funeral



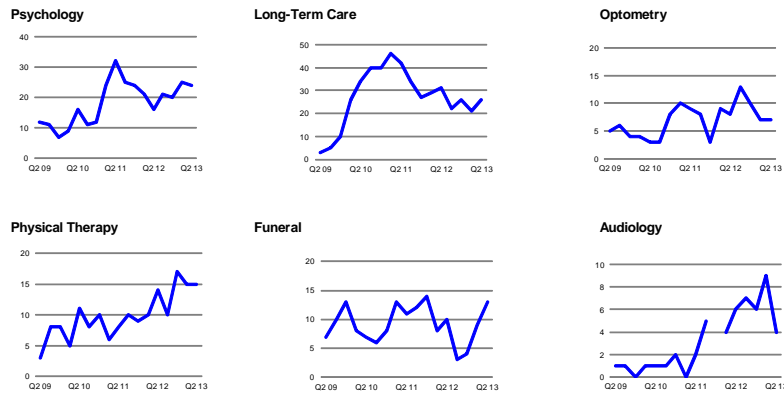
Audiology



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

Total Number of Pending Patient Care Cases



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

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Number of Cases Pending Over 250 Days, by Case Type

(Fiscal Q2 2010 – Q2 2013)

<u>Case Type</u>	<u>#</u>	<u>%</u>
Abuse/Abandonment/Neglect	294	31%
Drug Related – Patient Care	164	18%
Standard of Care – Diagnosis/Treatment	125	13%
Inability to Safely Practice	113	12%
Standard of Care – Other	59	6%
Standard of Care – Medication/Prescription	47	5%
Unlicensed Activity	37	4%
Fraud – Patient Care	29	3%
Inappropriate Relationship	22	2%
Standard of Care – Exceeding Scope	20	2%
Standard of Care – Surgery	15	2%
Misappropriation of Patient Property	9	1%
Standard of Care – Malpractice Reports	3	0%
Action by Another Board – Patient Care	2	0%

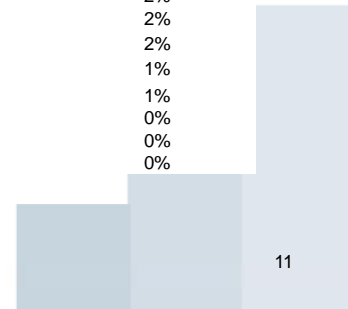
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Number of Cases Pending Over 250 Days, by Case Type

(Fiscal Q2 2010 – Q2 2013)

<u>Board</u>	<u>#</u>	<u>%</u>
Medicine	325	35%
Nursing	221	24%
Nurse Aide	140	15%
Dentistry	100	11%
Pharmacy	54	6%
Professional Counselors	23	2%
Psychology	17	2%
Social Work	17	2%
Veterinary Medicine	15	2%
Nursing Home Administrator	12	1%
Funeral Directing	5	1%
Optometry	4	0%
Physical Therapists	4	0%
Speech Pathology/Audiology	2	0%

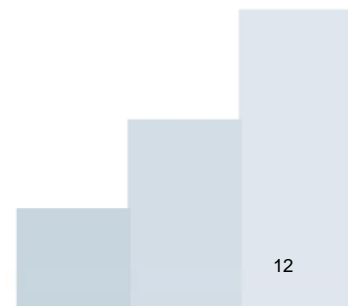


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Number of Cases Pending Over 250 Days, by Priority

(Fiscal Q2 2010 – Q2 2013)

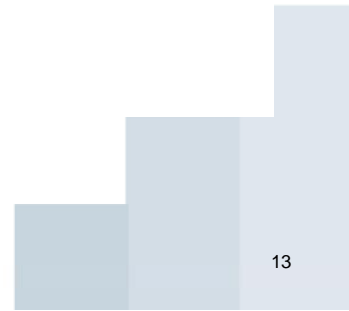
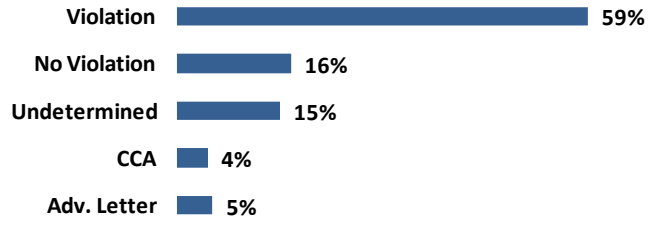
<u>Priority</u>	<u>#</u>	<u>%</u>
Priority C - Harmful or substandard	559	59.8
Priority B - Harmful to person	317	33.9
Priority D - No harm	32	3.4
Priority A - Danger	27	2.9



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Number of Cases Pending Over 250 Days, by Final Disposition (for those cases that have closed)

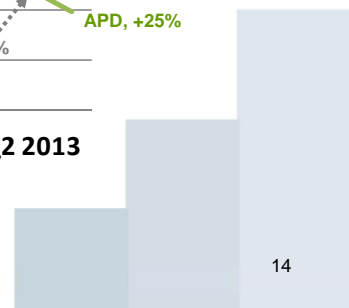
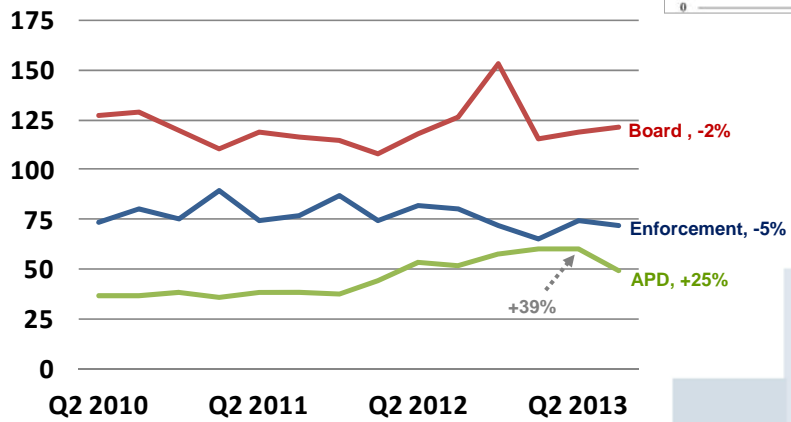
(Fiscal Q2 2010 – Q2 2013)



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Mean Days in At Each Stage

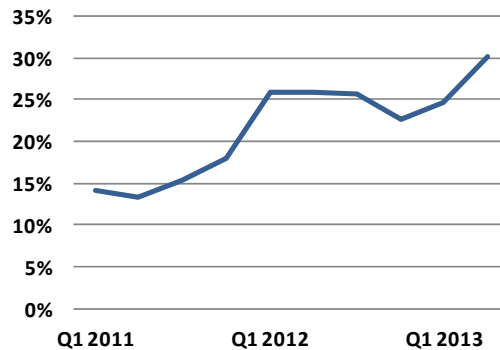
(By fiscal quarter closed, for cases with at least 1 day in APD)



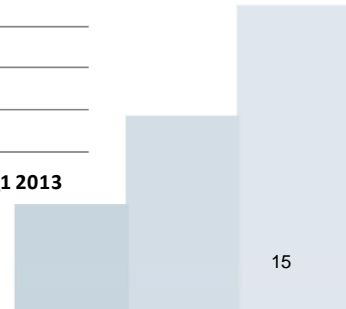
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Percent of *non*-Patient Care Cases Pending Over 250 Business Days

Non-Patient Care cases are trending upward also...



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Director's Policy 76-3.2, Procedures

1. Respondents in cases in which SRPs may be used, shall receive notice of such within the Notice of Informal Conference or, in instances in which cases are decided at the pre-hearing level, **respondents are to be notified of the use of SRPs.**
2. Respondents are to be **directed to the link to the board-specific SRP manual** posted on the agency's website or provided a hard copy.
3. SRP Worksheets shall be completed in accordance with the most current (SRP) manual instructions and only when there has been a finding of violation.
4. **SRP Worksheets are to be completed for all disciplinary cases adjudicated at the level of informal conference and pre-hearing level if the respective board has determined it will use them for pre-hearing cases.** SRP Worksheets are NOT to be completed at formal hearings.
5. The **respondent is to be provided a copy of the completed worksheet** along with a copy of the order regardless of whether the respondent or his representative attend the informal conference. Note: For proceedings conducted by Board of Nursing subordinates, the completed worksheet is only to be attached to the subordinate's recommendation decision where the respondent attends the informal conference. If the respondent does not attend, the completed worksheet shall not be provided to respondent.

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Practices related to distribution of SRP Materials (as stated in Director's Policy 76-3.2)

Director's Policy	Medicine	Nursing	CNAide	Dentistry	Pharmacy	Psych	Social Work	Counseling	Vet	Opt	Funeral	LTC	PT	ASLP
Most recent SRP manual posted to the Web	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Notice of SRP use referenced in the notice of IFC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes*
Does this Board use SRPs in PHCOs?	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No	Yes	No	No	No	Yes
Notice directs respondents to web link for SRP	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes*
Use of SRP referenced in the Cover Letter sent with Final Order	Yes	Yes*	Yes*	Yes*	Yes	Yes	Yes	Yes	No	Yes*	Yes*	Yes*	Yes*	Yes*
Use of SRP referenced in the Cover Letter sent with Final PHCO	Yes	Yes*	Yes*	N/A	Yes	Yes	Yes	Yes	Yes*	Yes*	N/A	N/A	N/A	Yes*
Completed Worksheet sent with Final Order	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes*	Yes	Yes	Yes	Yes	Yes
Completed Worksheet sent with Final PHCO	N/A	Yes	Yes	N/A	Yes	Yes	Yes	Yes	Yes*	Yes	N/A	N/A	N/A	Yes
Completed Coversheet sent with Final Order	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes*	Yes	Yes*	Yes*	Yes*	Yes
Completed Coversheet sent with Final PHCO	N/A	Yes	Yes	N/A	Yes	Yes	Yes	Yes	Yes*	Yes	N/A	N/A	N/A	Yes

* Change produced by our current effort to examine worksheet distribution practices.



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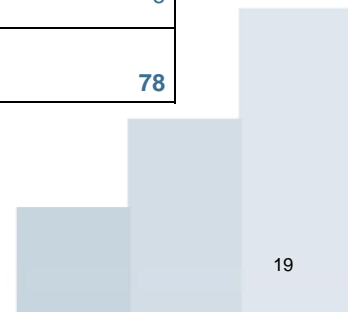
Effectiveness Study Tasks & Progress

	Nurses & CNA	RMA	Medicine	Dentistry	Pharmacy	Pharmacy Tech
Conduct user satisfaction interviews	✓	✓	✓	✓	✓	✓
Code and key data from worksheets	✓	N/A	✓	✓	✓	N/A
Collect, code, key factors	✓	✓	✓	✓	N/A	In Progress
Create database	✓	✓	✓	✓	In Progress	
Merge SRP data w/extralegal factors	✓	N/A	✓	✓	In Progress	N/A
Merge SRP/extra-legal data w/L2K	✓	✓	✓	✓	In Progress	
Present preliminary descriptive data	✓	✓	✓	✓	June 18	June 18
Conduct Statistical analysis	✓	✓	✓	✓		
Present findings/recommendations	✓	✓	✓	✓	June 18	
Deliver final report	✓	May 21	✓	✓		

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Effectiveness – RMA Study Sample

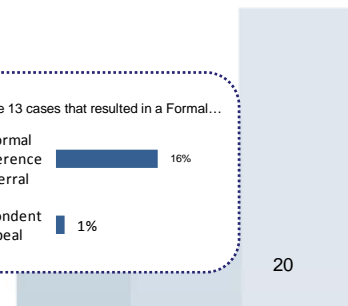
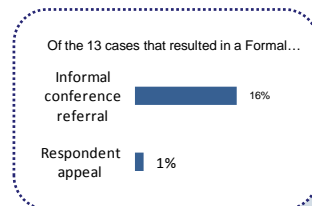
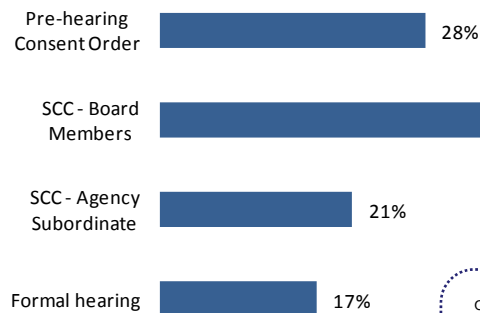
ALL cases closed in violation in entire L2K database	159
Remove cases involving mandatory suspensions, eligibility, reinstatement, compliance, no violation, open	-75
Cases unobtainable or not related to an RMA	-6
Total Cases for Analysis	78



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Effectiveness – RMA Study Descriptives

Settlement Method



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Effectiveness – RMA Study Descriptives

Did the respondent appear at the proceeding?

Yes 26%

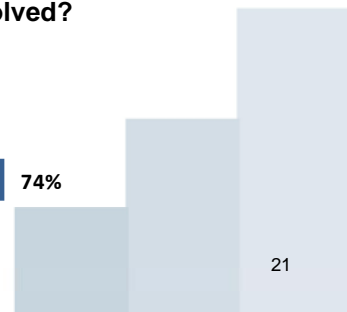
No or N/A 74%

Were there multiple respondents involved?

Yes 26%

No 74%

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Effectiveness – RMA Study Descriptives

Most cases involved less than 2 patients

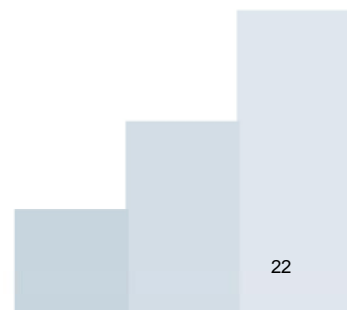
None or N/A 11%

One 49%

Two 10%

Three of more 30%

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RMA Worksheet (Pending Adoption)

Case Type Score (score only one)	Points	Score
a. Impairment	30	_____
b. Abuse, Abandonment or Neglect	20	_____
c. Standard of Care	20	_____
d. Misappropriation of Patient Property/Fraud	10	_____
Case Type Score		<input type="text"/>

Offense and Respondent Score (score all that apply)	Points	Score
a. Patient injury with intent	50	_____
b. Past difficulties (substances, mental/physical)	50	_____
c. Financial or material gain	40	_____
d. Any patient involvement	30	_____
e. Three or more employers in past 5 years	30	_____
f. Concurrent criminal conviction	10	_____
g. Act of commission	10	_____

Offense and Respondent Score

Total Worksheet Score (Case Type + Offense and Respondent)

Score	
0-65	No Sanction/Reprimand
66-90	Stayed Suspension, Probation, Terms/Recommend Formal
91+	Recommend Formal Hearing

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Effectiveness Study - Pharmacy

Pharmacy Discipline & Sanctioning Culture Has Changed Over Last Decade

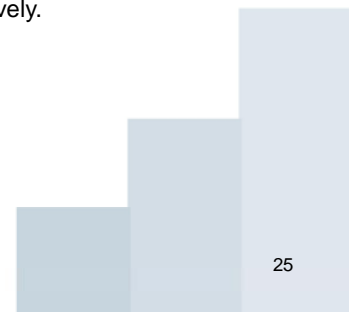
- Consent Order *Ticketing* is now an option for CE and inspection cases
- Types of offenses, respondents and case disposition options
- There are now enough Pharmacy Technician cases to warrant expansion of SRPs



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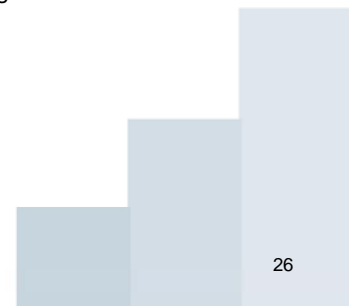
First task - Conduct Pharmacy Board Interviews Regarding SRPs

- 2 staff members, 3 current board members, 1 past board member
- Confidential interviews consisted of a series of open ended and scaled questions. The interview process took about 45 minutes per participant.
- Information from interviews is reported collectively.



Are There Case Types or Factors Not Captured on the Worksheets?

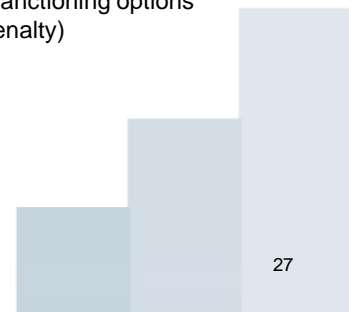
- One Board member stated that in cases such as diversion the SRP worksheet did not differentiate between those cases involving multiple/repeated diversion.
- New attention on pharmacists that compound for mass distribution.
- Most interviewees stated that there were changes that could be integrated to improve the SRP system.



Are There Circumstances That Have Changed the Sanctioning Culture?

- Issues surrounding CO Ticketing for Inspection cases
- Certain errors such as labeling can, and typically are, now handled through a CCA
- Some interviewees hoped to use more of the sanctioning options available going into the future (i.e. monetary penalty)

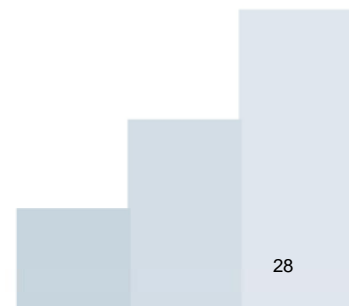
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Current Pharmacist Worksheet to be Re-evaluated

- Over the course of interviewees it became apparent that the current worksheet may need revision
- The study sample will consist of the 76 completed SRP worksheets

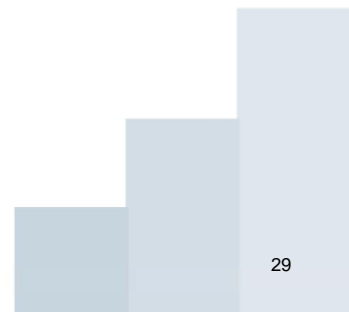
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Should there be a worksheet for Pharmacy Tech cases?

- Overwhelmingly it was felt that there needed to be a way to score Pharmacy techs within the scope of the SRP system.
- It was stated that these cases may not vary much by sanction or case type.

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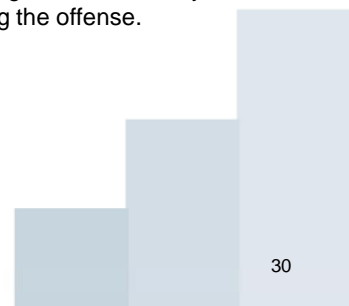
What are the most frequent case types and sanctions for Pharmacy Techs?

Interviewees stated:

The most violations were drug related offense - diversion, either for personal use or for sale.

The sanctions accompanying the diversion of drugs seemed to vary based on the respondent's purpose in committing the offense.

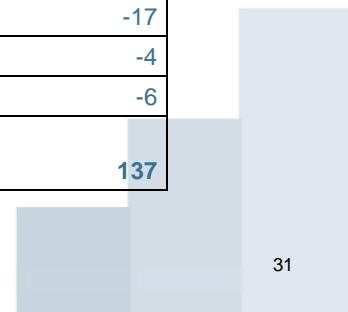
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What Pharmacy Tech Cases are Eligible for Study (as of 4/1/13)

ALL cases closed in violation in entire L2K database	312
Remove cases closed prior to 2008	-69
Remove CE cases	-99
Remove Dishonored Check	-16
Remove Mandatory Suspensions	-17
Remove Summary Suspensions	-4
Remove eligibility/Reinstatement	-6
Total Cases for Analysis	137

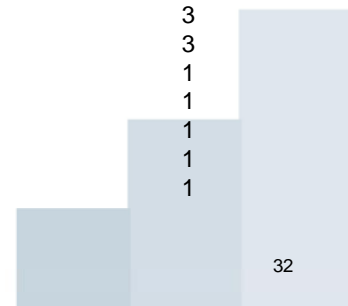
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Case Types Represented in Study Sample (as of 4/1/13)

Case Category One, from L2K	<u>Frequency</u>
Drug Related – Patient Care	48
Inability to Safely Practice	14
Unlicensed Activity	13
Drug Related- Non-Patient Care	5
Criminal Activity	4
Abuse/Abandonment/Neglect	3
Standard of Care – Medication/Prescription	3
Standard of Care – Other	3
Misappropriation of Patient Property	3
Business Practice Issues	1
Confidentiality Breach	1
Fraud – Non-Patient Care	1
HPMP	1
Standard of Care – Exceeding Scope	1

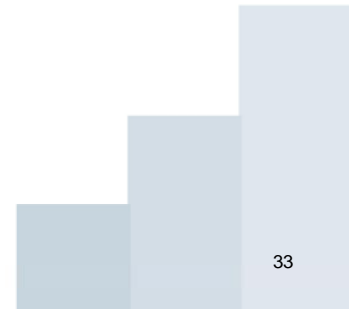
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Sanctions Represented in Study Sample

(as of 4/1/13)

Sanction One, from L2K	Frequency
Revocation	27
Suspension	26
Monetary Penalty	16
Surrender	9
Reprimand/Censure	8
Corrective Action	6
Terms Imposed - Other	5
Violation but No Sanction	2
Probation	1
Unknown	1

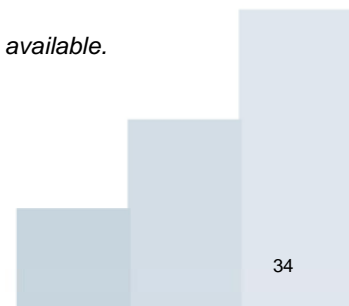


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What Training Opportunities Have Been Made Available to the BOP?

- Most interviewees took part in the re-training held In December 2010.
- Participants suggested that more training opportunities could be beneficial.

VRI will retrain when new SRP materials are available.



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Agency wide SRP Training

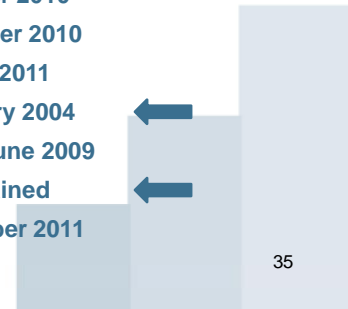
Consider public training seminar for attorneys or others

Board

Nursing
Physical Therapy
Vet Med
Optometry
Dentistry
ASLP
Pharmacy
Funeral
Medicine
Behavioral Sciences
LTC
Public Training

Last Trained

October 2011
August 2010
October 2010
November 2010
December 2010
October 2010
December 2010
April 2011
February 2004
April & June 2009
Untrained
September 2011



Virginia Department of Health Professions

Sanctioning Reference Points (SRP) Agreement Analysis
Data through March 31, 2013

Board	Start Date	Completed Worksheets		Agreement		Aggravating Departures		Mitigating Departures		Agreement by Board
		#	%	#	%	#	%	#	%	
Medicine	Aug-04	203	146	72%	8	4%	49	24%	Medicine 72%	
Nursing	Jul-05	1069	796	75%	228	21%	41	4%	Nursing 75%	
CNA	Jul-05	595	574	97%	12	2%	9	2%	CNA 97%	
Dentistry	Jun-06	147	126	86%	9	6%	12	8%	Dentistry 86%	
Funeral	May-07	28	22	79%	1	4%	5	18%	Funeral 79%	
Vet. Medicine	May-07	73	59	81%	10	14%	4	6%	Vet. Medicine 81%	
Pharmacy	Nov-07	76	58	76%	3	4%	15	20%	Pharmacy 76%	
Optometry	Dec-08	8	7	88%	1	13%			Optometry 84%	
Social Work	Jun-09	6	3	50%	2	33%	1	17%	Social Work 50%	
Psychology	Jun-09	7	5	71%			2	29%	Psychology 71%	
Counseling	Jun-09	6	5	83%			1	17%	Counseling 83%	
Physical Therapy	Nov-09	3	2	67%	1	33%			Physical Therapy 67%	
Long-Term Care	Mar-10	6	3	50%			3	50%	Long-Term Care 50%	
Audiology	Jun-10	1	1	100%					Audiology 100%	
DHP Total		2224	1807	81%	275	12%	142	6%	DHP Total 81%	

Prepared by: VisualResearch, Inc.

Questions?

KPM and Sanctioning Reference Points Update

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