

**DRAFT**  
**VIRGINIA BOARD OF HEALTH PROFESSIONS**  
**DEPARTMENT OF HEALTH PROFESSIONS**  
**FULL BOARD MEETING**  
**September 29, 2010**

**TIME AND PLACE:** The meeting was called to order at 1:28 p.m. on Wednesday, September 29, 2010 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2<sup>nd</sup> Floor, Board Room 2, Henrico, VA, 23233

**PRESIDING OFFICER:** David Boehm, L.C.S.W., President

**MEMBERS PRESENT:** Damien Howell, MS, PT, OCS  
Michael Stutts, Ph.D.  
John T. Wise, D.V.M.  
Mary M. Smith, N.H.A.  
Mary Lou Argow, L.P.C.  
Billie W. Hughes, F.S.L.  
Juan M. Montero, II, M.D.  
David Boehm, L.C.S.W.  
Fernando Martinez, Citizen Member  
Jonathan Noble, O.D.  
Patricia Lane, R.N.

**MEMBERS NOT PRESENT:** John Cutler, Citizen Member  
Sandra Price-Stroble, Citizen Member  
Vilma Seymour, Citizen Member  
Demis Stewart, Citizen Member  
Susan Green Chadwick, AU.D.  
Paul N. Zimmet, DDS

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

**OTHERS PRESENT:** Eric Gregory, Assistant Attorney General  
Neal Kauder, Visual Research, Inc.  
Kim Langston, Visual Research, Inc.  
Tyler Cox, MSV  
Susan Ward, VHHA  
Beverley Soble, VHCA  
Gary Bolden, Kinesiotherapy  
Henry Jackson, Kinesiotherapy  
Teresa Nadder, VSCLS  
Nancy Barrow, AMT  
Katherine Prentice, VSCLS  
Emy Morris, VSCLS  
Rebecca Perdue, VSCLS

**QUORUM:** With 11 members present a quorum was established.

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

**PUBLIC COMMENT:**

Marilyn Gladding, VANHA  
Ms. Gladding spoke in regard to medication aides in nursing homes. Ms. Gladding does not feel that using medication aides in nursing homes is a positive step forward for long term care. Ms. Gladding stated that a higher level of medication training would be necessary for CNAs to distribute medication.

Gary Bolden, Kinesiotherapy  
Mr. Bolden is a kinesiotherapy advocate for Norfolk State University who loves his profession. Kinesiotherapists provide care to wounded warriors and veterans and would like to know why they are not permitted to provide care to the public. He stated that kinesiotherapy is a growing field and that this profession should be given the right to work and make a living.

Beverley Soble, VHCA  
Long Term Care, Nursing Home & Assisted Living  
Ms. Soble would like the Board to reconsider the Regulatory Research Committees findings and consider initiating a pilot program in Virginia.

**APPROVAL OF MINUTES:** Meeting minutes from May 4, 2010 were approved. Fernando Martinez, Citizen Member, abstained.

**DEPARTMENT DIRECTOR'S REPORT:**

Dr. Reynolds-Cane spoke briefly to the success of the September 16, 2010 Physician's Data telephonic phone briefing to the media. The media was very appreciative of the embargoed data they received prior to the press briefing.

DHP was involved in National Take Back Day Initiative, sponsored by the DEA. This event provided an opportunity for the public to surrender expired, unwanted, or unused pharmaceutical controlled substances and other medications for destruction.

DHP is hosting Freedom of Information Act training for 60-70 DHP staff members.

On behalf of the new Virginia Health Workforce Development Authority (VHWDA), the Department of Health submitted a proposal for and received a Healthcare Workforce Implementation grant totaling \$1.9 million for the next two years with an option for a third. They will be collaborating with DHP's Healthcare Workforce Data Center.

The Virginia Information Technology Agency (VITA)'s summer computer failure affected PMP. But down time was minimal in part because PMP's data is housed on servers that are on-site at DHP. Dr. Cane also reported that VITA has

begun to charge for data storage and recovery which are unbudgeted items.

**LEGISLATIVE/REGULATORY  
UPDATE:**

Ms. Yeatts advised the Board that legislation development for the upcoming 2011 General Assembly Session is now underway. At this time, there are no new items proposed by others that should affect DHP. There are a few 2010 items that have carried over into 2011. Also, ten proposals have been submitted by the agency for the Governor to consider including in his legislative package. We should be advised by December 1, 2010 of his decisions concerning these proposals.

**COMMITTEE REPORT:**

**Education Committee**

Ms. Smith presented a report of the Committee's activities. The Committee reviewed the agency's progress toward enhancing communications. Ms. Powers provided the Committee with logistical and topic area background on the telephonic media briefing conducted on September 16, 2010 on the Healthcare Workforce Data Center's physician research findings and listened to a portion of the discussion presented by Secretary William Hazel, M.D. via telephone recording. The Committee was also apprised of the new Board member training to be held on October 27, 2010 that has been reformulated and prioritized in response to the Committee's comments earlier this year. The Committee was also apprised of the new interactive internet mapping of survey data now available for the Nursing Education Survey through the Healthcare Workforce Data Center and the other studies and surveys that are on going. Future work by the Center will be expedited and enhanced with the assistance made possible by the VHWDA's grant funds and collaboration.

**Regulatory Research Committee**

Mr. Howell presented a report of the Committee's activities and actions. The Committee's recommendations are listed as follows:

Kinesiotherapy

The committee deemed that there is no substantiated evidence that the practice of kinesiotherapy poses a threat to the public's health, safety, or welfare, as such state regulation of the profession is unwarranted.

The motion carried and passed. Fernando Martinez, Citizen Member, abstained.

Laboratory Scientists and Technicians

Point-of-care testing and the increased volume of laboratory testing since the Board's last study in 2000 was of particular concern to the Committee.

Because of the complex nature of laboratory analysis and interpretation and the fact that the vast majority of health care is hinged upon laboratory results that require the knowledge, skills, and abilities of credentialed laboratory scientists and technicians, these professions warrant regulation by the state.

The Committee directed staff to advise the General Assembly of this finding and continue the study to help them ascertain the appropriate level and type of regulation to recommend.

The motion passed to regulate.

The motion passed to allow staff to continue study for one (1) additional year to help determine the appropriate level of regulation.

#### Medication Aides in Nursing Homes

The Committee considered whether a statewide expansion or limited expansion pilot program was merited or that there should be no change at this time. The Committee opted for not permitting medication aides to administer medication in nursing homes at this time, citing high medication error rates in nursing homes currently when permitting only licensed nurses to do so. (Attachment 1)

A motion was made to not regulate at this time.

The motion carried. In Favor-7, Opposed-3, Abstain-1

#### Phlebotomists

The Committee was apprised of an upcoming petition for study by a trade group representing phlebotomists. The Committee directed staff to gather general pertinent information on this profession and present it at the December 14, 2010 meeting. Because the written request has not yet been received from the phlebotomists, the committee declined to consider a formal sunrise review at this time.

The motion was carried and passed.

#### Community Health Workers

The Committee was informed of Dr. Arthur Garson's request to discontinue the review of Grand Aides as part of its Community Health Workers emerging professions review. Virginia's nursing scope of practice statutes preclude Grand Aides from performing the duties envisioned. The Committee accepted the request and directed staff to continue to monitor the literature for developments that may affect the need to regulate Community Health Workers and other unlicensed assistive personnel in the future.

#### Allied Health Board

A review of the regulatory board structures for all allied health professions was undertaken by staff since the last meeting, including examining Ontario's experiences with regulating controlled acts rather than professions. There was no evidence of "best practices" from the other states' and provinces' structural organizations. Citing that the Virginia Board of Medicine has become, in effect, a board of medicine and allied health, Dr. William Harp, Executive Director for the Board of Medicine was asked to conduct an organizational review to determine the staffing necessary to ameliorate the burden of various allied health professions under its umbrella. Staff will provide a progress report at the next Committee meeting on December 14, 2010.

No motion was made.

## **PRESENTATION**

### **Sanction Reference**

Mr. Kauder gave a powerpoint presentation on Assessing the Effectiveness of Sanction Reference Points (Attachment 2). Mr. Kauder informed the Board that Kim Langston is responsible for training and retraining of staff, Board and Board members. The current compliance agreement rate is at 80%. The Board of Nursing is the most recent Board to be retrained.

## **EXECUTIVE DIRECTOR'S REPORT:**

### **Key Performance Measures**

Dr. Carter noted that the agency is maintaining excellent performance and is continuing its efforts to achieve even greater efficiencies, without sacrificing quality.

### **Healthcare Workforce Data Center**

Dr. Carter advised the Board of the on going progress being made by the Healthcare Workforce Data Center. The creation of a new Dental Workforce Advisory Committee is under way. The Behavioral Science Workforce Advisory Committee had its first meeting in September and is in the process of creating a survey. The Nurse Practitioner survey has received minor changes and is in the final stages of completion. The Physician Assistant survey is complete and ready for implementation after presentation to the Board of Medicine later in October.

### **BHP Budget**

The FY2010 budget closed out with 7% overage.

### **Full Time Position**

Dr. Carter will be interviewing candidates for a full time position with the Board of Health Professions in mid October. This position will serve as the Board's first full-time support dedicated to research.

### **Sanction Reference Study**

Mr. Kauder presented to the Board a PowerPoint presentation regarding Sanction Referencing and stated that all Boards now have a points system.

### **Biennial Report**

The biennial report is being prepared and is due to the Governor's office in November 2010.

## **NEW BUSINESS:**

Dr. Carter announced that with a portion of the VHWDA grant funds, the Healthcare Workforce Data Center will be able to continue to collect and provide Virginia's health workforce survey data and to offer outreach and training for others. This funding enables additional staffing and support for these important workforce research and communications efforts.

Mr. Boehm personally thanked each member for their dedicated service to the Board.

**ADJOURNMENT:**

The meeting adjourned at 2:54 p.m.

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David Boehm, L.C.S.W.  
Board President

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



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## Policy Options

1. No Change
    - High medication error rates
    - LPNs available
    - RMA experience/workforce underdeveloped
  2. Statewide expansion
    - Evidence suggests medication aides can be successfully employed
    - Nursing/rural LPN shortage
    - Increased labor flexibility could decrease interruptions/pass times
    - Note: Virginia does not have mandated staffing ratios
  3. Limited Expansion
    - "Pilot Program" model
    - Apply for medication aide approval based on staffing mix and/or medication error citations
    - Provide an incentive to invest in organizational/staffing improvements
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Virginia Department of Health Professions  
Board of Health Professions

# Assessing the Effectiveness of Sanctioning Reference Points

September 29, 2010

Prepared by VisualResearch, Inc.  
Neal Kauder, President

1

## Purpose

... 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*

2

## Goals

- Evaluate consistency, proportionality and neutrality
- Analyze agreement monitoring and board feedback
- Revise worksheet factors and scoring weights if needed
- Revise sanction recommendations if needed
- Determine how board policies fit within SRPs (CCAs, PHCOs, etc.)
- Identify any unintended consequences or undesirable outcomes (change in number of hearings and/or workload, etc.)
- Increase SRP training opportunities

3

## Study Tasks & Progress

Medicine will be the next Board interviewed

	<u>Nurses</u>	<u>CNA</u>	<u>Medicine</u>	<u>Pharmacy</u>	<u>Dentistry</u>
Conduct user satisfaction interviews	✓	✓	✓*		
Code and key data from worksheets	✓	✓	✓	✓	✓
Collect, code and key extralegal factors	✓	✓	✓	✓	
Convert files to SPSS	✓	✓		✓	
Merge SRP data with extralegal factors data	✓	✓		✓*	
Merge SRP/extralegal data with L2K	✓	✓			
Present preliminary descriptive data	✓	✓			
Begin inferential analysis (statistical modeling)					

\* In progress

4

## 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.

5

## Initial BON Interview Results

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

Results were **mixed** on whether or not:

- More serious cases are sometimes recommended for a sanction that is too lenient.
- The SRP manual is readily accessible when sanctioning.
- There are aspects of the SRP system that aren't understood.

6

## Comparison of Samples Used in Effectiveness Study

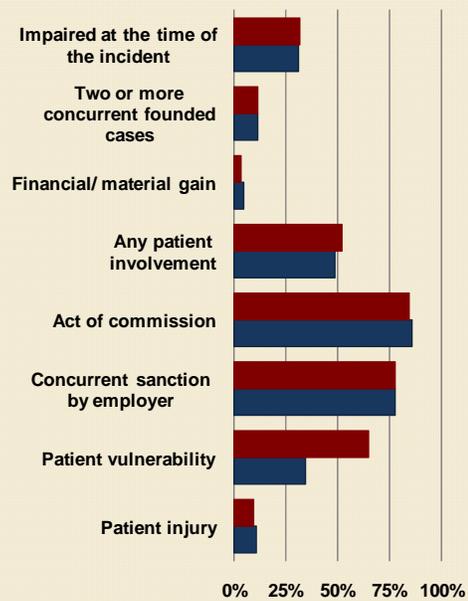
	<u>Nurses</u>	<u>CNA</u>
<b>Completed SRP Worksheets</b>	560 cases June 2006 to June 2010 based on WS completion date	232 cases June 2006 to June 2010 based on WS completion date
<b>Original SRP Sample Cases (comparison group)</b>	294 cases Jan 2002 to Dec 2004	301 cases Jan 2002 to Dec 2004
<b>Factors compared</b>	3 Worksheets/Case Types 8 Offense Factors* 8 Respondent Factors 3 Extra-legal Factors	1 Worksheet/8 Case Types 8 Offense & Respondent Factors 8 Case Types 3 Extra-legal Factors

\*not all offense factors are on every worksheet

7

## Comparing Nursing Worksheet Offense Factors to the Original Sample

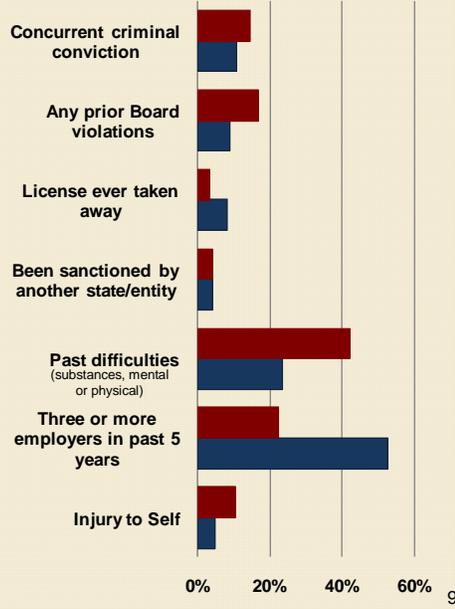
■ Current SRP Worksheets  
■ Original SRP Sample



8

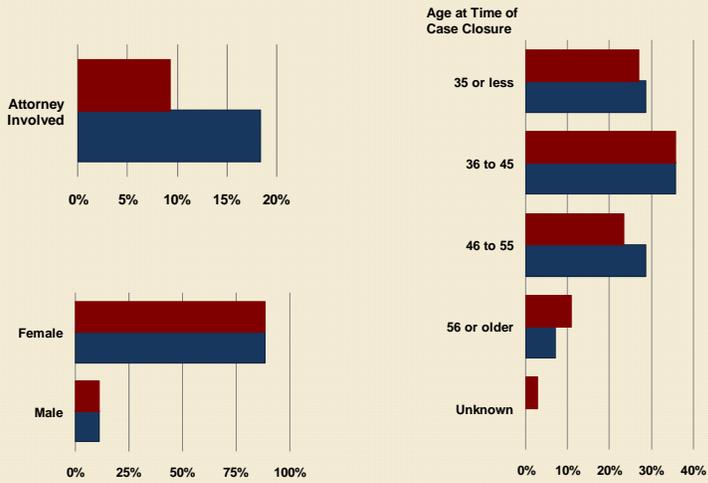
## Comparing Nursing Worksheet Respondent Factors to the Original Sample

■ Current SRP Worksheets  
 ■ Original SRP Sample



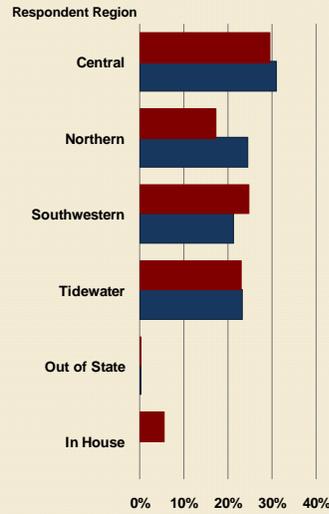
## Comparing Nursing Extra-legal Factors to the Original Sample

■ Completed SRP Worksheets  
 ■ Original SRP Sample Cases



## Comparing Nursing Extra-legal Factors to the Original Sample

■ Completed SRP Worksheets  
 ■ Original SRP Sample Cases



11

## How often are factors scored on nursing worksheets?

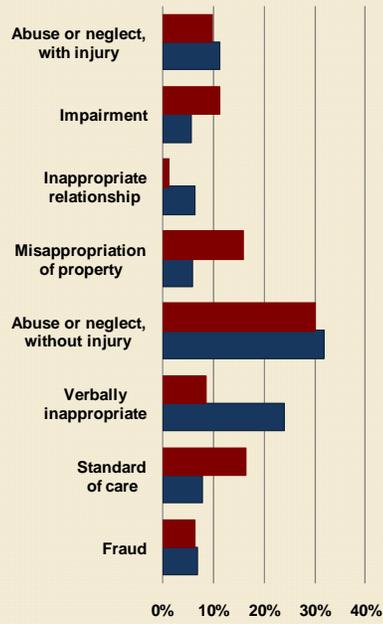
Offense Factors	Impairment (n=359)		SOC (n=158)		Fraud (n=43)	
	Number	Percent	Number	Percent	Number	Percent
Patient injury	15	4.2%	36	22.8%	1	2%
Patient vulnerability	213	59.3%	135	85.4%	16	37%
Concurrent sanction by employer	276	76.9%	134	84.8%	24	56%
Act of commission	303	84.4%	129	81.6%	39	91%
Any patient involvement	145	40.4%	134	84.8%	13	30%
Financial/material gain	N/A	N/A	N/A	N/A	16	37%
Two or more concurrent founded cases	65	18.1%	N/A	N/A	N/A	N/A
Impaired at the time of the incident	177	49.3%	N/A	N/A	N/A	N/A
<b>Respondent Factors</b>						
Concurrent criminal conviction	77	21.4%	3	1.9%	1	2.3%
Any prior Board violations	68	18.9%	21	13.3%	5	11.6%
License ever taken away	16	4.5%	2	1.3%	2	4.7%
Been sanctioned by another state/entity	16	4.5%	5	3.2%	3	7.0%
Past difficulties (substances, mental/physical)	219	61.0%	12	7.6%	5	11.6%
Three or more employers in past 5 years	68	18.9%	53	33.5%	5	11.6%
Injury to Self	58	16.2%	N/A	N/A	N/A	N/A

N/A indicates factor not present on worksheet

12

## Comparing CNA Worksheet Case Types to the Original Sample

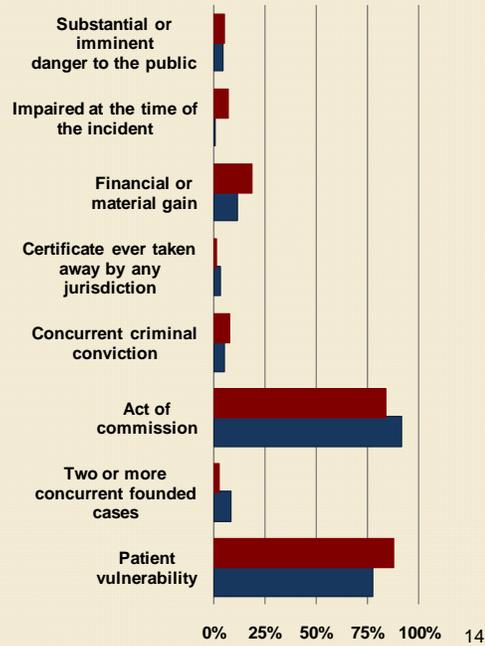
■ Completed SRP Worksheets  
■ Original SRP Sample Cases



13

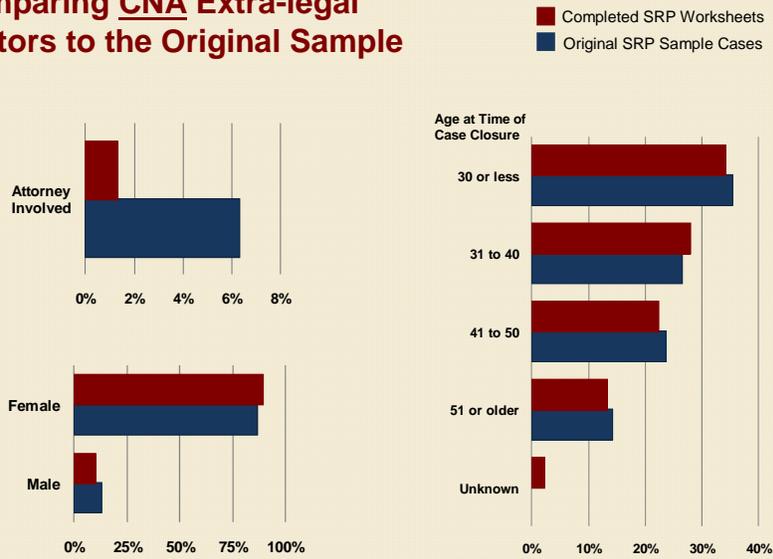
## Comparing CNA Worksheet Factors to the Original Sample

■ Completed SRP Worksheets  
■ Original SRP Sample Cases

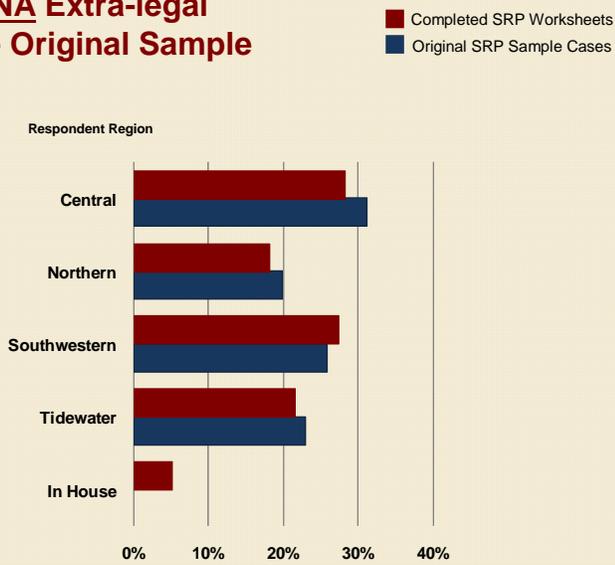


14

## Comparing CNA Extra-legal Factors to the Original Sample



## Comparing CNA Extra-legal Factors to the Original Sample



## SRP Re-Training

<u>Board</u>	<u>Date</u>
Nursing	✓
Physical Therapy	✓
Vet Med	10-20-10
Optometry	11-19-10
Medicine	10-28-10 (3 new board members)
Dentistry	TBD
Pharmacy	12-15-10 (4 new board members)
Behavioral Sciences	Spring 2011

17

## Use of CCA Language in the SRP Manual

	SRP Includes	Not Included
Medicine		✓
Nursing		✓
Dentistry		✓
Pharmacy	No Board Specific Policy	
LTC	✓	
ASLP	✓	
Counseling	✓	
Optometry	✓	
Funeral	✓	
Physical Therapy	✓	
Psychology	✓	
Social Work	✓	
Veterinary Medicine	No Board Specific Policy	

18

## Use of Pre-defined Sanction Language in the SRP Manual

	SRP Includes	Not Included
Medicine	No Board Specific Policy	
Nursing		✓
Dentistry		✓
Pharmacy	✓	✓
LTC		✓
ASLP	No Board Specific Policy	
Counseling	✓	
Optometry	✓	
Funeral	No Board Specific Policy	
Physical Therapy	No Board Specific Policy	
Psychology	✓	
Social Work	✓	
Veterinary Medicine	No Board Specific Policy	

19

## Recommendation for SRP Manual Modification Across Boards

### Worksheets Not Used in Certain Cases

Confidential Consent Agreements (CCA) – SRPs will not be used in cases settled by CCA.

Pre-Defined Disciplinary Actions – SRPs may or may not be used in cases where the disciplinary action is pre-defined by an existing guidance document.

20

## What will all this descriptive analysis do for us?

It will help to define, measure and evaluate...

**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 continue to effect sanctioning? Are sanctions neutral with regard to age, sex, attorney representation, and race?*

21

## Other Study Related Work

**4-13-10**

Funeral voted to double the Monetary Penalty recommendations on their SRP worksheet.

**6-3-10**

ASLP adopted the SRP manual as a Guidance Document.

**6-10-10**

Medicine's Introduction to SRP Evaluation and Agreement Monitoring Update presentation was recorded for DHP in-house training purposes.

22

**Questions?**