Sanctioning Reference Points Instruction Manual

Board of Nursing

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Dear Interested Parties:

In the spring of 2001, the Virginia Department of Health Professions approved a workplan to study sanctioning in disciplinary cases for Virginia's 13 health regulatory boards. The purpose of the study was to "*...provide an empirical, systematic analysis of board sanctions for offenses and, based on this analysis, to derive reference points for board members...*" The purposes and goals of the study were consistent with state statutes which specify that the Board of Health Professions (BHP) periodically review the investigatory and disciplinary processes to ensure the protection of the public and the fair and equitable treatment of health professionals.

After interviewing Board of Nursing members and staff, a committee of board members, staff, and research consultants assembled a research agenda involving the most exhaustive statistical study of sanctioned Nurses and Certified Nurse Aides ever conducted in the United States. The analysis included collecting over 100 factors on all Board of Nursing sanctioned cases in Virginia over a three year period. These factors measured case seriousness, respondent characteristics, and prior disciplinary history. After identifying the factors that were consistently associated with sanctioning, it was decided that the results provided a solid foundation for the creation of sanctioning reference points. Using both the data and collective input from the Board of Nursing and staff, analysts developed a usable set of sanction worksheets as a way to implement the reference system.

In 2010, BHP recommended that the SRPs be evaluated to determine if the program had met the objectives set forth in 2001. The outcomes related to the Board of Nursing resulted in several changes to the Board of Nursing's Sanctioning Reference Points worksheets. This manual is the product of those adopted changes.

Sincerely yours,

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Director
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Cordially,

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General information

Overview

The Virginia Board of Health Professions has spent the last 10 years studying sanctioning in disciplinary cases. The study has examined all of the Department of Health Professions' (DHP) 13 health regulatory Boards. Focusing on the Board of Nursing (BON), this manual contains background on the project, the goals and purposes of the Sanctioning Reference Points (SRP) system, and three revised offense-based worksheets and grids used to help Board members determine how similarly situated respondents have been treated in the past.

This SRP system is based on a specific sample of cases, and thus only applies to those persons sanctioned by the Virginia Board of Nursing. Moreover, the worksheets and grids have not been tested or validated on any other groups of persons. Therefore, they should not be used to sanction respondents coming before other health regulatory boards, other states, or other disciplinary bodies.

The SRP system is comprised of a series of worksheets which score a number of offense and respondent factors identified using statistical analysis and built upon the Department's effort to maintain standards of practice over time. The original BON SRP Manual was developed for the Board of Nursing by studying and evaluating respondents as two separate groups, Nurses and Certified Nurse Aides (CNA). The separate sample populations were chosen for two reasons.

First, the interview process made it clear that CNAs and Nurses were involved in different types of cases. For example, CNAs did not typically come in contact with prescription medication, therefore their cases tended to be patient related. Nurses were more often involved in drug and impairment cases.

Second, Nursing and CNA cases varied by the type of sanctions received by respondents. Perhaps most importantly, the Board of Nursing has additional adverse "Findings" available to them for sanctioning a CNA, including making Findings of Abuse, Neglect, or Misappropriation of property. When such a "Finding" is made by the Board, federal laws and regulations state that a CNA can no longer work in a federally funded long-term care facility. The functional effect is similar to losing one's certificate, since these facilities are the primary employers of CNAs.

Because of the differences in case types and sanctions handed down, the SRP worksheets contained in this manual look different for Nurses and CNAs. Nursing SRPs are comprised of a series of 3 case-specific worksheets which score a number of offenses and respondent factors. A two-dimensional grid found on each of the offense worksheets uses an offense score and a respondent score to indicate a historically-based range of sanctions from which the Board may select in a particular case.

The SRP system for Nurse Aides, uses a single worksheet which scores a single case type as well as offense and respondent factors. Three sanctioning thresholds found at the bottom of the CNA worksheet indicate the sanctions historically handed down by the Board for similarly situated respondents.

In addition to this instruction booklet, separate coversheets and worksheets are available to record the offense, respondent and/or case type scores, recommended sanction, actual sanction and any reasons for departure (if applicable). The completed coversheets and worksheets will be evaluated as part of an on-going effort to monitor and refine the SRPs.

These instructions and the use of the SRP system fall within current DHP and BON policies and procedures. Furthermore, all sanctioning recommendations are those currently available to and used by the Board and are specified within existing Virginia statutes. If an SRP worksheet recommendation is more or less severe than a Virginia statute or DHP regulation, the existing laws or policy supersedes the worksheet recommendation.

Background

In 2010, the Board of Health Professions (BHP) recommended that the SRPs be evaluated to determine if the program had met the objectives set forth in 2001. The purpose of this study was 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. This Effectiveness Study sought to examine whether or not the SRPs were successful, and if not, which areas required improvement.

The Effectiveness Study relied heavily on the completed coversheets and worksheets which record the offense score, respondent score, recommended sanction, actual sanction and any reasons for departure (if applicable). The study resulted in changes to the manual for the BON. This manual is the result of those adopted changes.

Goals

In 2001, The Board of Health Professions and the Board of Nursing cited the following purposes and goals for establishing SRPs:

- Making sanctioning decisions more predictable
- Providing an education tool for new Board members
- Adding an empirical element to a process/system that is inherently subjective
- Providing a resource for BON and those involved in proceedings
- "Neutralizing" sanctioning inconsistencies
- Validating Board member or staff recall of past cases
- Reducing the influence of undesirable factors—e.g., Board member ID, overall Board makeup, race or ethnic origin, etc.
- Helping predict future caseloads and need for probation services and terms

Methodology

The fundamental question when developing a sanctioning reference system is deciding whether the supporting analysis should be grounded in historical data (a descriptive approach) or whether it should be developed normatively (a prescriptive approach). A normative approach reflects what policymakers feel sanction recommendations should be, as opposed to what they have been. SRPs can also be developed using historical data analysis with normative adjustments. This approach combines information from past practice with policy adjustments, in order to achieve a more balanced outcome. The SRP manual adopted in 2006 was based on a descriptive approach with a limited number of normative adjustments. The Effectiveness Study was conducted in a similar manner, drawing from historical data to inform worksheet modification.

Qualitative Analysis

Researchers conducted in-depth personal interviews with BON members and Board staff. Researchers also had informal conversations with representatives from the Attorney General's office and the Executive Director of the Board of Health Professions. The interview results were used to build consensus regarding the purpose and utility of SRPs and to further guide the Effectiveness Study's analysis. Additionally, interviews helped ensure the factors that Board members consider when sanctioning continued to be included during the quantitative phase of the study. Previous scoring factors were examined for their continued relevance and sanctioning influence.

Quantitative Analysis

In 2005, researchers collected detailed information on all BON disciplinary cases ending in a violation between January 2002 and December 2004. For respondents holding a license to practice as a Nurse, there were 294 sanctioning "events," covering 338 cases. For CNA's, there were 301 "events," covering 329 cases. Over 100 different factors were collected on each case to describe the case attributes Board members identified as potentially impacting sanction decisions. Researchers used data available through the DHP case management system combined with primary data collected from hard copy files. The hard copy files contained investigative reports, Board notices, Board orders, and all other documentation made available to Board members when deciding a case sanction.

A comprehensive database was created to analyze the offense and respondent factors which were identified as potentially influencing sanctioning decisions. Using statistical analysis to construct a "historical portrait" of past sanctioning decisions, the significant factors along

with their relative weights were derived. Those factors and weights were formulated into sanctioning worksheets and grids, which became the SRPs.

During the Effectiveness Study, researchers used 560 Nurse and 232 CNA SRP worksheets and coversheets previously completed by Board members to create a database. The worksheets' factors, scores, sanction recommendations, sanctions handed down, and departure reasons (if any) were coded and keyed over the course of several weeks, creating a database. That database was then merged with DHP's data system L2K, making more variables eligible for analysis. The resulting database was analyzed to determine any changes in Board sanctioning that may have had an effect on the worksheet recommendations.

Offense factors such as patient harm, patient vulnerability and case severity (priority level) were analyzed, as well as respondent factors such as existence of substance abuse, impairment at the time of offense, initiation of self-corrective action, and prior history of the respondent. Researchers re-examined factors previously deemed "extralegal" or inappropriate for the SRP system. For example, respondent's attorney representation, physical location (region), age, gender, and case processing time were considered "extra-legal" factors.

Although, both "legal" and "extra-legal" factors can help explain sanction variation, only those "legal" factors the Board felt should consistently play a role in a sanction decision continued to be included on the worksheets. By using this method, the goal is to achieve more neutrality in sanctioning by making sure the Board considers the same set of "legal" factors in every disciplinary case ending in a violation.

Characteristics of the SRP System

Wide Sanctioning Ranges

The SRPs consider and weigh the circumstances of an offense and the relevant characteristics of the respondent, providing the Board with a sanctioning model that encompasses roughly 80% of historical practice. This means that approximately 20% of past cases receive sanctions either higher or lower than what the reference points indicate, recognizing that aggravating and mitigating factors play a legitimate role in sanctioning. The wide sanctioning ranges allow the Board to customize on a particular sanction within the broader SRP recommended range.

Voluntary Nature

The SRP system should be viewed as a decision-aid to be used by the Board of Nursing. Sanctioning within the SRP ranges is "totally voluntary," meaning that the system is viewed strictly as a tool and the Board may choose any sanction outside the recommendation. The Board maintains complete discretion in determining the sanction handed down. However, a structured sanctioning system is of little value if the Board is not provided with the appropriate coversheet and worksheet in every case eligible for scoring. A coversheet and worksheet should be completed in cases resolved by Informal Conference or Pre-Hearing Consent Order. This includes cases resolved at an informal conference by special conference committees or agency subordinates, and by prehearing consent order offers delegated to and authorized by Board staff. The coversheet and worksheets will be used only after a violation has been determined.

General Instructions for Using the SRPs

Completing the Coversheet & Worksheet

Ultimately, it is the responsibility of the BON to complete the SRP coversheet and worksheet in all applicable cases.

The information relied upon to complete a coversheet and worksheet is derived from the case packet provided to the Board and the respondent. It is also possible that information discovered at the time of the informal conference may impact worksheet scoring. The SRP coversheet and worksheet, once completed, are confidential under the Code of Virginia. Additionally, the manual, including blank coversheets and worksheets, can be found on the Department of Health Professions web site: www.dhp.state.va.us (paper copy also available on request).

Worksheets

Scoring instructions are contained adjacent to each of the worksheets in subsequent sections of this manual. Detailed instructions are provided for each factor on a worksheet and should be referenced to ensure accurate scoring. When scoring, the scoring weights assigned to a factor on the worksheet cannot be adjusted. The scoring weights can only be applied as 'yes or no' with all or none of the points applied. In instances when a scoring factor is difficult to interpret, the Board has final authority in how a case is scored.

Worksheets Not Used in Certain Cases

The SRPs are not applied in any of the following circumstances:

- Action by Another Board – When a case which has already been adjudicated by a Board from another state appears before the Virginia Board of Nursing, the Board often attempts to mirror the sanction handed down by the other Board. The Virginia Board of Nursing usually requires that all conditions set by the other Board are completed or complied with in Virginia. The SRPs do not apply to cases previously heard and adjudicated by another Board.
- Compliance/Reinstatement – The SRPs should be applied to new cases only.
- Confidential Consent Agreements (CCA) – SRPs will not be used in cases settled by CCA.
- Mandatory Suspensions – Virginia law requires that under certain circumstances (conviction of a felony, declaration of legal incompetence or incapacitation, license revocation in another jurisdiction) the license of a physician must be suspended. The sanction is defined by law and is therefore excluded from the Sanctioning Reference Point system.

Sanctioning Reference Points for Nurses & CMTs Only

Using the SRP System

Case Types Covered by the Sanctioning Reference Points

The SRP worksheets are grouped into 3 offense types: Inability to Safely Practice, Standard of Care, and Unlicensed Activity/Fraud. This organization is based on the most recent historical analysis of Board sanctioning. The SRP factors found on each worksheet are those which proved important in determining sanctioning outcomes.

When multiple cases have been combined for disposition by the Board into one order, only one coversheet and worksheet is completed that encompasses the entire event. In these instances, the worksheet completed is selected according to the case type group which appears furthest to left on the following table. For example, a Nurse found in violation of both practicing on an expired license and patient deprivation would have their case scored on an Inability to Safely Practice worksheet, since Inability to Safely Practice is to the left of Unlicensed Activity/ Fraud on the table. If an offense type is not listed, find the most analogous offense type and use the appropriate scoring worksheet. This table is used for Nurses only.

For this purpose, Nurses are meant to include: Licensed Practical Nurses, Registered Nurses, Licensed Nurse Practitioners, Certified Registered Nurse Anesthetists, Certified Nurse Midwives and Certified Massage Therapists. This table does not apply to CNAs.

Case Types Covered within Worksheets

Inability to Safely Pratice Worksheet		Standard of Care Worksheet		Unlicensed Activity/Fraud Worksheet	
Drug Related	Personal Use - On Duty	Abuse, Abandonment or Neglect	Any sexual assault, mistreatment of a patient, inappropriate termination of provider/patient relationship, leaving a patient unattended in a health-care environment, failure to do what a reasonable person would do in a similar situation.	Fraud	Falsification/alteration of patient records
	Stealing Controlled Substances				Falsification of licensing/renewal documents
	Patient Deprivation			Unlicensed Activity	Aiding/abetting unlicensed activity
	Drug Adulteration				No valid license - not qualified to practice
	Drug Control Act Violation				No valid license - qualified to practice
	Prescription Forgery	Breach of Confidentiality	Disclosing unauthorized client information without permission or necessity		Practicing beyond the scope of license
Impairment	Due to use of alcohol, illegal substances, or prescription drugs		Social Media Violations		Practicing on a revoked, suspended, or expired license
Incapacitation	Due to mental, physical or medical conditions	Inappropriate Relationship	Dual, sexual or other boundary issue		
Misdemeanor Conviction			Inappropriate Touching		
			Inappropriate written or oral communications		
		Standard of Care - Diagnosis/ Treatment	Alternative Treatment		
			Delayed or Unsatisfactory Diagnosis/Treatment		
			Failure to Diagnose/Treat		
			Improper Diagnosis/Treatment		
			Other Diagnosis/Treatment Issues		
		Standard of Care - Prescription Related	Failure to provide counseling		
			Improper management of patient regimen		
			Administration/Dispensing Errors		
			Improper Patient Management		
		Standard of Care - Other	Medical Record Keeping		

Coversheets for Nurses & CMTs Only

The coversheets (shown on page 12) are completed to ensure a uniform record of each case and to facilitate recordation of other pertinent information critical for continued system monitoring, evaluation and improvement.

If the Board feels the sanctioning grid does not recommend an appropriate sanction, the Board should depart either high or low when handing down a sanction. If the Board disagrees with the sanction recommendation and imposes a sanction greater or less than the recommended sanction, "Yes" should be checked and a short explanation should be recorded on

the coversheet. The explanation should identify the factors and reasons for departure (see examples below). This process ensures worksheets are revised to reflect current Board practice and to maintain the dynamic nature of the system. For example, if a particular reason is continually cited, the Board can examine the issue more closely to determine if the worksheets should be modified to better reflect Board practice.

Aggravating and mitigating circumstances that may influence Board decisions can include, but should not be limited to, such things as:

- Severity of the incident
- Age of prior record
- Dishonesty/Obstruction
- Motivation
- Remorse
- Cause for the action
- Restitution/Self-corrective action
- Multiple offenses/Isolated incident

A space is provided on the coversheet to record the reason(s) for departure. Due to the uniqueness of each case, the reason(s) for departure may be varied. Sample scenarios are provided below:

Departure Example #1
Sanction Result: Recommend Formal/Suspension or Revocation
Imposed Sanction: Probation with terms
Reason(s) for Departure: Respondent was particularly remorseful and had already begun corrective action.

Departure Example #2
Sanction Result: Treatment/Monitoring
Imposed Sanction: Recommend Formal/Suspension or Revocation
Reason(s) for Departure: Multiple prior Board orders.

Two-Dimensional Sanctioning Grid for Nurses & CMTs

The Board indicated early in the SRP study that sanctioning is not only influenced by circumstances directly associated with the case, but also by the respondent's past history. The empirical analysis supported the notion that both offense and respondent factors impacted sanction outcomes. Subsequently, the SRPs make use of a two-dimensional scoring grid; one dimension scores factors related to the current violation(s), while the other dimension scores factors related to the respondent.

In addition, the first dimension assigns points for circumstances related to the violation that the Board is currently considering. For example, the respondent may receive points for inability to safely practice due to impairment at the time of the offense or if there were multiple patients involved. The second dimension assigns points for factors that relate to the respondent. For example, a respondent before the Board for an unlicensed activity case may also receive points for having a history of disciplinary violations for other types of cases. That same respondent would receive more points if the prior violation was similar to the current one being heard.

Determining a Specific Sanction

The sanctioning grids on the sanctioning reference point worksheets contain four general sanctioning outcomes:

- Recommend Formal/Suspension or Revocation
- Treatment/ Monitoring
- Reprimand/CE/Monetary Penalty
- No Sanction

The table below lists the most frequently cited specific sanctions that fall under the four general outcomes. After considering the sanction grid recommendation, the Board should fashion a more detailed sanction(s) based on the individual case circumstances.

Expanded Sanctioning Grid Outcomes

SRP Sanction Outcome	Eligible Sanction Types
Recommend Formal/ Suspension or Revocation	Recommend Formal Suspension or Revocation Suspend or Revoke Right to Renew Stayed Suspension
Treatment/Monitoring	Probation Take No Action Terms: Drug administration - restrictions HPMP Impairment/incapacitation - evaluation Inform Board of beginning or changing employment (10 days) oversight by physician/LPN/RN Practice restriction - specific Probation officer send progress report to Board Provide Board with final order placed on record by court Provide current/future treating practitioners with copy of order Quarterly job performance evaluations Quarterly self reports Return license to receive stamped probation Shall abstain from the use of alcohol and drugs Shall be active in AA/NA/Caduceus/other Supervised unannounced drug screens Therapy with progress reports Written notification to employer/employees/associates
Reprimand/CE/Monetary Penalty	Monetary Penalty Reprimand Continuing Education (CE)
No Sanction	No Sanction

Sanctioning Reference Points Coversheet, Worksheets and Instructions for Nurses & CMTs Only

Sanctioning Reference Points Coversheet for Nurses & CMTs Only

Case Number(s): | | | | | | | | | | | | | | | | | | | | | | | |

Respondent Name: _____ _____

License/ Certificate/ MSP Number: _____ _____ _____

Case Resolution Method:
____IFC-Agency Subordinate
____IFC-Special Conference Committee
____Pre-Hearing Consent Order

Worksheet Used:
____Inability to Safely Practice
____Standard of Care
____Unlicensed Activity/Fraud

Sanction Grid Result:
____No Sanction to Reprimand/CE/Monetary Penalty
____Reprimand/CE/Monetary Penalty
____Reprimand/CE/Monetary Penalty to Treatment/Monitoring
____Treatment/Monitoring
____Treatment/Monitoring - Recommend Formal/Suspension or Revocation
____Recommend Formal/Suspension or Revocation

Imposed Sanction(s):
____No Sanction
____Reprimand
____Monetary Penalty: $_____ enter amount
____Probation: _____ duration in months
____Stayed Suspension: _____ duration in months
____Recommend Formal
____Accept Surrender
____Revocation
____Suspension
____Other sanction: _____
____Terms: _____

Was imposed sanction a departure from the recommendation? ___No ___Yes, give reason below

Reasons for Departure from Sanction Grid Result (if applicable): _____

_____

_____

Worksheet Preparer's Name: _____

Date Worksheet Completed: _____

Board Member or Agency Subordinate Name: _____

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

Inability to Safely Practice Worksheet Instructions

Offense Score

Step1: Case Circumstances (score all that apply)

a. Enter "20" if there are two or more concurrent founded violations during the same proceeding. This includes two or more cases against a respondent heard at the same time, with violations for each case.
b. Enter "20" if the respondent received a sanction from his/her employer in response to the current incident. A sanction from an employer may include, but is not limited to: suspension, termination, or disciplinary counseling notice.
c. Enter "20" if the respondent was unable to safely practice at the time of the offense due to substance abuse (alcohol or drugs) or mental/physical incapacitation.
d. Enter "20" if a patient was intentionally or unintentionally injured. Injury includes any physical injury, physical or sexual abuse, and death.
e. Enter "20" if the patient is especially vulnerable. Patients in this category must be at least one of the following: under age 18, over age 65, or mentally/physically handicapped.
f. Enter "15" if the offense involves a patient. Patient involvement is direct contact with a patient, patient neglect, boundary issues, or drug diversion with patient deprivation.
g. Enter "10" if the respondent intentionally overdosed on drugs or inflicted injury with the intent to commit suicide.
h. Enter "10" if this was an act of commission. An act of commission is interpreted as purposeful or with knowledge.

Step 2: Combine all for Total Offense Score

Respondent Score

Step 3: (score all that apply)

a. Enter "30" if the respondent received a criminal conviction related to this offense. This factor includes respondents pleading guilty with first offender status.
b. Enter "20" if the respondent has any prior order(s) issued by the Virginia Board of Nursing finding them in violation.
c. Enter "20" if the Virginia Board of Nursing previously revoked, suspended, or summarily suspended the respondent's license.
d. Enter "20" if the respondent has previously been sanctioned by any other state or jurisdiction. Sanctioning by an employer is not scored here.
e. Enter "10" if the respondent has had any past difficulties in the following areas: drugs, alcohol, mental capabilities or physical capabilities. Scored here would be prior convictions for DUI/DWI, inpatient/outpatient treatment, and bona fide mental health care for a condition affecting his/her abilities to function safely or properly.
f. Enter "5" if the respondent has had three or more employers in the past five years.

Step 4: Combine all for Total Respondent Score

Sanctioning Grid

Step 5: Identify SRP Recommendation
Locate the Offense and Respondent scores within the correct ranges on the top and left sides of the grid. The cell where row and column scores intersect displays the sanctioning recommendation.

> *Example: If the Offense Score is 30 and the Respondent Score is 45, the recommended sanction is shown on the bottom center grid cell – "Treatment/Monitoring to Recommend Formal/ Suspension or Revocation."*

Step 6: Coversheet
Complete the coversheet, including the grid sanction, the imposed sanction and the reasons for departure if applicable.

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		

Respondent Score

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

Offense Score

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

Standard of Care Worksheet Instructions

Offense Score

Step 1: Case Circumstances (score all that apply)

a. Enter "55" if the case involves sexual abuse, inappropriate relationship or boundary violation. Cases in this category can include, but are not limited to, dual relationships, sexual or other boundary issues, improper touching, or inappropriate written or oral communications.
b. Enter "20" if a patient was intentionally or unintentionally injured. Injury includes any physical injury, physical or sexual abuse, and death.
c. Enter "20" if the patient is especially vulnerable. Patients in this category must be at least one of the following: under age 18, over age 65, or mentally/physically handicapped.
d. Enter "20" if the respondent received a sanction from his/her employer in response to the current incident. A sanction from an employer may include, but is not limited to: suspension, termination, or disciplinary counseling notice.
e. Enter "10" if this was an act of commission. An act of commission is interpreted as purposeful or with knowledge.
f. Enter "10" if the offense involves a patient. Patient involvement is direct contact with a patient, patient neglect, boundary issues, or drug diversion with patient deprivation.

Step 2: Combine all for Total Offense Score

Respondent Score

Step 3: (score all that apply)

a. Enter "30" if the respondent received a criminal conviction related to this offense. This factor includes respondents pleading guilty with first offender status.
b. Enter "30" in cases where an individual may have committed an act or is highly likely to commit an act that constitutes significant and substantial danger to the health and safety of any person.
c. Enter "20" if the respondent has any prior order(s) issued by the Virginia Board of Nursing finding them in violation.
d. Enter "20" if the Virginia Board of Nursing previously revoked, suspended, or summarily suspended the respondent's license.
e. Enter "20" if the respondent has previously been sanctioned by any other state or jurisdiction. Sanctioning by an employer is not scored here.
f. Enter "10" if the respondent has had any past difficulties in the following areas: drugs, alcohol, mental capabilities or physical capabilities. Scored here would be prior convictions for DUI/DWI, inpatient/outpatient treatment, and bona fide mental health care for a condition affecting his/her abilities to function safely or properly.
g. Enter "10" if the respondent has had three or more employers in the past five years.

Step 4: Combine all for Total Respondent Score

Sanctioning Grid

Step 5: Identify SRP Recommendation
Locate the Offense and Respondent scores within the correct ranges on the top and left sides of the grid. The cell where row and column scores intersect displays the sanctioning recommendation.

> *Example: If the Offense Score is 30 and the Respondent Score is 10, the recommended sanction is shown on the top left grid cell – "No Sanction to Reprimand/CE/Monetary Penalty."*

Step 6: Coversheet
Complete the coversheet, including the grid sanction, the imposed sanction and the reasons for departure if applicable.

Standard of Care Worksheet

Board of Nursing
Adopted 3/22/11

Offense Score

	Points	Score
a. Sexual Abuse/Inappropriate Relationship	55	_____
b. Patient injury	20	_____
c. Patient especially vulnerable	20	_____
d. Concurrent sanction by employer	20	_____
e. Act of commission	10	_____
f. Any patient involvement	10	_____
Total Offense Score		

Respondent Score

a. Concurrent criminal conviction	30	_____
b. Significant and substantial danger to the public	30	_____
c. Any prior Board violations	20	_____
d. License ever taken away	20	_____
e. Been sanctioned by another state/entity	20	_____
f. Past difficulties (substances, mental/physical)	10	_____
g. Three or more employers in past 5 years	10	_____
Total Respondent Score		

Offense Score

Respondent Score	0-40	41-70	71 or more
0-29	No Sanction … to > Reprimand/CE/ Monetary Penalty	Reprimand/CE/ Monetary Penalty	Reprimand/CE/ Monetary Penalty … to > Treatment/Monitoring
30 or more	Reprimand/CE/ Monetary Penalty	Treatment/Monitoring … to > Recommend Formal/ Suspension or Revocation	Treatment/Monitoring … to > Recommend Formal/ 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.

Unlicensed Activity/Fraud Worksheet Instructions

Offense Score

Step1: Case Circumstances (score all that apply)

a. Enter "20" if the respondent received a sanction from his/her employer in response to the current incident. A sanction from an employer may include, but is not limited to: suspension, termination, or disciplinary counseling notice.
b. Enter "20" if a patient was intentionally or unintentionally injured. Injury includes any physical injury, physical or sexual abuse, and death.
c. Enter "20" if the patient is especially vulnerable. Patients in this category must be at least one of the following: under age 18, over age 65, or mentally/physically handicapped.
d. Enter "15" if the offense involves a patient. Patient involvement is direct contact with a patient, patient neglect, boundary issues, or drug diversion with patient deprivation.
e. Enter "10" if the respondent's motivation for the violation included financial or material gain.
f. Enter "10" if this was an act of commission. An act of commission is interpreted as purposeful or with knowledge.

Step 2: Combine all for Total Offense Score

Respondent Score

Step 3: (score all that apply)

a. Enter "30" if the respondent received a criminal conviction related to this offense. This factor includes respondents pleading guilty with first offender status.
b. Enter "20" if the respondent has any prior order(s) issued by the Virginia Board of Nursing finding them in violation.
c. Enter "20" if the Virginia Board of Nursing previously revoked, suspended, or summarily suspended the respondent's license.
d. Enter "20" if the respondent has previously been sanctioned by any other state or jurisdiction. Sanctioning by an employer is not scored here.
e. Enter "10" if the respondent has had any past difficulties in the following areas: drugs, alcohol, mental capabilities or physical capabilities. Scored here would be prior convictions for DUI/DWI, inpatient/outpatient treatment, and bona fide mental health care for a condition affecting his/her abilities to function safely or properly.
f. Enter "10" if the respondent has had three or more employers in the past five years.

Step 4: Combine all for Total Respondent Score

Sanctioning Grid

Step 5: Identify SRP Recommendation
Locate the Offense and Respondent scores within the correct ranges on the top and left sides of the grid. The cell where row and column scores intersect displays the sanctioning recommendation.

> *Example: If the Offense Score is 30 and the Respondent Score is 0, the recommended sanction is shown on the top left grid cell – "No Sanction to Reprimand/CE/Monetary Penalty."*

Step 6: Coversheet
Complete the coversheet, including the grid sanction, the imposed sanction and the reasons for departure if applicable.

Unlicensed Activity/Fraud Worksheet

Board of Nursing
Adopted 3/22/11

Offense Score

	Points	Score
a. Concurrent sanction by employer	20	_____
b. Patient injury	20	_____
c. Patient especially vulnerable	20	_____
d. Any patient involvement	15	_____
e. Financial/material gain	10	_____
f. Act of commission	10	_____
Total Offense Score		

Respondent Score

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

Offense Score

Respondent Score	0-30	31-50	51 or more
0-29	No Sanction … to > Reprimand/CE/ Monetary Penalty	Reprimand/CE/ Monetary Penalty	Reprimand/CE/ Monetary Penalty … to > Treatment/Monitoring
30 or more	Reprimand/CE/ Monetary Penalty	Reprimand/CE/ Monetary Penalty … to > Treatment/Monitoring	Treatment/Monitoring … to > Recommend Formal/ 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.

Sanctioning Reference Points for CNAs Only

Using the SRP System

Case Types Included on Worksheet for CNAs Only

A single sanctioning reference points worksheet is used to score all CNA disciplinary cases (unlike Nursing cases, which are scored on one of three different worksheets). When multiple cases have been combined for disposition by the Board into one order, enter the point value for the case type group which appears highest on the following table. Only one coversheet and worksheet is completed that encompasses the entire event. For instance, if a respondent is before the Board for both a Standard of Care and an Impairment violation, the Case Type selected would be Impairment. This table is used for CNAs only.

Case Types Covered on the Worksheet

Case Types		Points
Abuse or Neglect, With Injury	Neglect with Injury Physical Abuse with Injury	**70**
Impairment	Distribution/Sale Due to mental, physical or medical conditions Due to use of alcohol, illegal substances, or prescription drugs Patient Deprivation Personal Use - On Duty Prescription Forgery Stealing Controlled Substances	**50**
Inappropriate Relationship	Dual, sexual or other boundary issue Inappropriate Touching Psychological Abuse Sexual Abuse	**50**
Misappropriation of Property	Misappropriation of Property	**50**
Abuse or Neglect, Without Injury	Abuse/Neglect-Other Failure to Respond to Needs Neglect without Injury Physical Abuse without Injury Rough Handling Verbal Abuse	**30**
Verbally Inappropriate	Inappropriate Comments Profanity Rudeness	**10**
Standard of Care	Abandonment Administration Error Inproper Performance of Procedure Practice Beond Scope of Certification Standard of Care-Other	**10**
Fraud	Falsification of Licensing Documents Falsification/Alteration of Documents (patient or employment related) Falsification of Renewal Documents	**10**

Coversheet for CNAs Only

The coversheet is completed to ensure a uniform record of each case and to facilitate recordation of other pertinent information critical for system monitoring and evaluation.

If the Board feels the sanction recommendation is not appropriate, the Board is encouraged to depart either high or low when handing down a sanction. If the Board disagrees with the sanction recommendation and imposes a sanction greater or less than the recommended sanction, "Yes" should be checked and a short explanation should be recorded on the coversheet. The explanation could identify the factors and the reasons for departure. This process will ensure the worksheet is revised appropriately to reflect current Board practice. If a particular reason is continually cited, the Board can examine the issue more closely to determine if the worksheet should be modified to better reflect Board practice.

Aggravating and mitigating circumstances that may influence Board decisions can include, but should not be limited to, such things as:

- Severity of the incident
- Age of prior record
- Dishonesty/Obstruction
- Motivation
- Remorse
- Cause for the action
- Restitution/Self-corrective action
- Multiple offenses/Isolated incident

A space is provided on the coversheet to record the reason(s) for departure. Due to the uniqueness of each case, the reason(s) for departure may be wide-ranging. Sample scenarios are provided below:

Departure Example #1
Threshold Level: Score of 90 points
Imposed Sanction: Reprimand
Reason(s) for Departure: *Act appeared accidental, respondent was particularly remorseful and had already begun corrective action.*

Departure Example #2
Sanction Result: Score of 40 points
Imposed Sanction: Suspension with a Finding of Abuse
Reason(s) for Departure: *Respondent continually lied throughout hearing and appeared impaired, represents danger to the community.*

Sanctioning Thresholds for CNA Cases

The sanctioning reference points worksheet for CNAs allows a respondent to be assessed in two ways: by the nature of the case (e.g., impairment vs. abuse or neglect) and by the number of offense and respondent factors that are present. The board scores only one case type from the case type list (the most serious that occurred) and as many offense and respondent factors that are founded during case deliberations.

Sanctions Available for CNAs Only

The CNA worksheet has three thresholds with increasing point values and respectively increasing sanction severities. The table here shows sanctions used by the Board in the past when sanctioning a CNA. The column to the left, CNA Worksheet Sanction Threshold, contains the threshold scores located at the bottom of the CNA worksheet. The column to the right Available Sanctions shows the specific sanction types that each threshold level covers.

Expanded Sanctioning Threshold Outcomes

SRP Sanction Threshold	Eligible Sanction Types
0-49	No Sanction Reprimand
50-79	Reprimand Take No Action Probation Recommend Formal Suspension or Revocation Suspension or Revocation of right to renew Stayed Suspension Finding of Abuse Finding of Neglect Finding of Misappropriation Terms: Continuing education HPMP (enter/continue) Impairment/Incapacitation - evaluation Inform Board of beginning or changing employment (10 days) Oversight by physician/LPN/RN Practice restriction Probation/Parole officer send progress report to Board Provide current/future treating practitioners with copy of order Quarterly self reports Restitution to patient/other Return certificate to receive stamped probation Shall abstain from the use of alcohol and drugs Shall be active in AA/NA/Caduceus/other Supervised unannounced drug screens Therapy with progress reports Written notification to employer/employees/associates
80 and up	Recommend Formal Suspension or Revocation Suspension or Revocation of right to renew Stayed Suspension Finding of Abuse Finding of Neglect Finding of Misappropriation

Sanctioning Reference Points Coversheet, Worksheet and Instructions for CNAs Only

Sanctioning Reference Points Coversheet for CNAs Only

Case Number(s): | | | | | | | | | | | | | | | | | | |

Respondent Name: _____ _____ _____

Certificate or Registration Number: _____ _____

Case Resolution Method:
____IFC-Agency Subordinate
____IFC-Special Conference Committee
____Pre-Hearing Consent Order

Sanction Threshold Level:
____0-49
____50-79
____80 and up

Imposed Sanction(s):
____No Sanction
____Reprimand
____Take No Action
____Probation: _____ duration in months
____Revocation
____Suspension
____Revoke Right to renew
____Suspend Right to Renew
____Stayed Suspension: _____ duration in months
____Finding of Abuse
____Finding of Neglect
____Finding of Misappropriation
____Recommend Formal
____Other Sanction: _____

____Terms: _____

Was imposed sanction a departure from the recommendation? ___No ___Yes, give reason below

Reasons for Departure from Sanction Grid Result: _____

_____

_____

Worksheet Preparer's Name: _____

Date Worksheet Completed: _____

Board Member or Agency Subordinate Name: _____

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

SRP Worksheet Instructions for CNAs Only

Case Type Score

Step1: (score only one)
Enter the point value that corresponds to the case type. If a case has multiple aspects, enter the point value for the one most serious case type that is highest on the list. (See page 20 for an expanded list.)

Abuse or Neglect, With Injury	70
Impairment	50
Inappropriate Relationship	50
Misappropriation of Property	50
Abuse or Neglect, Without Injury	30
Verbally Inappropriate	10
Standard of Care	10
Fraud	10

Step 2: Enter Case Type Score

Offense and Respondent Score

Step 3: (score all that apply)

a. Enter "30" in cases where an individual may have committed an act or is highly likely to commit an act that constitutes significant and substantial danger to the health and safety of any person.
b. Enter "30" if the respondent was unable to safely practice at the time of the incident due to substance abuse (alcohol or drugs) or mental/physical incapacitation.
c. Enter "20" if the respondent's motivation for the violation was financial or material gain.
d. Enter "10" if the respondent's certificate has previously been revoked, suspended, summarily suspended, or incurred a "finding" in any jurisdiction (including VA).
e. Enter "10" if the respondent received a criminal conviction related to this offense. This factor includes respondents pleading guilty with first offender status.
f. Enter “10” if this was an act of commission. An act of commission is interpreted as purposeful or with knowledge.
g. Enter “10” if there are two or more concurrent founded violations during the same proceeding. This includes two or more cases against a respondent heard at the same time, with violations for each case.
h. Enter “10” if the patient is especially vulnerable. Patients in this category must be at least one of the following: under age 18, over age 65, or mentally/physically handicapped.

Step 4: Combine all for Offense and Respondent Score

Sanction Thresholds

Step 5: Add Steps 2 and 4 for a Total Worksheet Score
Locate the Total Worksheet Score with the Sanction Threshold Levels table at the bottom of the worksheet. The scores correspond to one of the three SRP recommendations.

Example: If the Case Type Score is 10 and the Offense and Respondent Score is 20, the Total Worksheet score is 30. The recommended sanction is found in the first range, 0-40 "No Sanction-Reprimand."

Step 6: Coversheet
Complete the coversheet, including the grid sanction, the imposed sanction, and the reasons for departure if applicable.

SRP Worksheet for CNAs Only

Board of Nursing
Adopted 3/22/11

Case Type Score (score only one)	Points	Score
a. Abuse or Neglect, With Injury	70	_____
b. Impairment	50	_____
c. Inappropriate Relationship	50	_____
d. Misappropriation of Property	50	_____
e. Abuse or Neglect, Without Injury	30	_____
f. Verbally Inappropriate	10	_____
g. Standard of Care	10	_____
h. Fraud	10	_____
	Case Type Score	

Offense and Respondent Score (score all that apply)		
a. Significant and substantial danger to the public	30	_____
b. Impaired at the time of the incident	30	_____
c. Financial or material gain	20	_____
d. Certificate ever taken away by any jurisdiction (including VA)	10	_____
e. Concurrent criminal conviction	10	_____
f. Act of commission	10	_____
g. Two or more concurrent founded cases	10	_____
h. Patient especially vulnerable	10	_____
	Offense and Respondent Score	
	Total Worksheet Score (Case Type + Offense and Respondent)	

Score	
0-49	No Sanction Reprimand
50-79	Reprimand Probation Terms Recommend Formal Finding of Abuse/Neglect/Misappropriation Revocation or Suspension with or without Finding of Abuse/Neglect/Misappropriation
80 and up	Recommend Formal Finding of Abuse/Neglect/Misappropriation Revocation or Suspension with or without Finding of Abuse/Neglect/Misappropriation

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