

# **Sanctioning Reference Points Instruction Manual**

**Board of Nursing**

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Prepared for  
Virginia Department of Health Professions  
Perimeter Center  
9960 Mayland Drive, Suite 300  
Henrico Virginia 23233-1463  
804-367-4400  
[dhp.virginia.gov](http://dhp.virginia.gov)

Prepared by  
VisualResearch, Inc.  
Post Office Box 1025  
Midlothian, Virginia 23113  
804-794-3144

# Foreword

Roughly two decades ago, 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.

For the Board of Nursing, VisualResearch, Inc. (VRI) collected and analyzed over 100 factors on recently sanctioned cases. The factors measured case seriousness, respondent characteristics, and prior disciplinary history. Those factors identified as consistently associated with sanctioning provided the foundation for the creation of Sanctioning Reference Points (SRPs). Using both the data and collective input from the Board of Nursing and staff, VRI analysts developed a usable set of sanction worksheets to implement the reference system.

Over the years, the SRP system has been modified to continually reflect current board practice. To make modifications, VRI relies on completed SRP worksheets, coversheets and hard copy files. The Department of Health Professions established an agency directive (76-3.2) to ensure that all respondents were scored on the worksheet in all eligible cases. These completed worksheets are the foundation for modifications made to the SRP manual. The boards receive periodic feedback on SRP agreement rates and reasons for departure from worksheet recommendations.

This most recent BON SRP manual contains updated worksheets for all professions regulated by the Board of Nursing. In addition, Licensed Massage Therapists now have a worksheet separate from other BON professions. Consequently, this new SRP manual contains various changes to the Board of Nursing's Sanctioning Reference Points system.

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# General Information

## Overview

The Virginia Board of Health Professions has spent the last 18 years studying sanctioning in disciplinary cases. This ongoing effort examines all 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 revised worksheets with offense and respondent factors that are scored in order 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 worksheet and sanctioning thresholds 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 current SRP system is comprised of a series of worksheets which score several 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 (RN and LPN) and Certified Nurse Aides (CNA). This manual reflects the study and evaluation of four separate professions within the BON: Nurses, CNAs, Registered Medication Aides (RMA) and Licensed Massage Therapists (LMT). Several reasons for this delineation include:

- The Board of Nursing has additional adverse “Findings” available to them for sanctioning a CNA, including 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.
- It became clear, both through the interview process and through data gathering, that the profession of Massage Therapist should be on a separate worksheet from nursing professions due to differences in the functional skills required, types of cases heard, and criteria considered when making sanctioning decisions.
- RMAs continue to have a separate worksheet due to the specific case types that result from the unique RMA scope of practice.

Because of the differences in case types, variability in sanctioning, and case volume, the SRP worksheets contained in this manual are unique to each profession analyzed. Worksheets make use of different factors for scoring resulting in variability in points allocated for similar factors.

Worksheet structure across professions is consistent. Nurse, CNA, RMA and LMT worksheets all score a single case type as well as offense and respondent factors with sanctioning thresholds found at the bottom of each worksheet. Nursing SRPs are comprised of a series of three broader, case-specific worksheets where the other professions make use of a single SRP worksheet. Greater detail on use of each profession’s worksheet is included herein.

Additionally, each profession has a separate coversheet available to record the case type, recommended sanction, actual sanction, and 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 of Nursing and are specified within

existing Virginia statute. If an SRP worksheet recommendation is more or less severe than a Virginia statute or DHP regulation, the existing laws or regulations supersede the worksheet recommendation.

## **Background**

When the Board of Nursing adopted the first SRP manual in 2006, it was understood that a sanctioning system of this type was not intended to be a static document. The culture of the professions regulated by the BON changes over time as do the case types, factors related to sanctioning, and the sanctioning decisions themselves. The BON recognizes that ongoing monitoring and updating of the SRP worksheets and manual will be an inherent part of the process of consistency and fairness in sanctioning its licensees with the goal of protecting the public.

This current evaluation of the practices of the BON relied heavily on the coversheets and worksheets from recent cases that ended in violation and a great deal of Board member and staff input. The analysis resulted in changes to the manual for the BON.

## **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 the 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., overall Board makeup, race, ethnic origin, etc.
- Predicting 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. Each adopted SRP manual has been based on a descriptive approach with a limited number of normative adjustments.

## **Qualitative Analysis**

Researchers conducted in-depth interviews with BON members, LMT committee 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 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, in addition to newly recognized factors, were examined for their continued relevance and sanctioning influence.

## **Quantitative Analysis**

Over 100 different factors were collected on each case to describe the case attributes Board members identified as potentially impacting sanctioning decisions. Researchers used data available through DHP's 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.

Researchers used 202 Nurse, 78 CNA, 39 RMA and 42 LMT cases previously adjudicated by Board members to create a comprehensive database to analyze the offense and respondent factors which were identified by interviewees as potentially influencing sanctioning decisions. 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. 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, which became the SRPs.

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. Although, a myriad of factors can help explain sanction variation, only those "legal" factors the Board felt should consistently play a role in sanctioning decisions continued to be included on the worksheets. By using this method, the goal was to achieve more neutrality in sanctioning by ensuring the Board considers the same set of "legal" factors in disciplinary cases that warrant sanctioning decisions.

## **Characteristics of the SRP System**

### **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. Recognizing that aggravating and mitigating factors play a legitimate role in sanctioning decisions, approximately 20% of past cases receive sanctions either higher or lower than what the reference points indicate. The wide sanctioning ranges allow the Board to customize a particular sanction within the broader SRP recommended range.

### **Discretionary Nature**

The SRP system should be viewed strictly as a decision-making tool giving the Board of Nursing complete discretion at any time to choose a sanction outside the SRP range. The importance of appropriate coversheet and worksheet completion on every case eligible for scoring cannot be overstated. This includes cases resolved at an informal conference by special conference committees and agency subordinates, and by prehearing consent order offers delegated to and authorized by Board staff. The coversheet and worksheets will be used only after it is determined that a violation has occurred.

### **Sanctioning Thresholds**

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 supports the notion that both offense and respondent factors impact sanctioning decisions. Subsequently, the SRPs combine case type, offense and respondent factor scores to arrive at a "Total Worksheet Score" which is then used to determine the statistically driven sanctioning recommendation. For example, a respondent before the Board for a standard of care case may also receive points for having a history of disciplinary violations.

# General Instructions for Using the SRP System

## Completing the Coversheet and 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](http://www.dhp.state.va.us) (paper copy also available on request).

## Worksheets

The worksheets along with scoring instructions are included in subsequent sections of this manual. Detailed instructions are provided for each factor on a worksheet and should be referenced to ensure accurate scoring. The scoring weights assigned to a factor on the worksheet cannot be adjusted and 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. This included vacated stays of suspension due to HPMP noncompliance.
- 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 must be suspended. The sanction is defined by law and is therefore excluded from the Sanctioning Reference Point system.
- Licensed nurse practitioners (LNPs) – SRPs will not be used in LNP cases.

# **Sanctioning Reference Points for Nurses (RN and LPN)**



# Using the SRP System for Nurses

The SRP System for Nurses should be utilized for Licensed Practical Nurses and Registered Nurses.

## Case Types Covered by the SRP System

There are three SRP worksheet options for Nurses. The worksheets are grouped by offense type: Inability to Safely Practice, Patient Care, and 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 the 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 Fraud on the table. If an offense type is not listed, find the most analogous offense type and use the appropriate scoring worksheet.

## Case Types Covered on the Nursing Worksheets

Inability to Safely Practice	Patient Care	Fraud
<p>Impairment due to use of alcohol, illegal substances, or prescription drugs or incapacitation due to mental, physical, or medical conditions.</p> <p>Violation of the Drug Control Act (DCA) (to include dispensing for non-medicinal purposes, not in accordance with dosage, or dispensing without a relationship), prescription forgery, drug adulteration, patient deprivation, stealing drugs from patients, or personal use.</p> <p>Theft or diversion of drugs when a patient is not involved (e.g., pharmacies, hospitals, or facilities).</p>	<p>Diagnosis/Treatment: Instances in which the diagnosis/treatment was improper, delayed, or unsatisfactory. Also includes failure to diagnose/treat &amp; other diagnosis/treatment issues.</p> <p>Medication/Prescription: Dispensing, and administration errors. Also includes improper management of patient regimen and failure to provide counseling as well as other medication/prescription related issues.</p> <p>Exceeding Scope: practicing outside the permitted functions of license granted.</p> <p>Inappropriate Relationship: Dual, sexual or other boundary issue. Includes inappropriate touching and written or oral communications.</p> <p>Abuse/Abandonment/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. Leaving patients, walking off an assigned shift without notifying a supervisor.</p>	<p>Unlicensed Activity: Practicing a profession or occupation without holding a valid license as required by statute or regulation to include: practicing on a revoked, suspended, lapsed, non-existent or expired license, as well as aiding and abetting the practice of unlicensed activity.</p> <p>Misappropriation of Patient Property: stealing or use of patient property without authorization.</p> <p>Fraud – Patient Care: Performing unwarranted/unjust services or the falsification/alteration of patient records.</p> <p>Fraud – Non-Patient Care: Improper patient billing and falsification of initial/renewal licensure or employment documents.</p> <p>Business Practice Issues: Advertising, solicitation, records, inspections, self-referral of patients, required report not filed, prescription blanks, or disclosure. Using a VA protected title without the corresponding license.</p> <p>Drug Related – Security: Failure to maintain security of controlled substances</p>

## Determining a Specific Sanction

The sanctioning reference points worksheet for Nurses allows a respondent to be assessed in two ways: by the specific nature of the case and by the number of offense and respondent factors that are present. First, the Board chooses a worksheet based on the type of case (e.g., inability to safely practice vs. fraud). Then, a specific case type can be scored on the chosen worksheet. For example, if a respondent is before the Board for drug adulteration, an Inability to Safely Practice worksheet is chosen for completion. If this drug adulteration involved a patient, Case Type “B” (Drug Related with Patient Care) would be scored for a value of 20 points. 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.

The sanctioning table on each of the worksheets contains point thresholds for determining which sanction is recommended. After considering the sanction grid recommendation, the Board then fashions a more detailed sanction based on the individual case circumstances. The sanctioning grids on the worksheets contain four general outcomes:

- No Sanction/Monetary Penalty
- Reprimand
- Probation/Stayed Suspension/Terms
- Refer to Formal Hearing/Revocation/Suspension/Surrender

## Sanctioning Terms

For reference, the table below identifies a list of possible “Terms” for Nurses that may be part of the sanctioning decision.

- |   |   |
|---|---|
| ▪ Continuing education  | ▪ Written notification to employer/employees/associates     |
| ▪ HPMP (enter/continue)   | ▪ Impairment/incapacitation - evaluation                    |
| ▪ Quarterly self reports  | ▪ Impairment - supervised unannounced drug screens          |
| ▪ Quarterly job performance evaluations                               | ▪ Drug administration restrictions                          |
| ▪ License shall be visible online with wording “Probation with Terms” | ▪ Impairment/incapacitation - therapy with progress reports |
| ▪ Inform Board of beginning or changing employment (10 days)          | ▪ Practice restriction - setting                            |
| ▪ Practice restriction - oversight by a provider or, if LPN, by an RN | ▪ Impairment - Shall be active in AA/NA                     |
| ▪ Provide current/future treating providers with copy of order        |   |

## Completing the Coversheet

Upon selection and completion of the appropriate worksheet, a coversheet is prepared 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 determining the 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 frequently cited, the Board will 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, multiple offenses/isolated incident.

# SRP Coversheet for Nurses

Case Number(s): 

--	--	--	--	--	--

--	--	--	--	--	--

--	--	--	--	--	--

Respondent Name: \_\_\_\_\_

License Number: \_\_\_\_\_

Case Resolution Method:  
 IFC-Agency Subordinate  
 IFC-Special Conference Committee  
 Pre-Hearing Consent Order

Worksheet Used:  
 Inability to Safely Practice  
 Patient Care  
 Fraud

Sanctioning Result:  
 No Sanction/Monetary Penalty  
 Reprimand  
 Probation/Stayed Suspension/Terms  
 Formal Hearing/Loss of License

Imposed Sanction(s):  
 No Sanction  
 Terms  
      Courses \_\_\_\_\_  
      Take No Action  
      HPMP entry/compliance    Other: \_\_\_\_\_  
 Probation with Terms: \_\_\_\_\_  
 Reprimand  
 Monetary Penalty for \$ \_\_\_\_\_  
 Suspension (*check all that apply*)  
      not < 1 year  
      not < 2 years  
      Stay contingent upon \_\_\_\_\_  
      Offer CO  
      Surrender  
 Revocation  
 Recommend Formal  
 Other Sanction: \_\_\_\_\_

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: \_\_\_\_\_

# SRP Inability to Safely Practice Worksheet for Nurses

**Case Type Score** (score only one)

	Points	Score
a. Inability to Safely Practice	40	_____
b. Drug Related with Patient Care	20	_____
c. Drug Related without Patient Care	10	_____
<b>Case Type Score</b>		<input style="width: 50px; height: 20px;" type="text"/>

**Offense/Respondent Score** (score all that apply)

a. License ever taken away	50	_____
b. Case involved a mental health admission	40	_____
c. Act of commission	30	_____
d. Any prior Virginia Board violations	20	_____
e. Past difficulties (substances, mental/physical)	15	_____
f. Evidence of drug diversion	10	_____
g. Respondent failed to initiate corrective action	10	_____
h. Any action against the respondent (employer, criminal, civil)	10	_____

Offense/Respondent Score

**Total Worksheet Score**  
(Case Type + Offense/Respondent)

Score	Sanctioning Recommendations
0-20	No Sanction Monetary Penalty
21-60	Reprimand
61-140	Probation Stayed Suspension Terms
141 and up	Refer to Formal Hearing Revocation Suspension Surrender

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

# SRP Inability to Safely Practice Worksheet Instructions for Nurses

## Case Type Score

**Step 1:** (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 7 for an expanded list)

- |                                      |    |
|--------------------------------------|----|
| a. Inability to Safely Practice      | 40 |
| b. Drug Related Patient Care         | 20 |
| c. Drug Related Without Patient Care | 10 |

**Step 2:** Enter Case Type Score

## Offense/Respondent Score

**Step 3:** (score all that apply)

- Enter “50” if the respondent’s license was previously revoked, suspended, or summarily suspended in any state.
- Enter “40” if the case involved a mental health admission. The admission can be either voluntary or a temporary detention order (TDO).
- Enter “30” if this was an act of commission. An act of commission is interpreted as purposeful or with knowledge.
- Enter “20” if the respondent has any prior orders issued by the Virginia Board of Nursing finding them in violation.
- Enter “15” 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.
- Enter “10” if there was evidence of drug diversion. This evidence can include but is not limited to taking too long to waste controlled substances, suspicious amounts of controlled substances being pulled, pulling medication for patients assigned to coworkers, outside of the medical directive, without pain assessments, excessive/inappropriate wastage, suspicious pharmacy logs.
- Enter “10” if the respondent failed to take corrective action prior to the time at which the SRP worksheet is being considered.
- Enter “10” if any action was taken against the respondent. This action may include action by the employer, civil action, or a criminal conviction related to this offense. This factor includes respondents pleading guilty with first offender status.

**Step 4:** Combine all for Total Offense/Respondent Score

**Step 5:** Combine Case Type Score and Offense/Respondent Score for Total Worksheet Score

## Sanctioning Grid

**Step 6: Sanction Recommendation** – The Total Worksheet Score corresponds to the sanctioning recommendation(s) located at the bottom of the worksheet. To determine the appropriate recommended sanction, find the range on the left that contains the Total Worksheet Score. These points correspond to the recommended sanction in the right column. For instance, a Total Worksheet Score of 100 is recommended for “Probation/Stayed Suspension/Terms.”

**Step 7:** Coversheet

Complete the coversheet, including the grid sanction, the imposed sanction and the reason(s) for departure, if applicable.

# SRP Patient Care Worksheet for Nurses

**Case Type Score** (score only one)

	<b>Points</b>	<b>Score</b>
a. Inappropriate Relationship	50	_____
b. Standard of Care	45	_____
c. Abuse/Abandonment/Neglect	30	_____
Case Type Score		<input style="width: 80px; height: 20px;" type="text"/>

**Offense and Respondent Score** (score all that apply)

a. License ever taken away	40	_____
b. Act of commission	35	_____
c. Past difficulties (substances, mental/physical)	30	_____
d. Patient injury	25	_____
e. Evidence of drug diversion	20	_____
f. Any action against the respondent (employer, criminal, civil)	20	_____
g. Any prior Virginia Board violations	5	_____
h. Respondent failed to initiate corrective action	5	_____
Offense and Respondent Score		<input style="width: 80px; height: 20px;" type="text"/>

**Total Worksheet Score**  
(Case Type + Offense and Respondent)

Score	Sanctioning Recommendations
0-40	No Sanction Monetary Penalty
41-70	Reprimand
71-140	Probation Stayed Suspension Terms
141 and up	Refer to Formal Hearing Revocation Suspension Surrender

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

# SRP Patient Care Worksheet Instructions for Nurses

## Case Type Score

**Step 1:** (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 7 for an expanded list)

- |                               |    |
|-------------------------------|----|
| a. Inappropriate Relationship | 50 |
| b. Standard of Care           | 45 |
| c. Abuse/Abandonment/Neglect  | 30 |

**Step 2:** Enter Case Type Score

## Offense/Respondent Score

**Step 3:** (score all that apply)

- Enter “40” if the respondent’s license was previously revoked, suspended, or summarily suspended in any state.
- Enter “35” if this was an act of commission. An act of commission is interpreted as purposeful or with knowledge.
- Enter “30” 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.
- Enter “25” if a patient was intentionally or unintentionally injured. Injury includes any physical injury, physical abuse and death.
- Enter “20” if there was evidence of drug diversion. This evidence can include, but is not limited to taking too long to waste controlled substances, suspicious amounts of controlled substances being pulled, pulling medication for patients assigned to coworkers, outside of the medical directive, without pain assessments, excessive/inappropriate wastage, suspicious pharmacy logs.
- Enter “20” if any action was taken against the respondent. This action may include action by the employer, civil action or a criminal conviction related to this offense. This factor includes respondents pleading guilty with first offender status.
- Enter “5” if the respondent has any prior orders issued by the Virginia Board of Nursing finding them in violation.
- Enter “5” if the respondent failed to take corrective action prior to the time at which the SRP worksheet is being considered.

**Step 4:** Combine all for Total Offense/Respondent Score

**Step 5:** Combine Case Type Score and Offense/Respondent Score for Total Worksheet Score

## Sanctioning Grid

**Step 6: Sanction Recommendation** – The Total Worksheet Score corresponds to the sanctioning recommendation(s) located at the bottom of the worksheet. To determine the appropriate recommended sanction, find the range on the left that contains the Total Worksheet Score. These points correspond to the recommended sanction in the right column. For instance, a Total Worksheet Score of 100 is recommended for “Probation/Stayed Suspension/Terms.”

**Step 7:** Coversheet

Complete the coversheet, including the grid sanction, the imposed sanction and the reason(s) for departure, if applicable.

# SRP Fraud Worksheet for Nurses

## Case Type Score (score only one)

	Points	Score
a. Misappropriation of Patient Property	30	_____
b. Other Fraud	20	_____
<b>Case Type Score</b>		<input type="text"/>

## Offense and Respondent Score (score all that apply)

a. Act of commission	40	_____
b. License ever taken away	35	_____
c. Any patient involvement	30	_____
d. Respondent failed to initiate corrective action	30	_____
e. Any action against the respondent (employer, criminal, civil)	25	_____
f. Any prior Virginia Board violations	25	_____
g. Patient especially vulnerable	10	_____
h. Evidence of drug diversion	10	_____
<b>Offense and Respondent Score</b>		<input type="text"/>

**Total Worksheet Score**  
(Case Type + Offense and Respondent)

Score	Sanctioning Recommendations
0-50	No Sanction Monetary Penalty
51-85	Reprimand
86-135	Probation Stayed Suspension Terms
136 and up	Refer to Formal Hearing Revocation Suspension Surrender

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



# SRP Fraud Worksheet Instructions for Nurses

## Case Type Score

**Step 1:** (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 7 for an expanded list.)

- a. Misappropriation of Patient Property      30
- b. Other Fraud                                      20

**Step 2:** Enter Case Type Score

## Offense/Respondent Score

**Step 3:** (score all that apply)

- a. Enter “40” if this was an act of commission. An act of commission is interpreted as purposeful or with knowledge.
- b. Enter “35” if the respondent’s license was previously revoked, suspended, or summarily suspended in any state.
- c. Enter “30” if the offense involves a patient. Patient involvement is direct contact with a patient.
- d. Enter “30” if the respondent failed to take corrective action prior to the time at which the SRP worksheet is being considered.
- e. Enter “25” if any action was taken against the respondent. This action may include action by the employer, civil action or a criminal conviction related to this offense. This factor includes respondents pleading guilty with first offender status.
- f. Enter “25” if the respondent has any prior orders issued by the Virginia Board of Nursing finding them in violation.
- g. 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.
- h. Enter “10” if there was evidence of drug diversion. This evidence can include, but is not limited to taking too long to waste controlled substances, suspicious amounts of controlled substances being pulled, pulling medication for patients assigned to coworkers, outside of the medical directive, without pain assessments, excessive/inappropriate wastage, suspicious pharmacy logs.

**Step 4:** Combine all for Total Offense/Respondent Score

**Step 5:** Combine Case Type Score and Offense/Respondent Score for Total Worksheet Score

## Sanctioning Grid

**Step 6: Sanction Recommendation** – The Total Worksheet Score corresponds to the sanctioning recommendation(s) located at the bottom of the worksheet. To determine the appropriate recommended sanction, find the range on the left that contains the Total Worksheet Score. These points correspond to the recommended sanction in the right column. For instance, a Total Worksheet Score of 100 is recommended for “Probation/Stayed Suspension/Terms.”

**Step 7:** Coversheet

Complete the coversheet, including the grid sanction, the imposed sanction and the reasons for departure if applicable.

# **Sanctioning Reference Points for CNAs**

# Using the SRP System for CNAs

## Case Types Covered by the SRP System

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. One coversheet and worksheet are completed that encompasses the entire event. For instance, if a respondent is before the Board for both a Standard of Care and an Inability to Safely Practice violation, the Case Type selected would be Inability to Safely Practice. This table is used for CNAs only.

## Case Types Covered on the CNA Worksheet

Case Types	
Abuse/Inappropriate Relationship	Any sexual assault/abuse, mistreatment of a patient, or physical abuse Dual, sexual or other boundary issue. Includes inappropriate touching and written or oral communications
Misappropriation of Patient Property	Stealing or use of patient property without authorization
Inability to Safely Practice	Impairment due to use of alcohol, illegal substances, or prescription drugs or incapacitation due to mental, physical or medical conditions. Prescription forgery, drug adulteration, patient deprivation, stealing drugs from patients  Theft or diversion of drugs when a patient is not involved (e.g., pharmacies, hospitals, or facilities).
Neglect	Leaving a patient unattended in a health-care environment. Failure to provide assistance to a patient(s) in need.
Verbal Violation	Verbal Abuse  Speaking to a patient in a rude manner, name calling
Abandonment/Standard of Care/Fraud	Leaving patients, walking off an assigned shift without notifying a supervisor.  Instances in which the diagnosis/treatment was improper, delayed, or unsatisfactory. Also includes failure to diagnose/treat & other diagnosis/treatment issues  Practicing without holding a valid certificate as required by statute or regulation to include: practicing on a revoked, suspended, lapsed, non-existent or expired certificate, as well as aiding and abetting the practice of unlicensed activity  Improper patient billing or falsification of initial/renewal licensure or employment documents  Disclosing unauthorized client information without permission or necessity

## Determining a Specific Sanction

The sanctioning reference points worksheet for CNAs allows a respondent to be assessed in two ways: by the nature of the case (e.g., inability to safely practice vs. abuse) 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.

The CNA worksheet has three thresholds with increasing point values and respectively increasing sanction severities. The table below shows threshold scores leading to the available sanctions. After considering the sanction grid recommendation, the Board should fashion a more detailed sanction(s) based on the individual case circumstances.

### Sanctioning Recommendations

Sanctioning Thresholds for CNAs	
Score	Sanctioning Recommendation
0-100	No Sanction Monetary Penalty Probation Take no Action Stayed Suspension Terms: <ul style="list-style-type: none"> <li>▪ continuing education</li> <li>▪ HPMP (enter/continue)</li> <li>▪ quarterly self reports</li> <li>▪ quarterly job performance evaluations</li> <li>▪ Certificate shall be visible online with wording “Probation with Terms”</li> <li>▪ inform Board of beginning or changing employment (10 days)</li> <li>▪ provide current/future treating practitioners with copy of order</li> <li>▪ written notification to employer/employees/associates</li> <li>▪ impairment/incapacitation - evaluation</li> <li>▪ impairment - supervised unannounced drug screens</li> <li>▪ drug administration restrictions</li> <li>▪ impairment/incapacitation - therapy with progress reports</li> <li>▪ practice restriction - setting</li> <li>▪ impairment - Shall be active in AA/NA</li> </ul>
101-149	Reprimand
150 and up	Refer to Formal Revocation Suspension Surrender Finding of Abuse Finding of Neglect Finding of Misappropriation of Patient Property

### Completing the Coversheet

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 sanctioning grid does not recommend an appropriate sanction, the Board may depart either high or low when determining the 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 frequently cited, the Board will 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
- Remorse
- Cause for the action
- Multiple offenses/Isolated incident

# SRP Coversheet for CNAs

Case Number(s): 

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Respondent Name: \_\_\_\_\_

Certificate Number: \_\_\_\_\_

Case Resolution Method:  
 IFC-Agency Subordinate  
 IFC-Special Conference Committee  
 Pre-Hearing Consent Order

Case Type:  
 Abuse/Inappropriate Relationship  
 Misappropriation of Patient Property  
 Inability to Safely Practice  
 Neglect  
 Verbal Violations  
 Abandonment/Standard of Care/Fraud

Sanction Threshold Level:  
 0-100  
 101-149  
 150 and up

Imposed Sanction(s):  
 No Sanction  
 Terms  
 Courses \_\_\_\_\_  
 Take No Action  
 HPMP entry/compliance  Other: \_\_\_\_\_  
 Probation with Terms: \_\_\_\_\_  
 Reprimand  
 Monetary Penalty for \$ \_\_\_\_\_  
 Suspension (*check all that apply*)  
 not < 1 year  
 not < 2 years  
 Stay contingent upon \_\_\_\_\_  
 Offer CO  
 Surrender  
 Revocation  
 Recommend Formal  
 Finding of Abuse  
 Finding of Neglect  
 Finding of Misappropriation  
 Other Sanction: \_\_\_\_\_

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: \_\_\_\_\_

# SRP Worksheet for CNAs

Case Type Score (score only one)	Points	Score
a. Abuse/Inappropriate Relationship	70	_____
b. Misappropriation of Patient Property	60	_____
c. Inability to Safely Practice	50	_____
d. Neglect	40	_____
e. Verbal Violation	30	_____
f. Abandonment/Standard of Care/Fraud	10	_____
Case Type Score		<input style="width: 80px; height: 20px;" type="text"/>

Offense/Respondent Score (score all that apply)		
a. Act of commission	60	_____
b. Patient injury	50	_____
c. Impaired while practicing	45	_____
d. Respondent failed to initiate corrective action	40	_____
e. Any patient involvement	30	_____
Offense and Respondent Score		<input style="width: 80px; height: 20px;" type="text"/>
<b>Total Worksheet Score</b> (Case Type + Offense and Respondent)		<input style="width: 80px; height: 20px;" type="text"/>

Score	Sanctioning Recommendations
0-100	No Sanction Monetary Penalty Probation Take No Action Stayed Suspension Terms
101-149	Reprimand
150 and up	Refer to Formal Hearing Revocation Suspension Surrender Finding of Abuse Finding of Neglect Finding of Misappropriation

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

## SRP Worksheet Instructions for CNAs

### Step 1: (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 17 for an expanded list.)

- |   |    |
|---|----|
| a. Abuse/Inappropriate Relationship     | 70 |
| b. Misappropriation of Patient Property | 60 |
| c. Inability to Safely Practice         | 50 |
| d. Neglect                              | 40 |
| e. Verbal Violation                     | 30 |
| f. Abandonment/Standard of Care/Fraud   | 10 |

### Step 2: Enter Case Type Score

### Offense/Respondent Score

### Step 3: (score all that apply)

- Enter "60" if this was an act of commission. An act of commission is interpreted as purposeful or with knowledge.
- Enter "50" if a patient was intentionally or unintentionally injured. Injury includes any physical injury, physical abuse and death.
- Enter "45" if the respondent was impaired while practicing. Score this factor only if the respondent was at work during the time of impairment. Impairment includes substance abuse (alcohol or drugs) or mental/physical incapacitation.
- Enter "40" if the respondent failed to take corrective action prior to the time at which the SRP worksheet is being considered.
- Enter "30" if the offense involved a patient. Examples of patient involvement may include direct contact with a patient, misappropriation of patient property, falsifying patient records, etc.

### Step 4: Combine all for Total Offense and Respondent Score

### Step 5: Combine Case Type Score and Offense and Respondent Score for Total Worksheet Score

### Sanctioning Grid

**Step 6: Sanction Recommendation** – The Total Worksheet Score corresponds to the sanctioning recommendations located at the bottom of the worksheet. To determine the appropriate recommended sanction, find the range on the left that contains the Total Worksheet Score. These points correspond to the recommended sanction in the right column. For instance, a Total Worksheet Score of 120 is recommended for "Reprimand."

### Step 7: Coversheet

Complete the coversheet, including the grid sanction, the imposed sanction and the reason(s) for departure, if applicable.

# **Sanctioning Reference Points for Registered Medication Aides**



# Using the SRP System for RMAs

## Case Types Covered by the SRP System

A single sanctioning reference points worksheet is used to score all Registered Medication Aide (RMA) disciplinary cases (unlike Nursing cases, which are scored on one of three different worksheets). When one respondent's 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 are completed that encompasses the entire event. For instance, if a respondent is before the Board for both a Standard of Care and an Inability to Safely Practice violation, the Case Type selected would be Inability to Safely Practice. This table is used for RMAs only.

## Case Types Covered on the RMA Worksheet

Case Types	
Inability to Safely Practice	<p>Impairment due to use of alcohol, illegal substances, or prescription drugs or incapacitation due to mental, physical, or medical conditions.</p> <p>Prescription forgery, drug adulteration, patient deprivation, stealing drugs from patients, or personal use</p> <p>Theft or diversion of drugs when a patient is not involved (e.g., pharmacies, hospitals, or facilities).</p>
Physical Abuse	Any sexual assault/abuse, mistreatment of a patient, or physical abuse
Verbal Violation/Neglect	<p>Verbal Abuse</p> <p>Speaking to a patient in a rude manner, name calling</p> <p>Leaving a patient unattended in a health-care environment. Failure to provide assistance to patient(s) in need.</p>
Standard of Care/Abandonment	<p>Instances in which the medication administration or diagnosis/treatment was improper, delayed, or unsatisfactory. Also includes failure to diagnose/treat &amp; other diagnosis/treatment issues</p> <p>Medication dispensing and/or administration errors. Also includes improper management of patient medication regimen as well as other medication/prescription-related issues.</p> <p>Performing unwarranted/unjust services or the falsification/alteration of patient records.</p> <p>Leaving patients, walking off an assigned shift without informing a supervisor.</p>
Misappropriation of Patient Property/Fraud	<p>Stealing or use of patient property without authorization</p> <p>Improper patient billing or falsification of initial/renewal licensure or employment documents</p>
Unlicensed Activity	<p>Practicing a profession or occupation without holding a valid registration as required by statute or regulation to include: practicing on a revoked, suspended, lapsed, non-existent or expired registration, as well as aiding and abetting the practice of unlicensed activity.</p> <p>Disclosing unauthorized client information without permission or necessity.</p>

## Determining a Specific Sanction

The sanctioning reference points worksheet for RMAs allows a respondent to be assessed in two ways: by the nature of the case (e.g., inability to safely practice vs. standard of care) and by the number of offense/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.

The RMA worksheet has four thresholds with increasing point values and correspondingly increasing sanction severities. The table below shows threshold scores leading to the available sanctions. After considering the sanction grid recommendation, the Board should fashion a more detailed sanction(s) based on the individual case circumstances.

## Sanctioning Thresholds

Sanctioning Thresholds for RMAs	
Score	Sanctioning Recommendation
0-15	No Sanction Monetary Penalty
16-50	Reprimand
51-70	Probation Stayed Suspension Terms <ul style="list-style-type: none"> <li>▪ continuing education</li> <li>▪ HPMP (enter/continue)</li> <li>▪ quarterly self reports</li> <li>▪ quarterly job performance evaluations</li> <li>▪ Registration shall be visible online with wording “Probation with Terms”</li> <li>▪ inform Board of beginning or changing employment (10 days)</li> <li>▪ provide current/future treating practitioners with copy of order</li> <li>▪ written notification to employer/employees/associates</li> <li>▪ impairment/incapacitation - evaluation</li> <li>▪ impairment - supervised unannounced drug screens</li> <li>▪ drug administration restrictions</li> <li>▪ impairment/incapacitation - therapy with progress reports</li> <li>▪ practice restriction - setting</li> <li>▪ Shall be active in AA/NA</li> </ul>
71 and up	Refer to Formal Hearing Revocation Suspension Surrender

## Completing the Coversheet

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 sanctioning grid does not recommend an appropriate sanction, the Board may depart either high or low when determining the 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 frequently cited, the Board will 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
- Multiple offenses/Isolated incident

# SRP Coversheet for RMAs

Case Number(s): 

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Respondent Name: \_\_\_\_\_

Certificate or Registration Number: \_\_\_\_\_

Case Resolution Method:   
 IFC-Agency Subordinate   
 IFC-Special Conference Committee   
 Pre-Hearing Consent Order

Case Type:   
 Inability to Safely Practice   
 Physical Abuse   
 Verbal Violations/Neglect   
 Standard of Care/Abandonment   
 Misappropriation of Property/Fraud   
 Unlicensed Activity

Sanction Threshold Level:   
 0-15   
 16-50   
 51-70   
 71 and up

Imposed Sanction(s):   
 No Sanction   
 Terms   
      Courses \_\_\_\_\_   
      Take No Action   
      HPMP entry/compliance  Other: \_\_\_\_\_   
 Probation with Terms: \_\_\_\_\_   
 Reprimand   
 Monetary Penalty for \$ \_\_\_\_\_   
 Suspension (*check all that apply*)   
      not < 1 year   
      not < 2 years   
      Stay contingent upon \_\_\_\_\_   
 Offer CO   
 Surrender   
 Revocation   
 Recommend Formal   
 Other Sanction: \_\_\_\_\_

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: \_\_\_\_\_

# SRP Worksheet for RMAs

<b>Case Type Score</b> (score only one)	Points	Score
a. Inability to Safely Practice	50	_____
b. Physical Abuse	40	_____
c. Verbal Violation/Neglect	25	_____
d. Standard of Care/Abandonment	15	_____
e. Misappropriation of Patient Property/Fraud	10	_____
f. Unlicensed Activity	5	_____
	Case Type Score	<input style="width: 50px; height: 20px;" type="text"/>

<b>Offense and Respondent Score</b> (score all that apply)	Points	Score
a. Patient injury	40	_____
b. Evidence of drug diversion	25	_____
c. Any action against the respondent (employer, criminal, civil)	10	_____
d. Act of commission	10	_____
e. Any patient involvement	10	_____
f. Past difficulties (substances, mental/physical)	5	_____
g. Financial or material gain	5	_____
h. Respondent failed to initiate corrective action	5	_____
	Offense and Respondent Score	<input style="width: 50px; height: 20px;" type="text"/>

**Total Worksheet Score**  
(Case Type + Offense and Respondent)

Score	Sanctioning Recommendations
0-15	No Sanction Monetary Penalty
16-50	Reprimand
51-70	Probation Stayed Suspension Terms
71 and up	Refer to Formal Hearing Revocation Suspension Surrender

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

# SRP Worksheet Instructions for RMAs

## Case Type Score

**Step 1:** (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 23 for an expanded list.)

- |   |    |
|---|----|
| a. Inability to Safely Practice               | 50 |
| b. Physical Abuse                             | 40 |
| c. Verbal Violations/Neglect                  | 25 |
| d. Standard of Care/Abandonment               | 15 |
| e. Misappropriation of Patient Property/Fraud | 10 |
| f. Unlicensed Activity                        | 5  |

**Step 2:** Enter Case Type Score

## Offense and Respondent Score

**Step 3:** (score all that apply)

- Enter “40” if a patient was intentionally or unintentionally injured. Injury includes any physical injury, physical abuse and death.
- Enter “25” if there was evidence of drug diversion. This evidence can include, but is not limited to taking too long to waste controlled substances, suspicious amounts of controlled substances being pulled, pulling medication for patients other than your own, outside of the medical directive, without pain assessments, excessive wastage, suspicious pharmacy logs.
- Enter “10” if any action was taken against the respondent. This action may include action by the employer, civil action, or a criminal conviction related to this offense. This factor includes respondents pleading guilty with first offender status.
- Enter “10” if this was an act of commission. An act of commission is interpreted as purposeful or with knowledge.
- Enter “10” if the offense involves a patient. Examples of patient involvement may include direct contact with a patient, misappropriation of patient property, falsifying patient records, etc.
- Enter “5” 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.
- Enter “5” if the respondent's motivation for the violation was financial or material gain.
- Enter “5” if the respondent failed to take corrective action prior to the time at which the SRP worksheet is being considered.

**Step 4:** Combine all for Total Offense and Respondent Score

**Step 5:** Combine Case Type Score and Offense and Respondent Score for Total Worksheet Score

## Sanctioning Grid

**Step 6: Sanction Recommendation** – The Total Worksheet Score corresponds to the sanctioning recommendations located at the bottom of the worksheet. To determine the appropriate recommended sanction, find the range on the left that contains the Total Worksheet Score. These points correspond to the recommended sanction in the right column. For instance, a Total Worksheet Score of 20 is recommended for “Reprimand.”

**Step 7:** Coversheet

Complete the coversheet, including the grid sanction, the imposed sanction, and the reasons for departure if applicable.

# **Sanctioning Reference Points for Licensed Massage Therapists**

## Using the SRP System for LMTs

### Case Types Covered by the SRP System

A single sanctioning reference points worksheet is used to score all Licensed Massage Therapists (LMT) disciplinary cases (unlike Nursing cases, which are scored on one of three different worksheets). When one respondent's 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. One coversheet and worksheet comprise the entire event. For instance, if a respondent is before the Board for both a Standard of Care and an Inability to Safely Practice violation, the Case Type selected would be Inability to Safely Practice. This table is used for LMTs only.

### Case Types Covered on the LMT Worksheet

Case Types	
Abuse/Inappropriate Relationship	Any sexual assault/abuse, mistreatment of a patient, or physical abuse  Verbal Abuse Speaking to a patient in a rude manner, name calling  Dual, sexual or other boundary issue. Includes inappropriate touching and/or communication, written or oral
Inability to Safely Practice	Impairment due to use of alcohol, illegal substances, or prescription drugs or incapacitation due to mental, physical or medical conditions.  Prescription forgery, stealing drugs from patients, or personal use  Theft or diversion of drugs when a patient is not involved (e.g., pharmacies, hospitals, or facilities).
Fraud/Continuing Education	Improper patient billing or falsification of initial/renewal licensure or employment documents.  Failure to obtain or document CE requirements.
Standard of Care	Instances in which the diagnosis/treatment was improper, delayed, or unsatisfactory. Also includes failure to diagnose/treat & other diagnosis/treatment issues. This includes, but is not limited to: failure to consider medical history, inappropriate technique, lack of informed consent, and practicing beyond the scope
Unlicensed Activity	Practicing a profession or occupation without holding a valid license as required by statute or regulation to include: practicing on a revoked, suspended, lapsed, non-existent or expired license, as well as aiding and abetting the practice of unlicensed activity.

### Determining a Specific Sanction

The sanctioning reference points worksheet for LMTs allows a respondent to be assessed in two ways: by the nature of the case (e.g., inability to safely practice vs. standard of care) 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.

The LMT worksheet has three thresholds with increasing point values and correspondingly increasing sanction severities. The table below shows threshold scores leading to the available sanctions. After considering the sanction grid recommendation, the Board should fashion a more detailed sanction(s) based on the individual case circumstances.

## Sanctioning Thresholds

Sanctioning Thresholds for LMTs	
0-50	No Sanction Reprimand Monetary Penalty
51-85	Probation Stayed Suspension Terms <ul style="list-style-type: none"> <li>▪ continuing education</li> <li>▪ HPMP (enter/continue)</li> <li>▪ quarterly self reports</li> <li>▪ quarterly job performance evaluations</li> <li>▪ License shall be visible online with wording “Probation with Terms”</li> <li>▪ inform Board of beginning or changing employment (10 days)</li> <li>▪ provide current/future treating practitioners with copy of order</li> <li>▪ written notification to employer/employees/associates</li> <li>▪ impairment/incapacitation – evaluation</li> <li>▪ impairment – supervised unannounced drug screens</li> <li>▪ impairment/incapacitation – therapy with progress reports</li> <li>▪ practice restriction – setting</li> <li>▪ Shall be active in AA/NA</li> </ul>
86 and up	Refer to Formal Hearing Revocation Suspension Surrender

## Completing the Coversheet

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 may 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
- 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.



# SRP Coversheet for LMTs

Case Number(s): 

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--	--	--	--	--	--	--	--

Respondent Name: \_\_\_\_\_

Certificate or Registration Number: \_\_\_\_\_

Case Resolution Method:   
 IFC-Agency Subordinate   
 IFC-Special Conference Committee   
 Pre-Hearing Consent Order

Case Type:   
 Abuse/Inappropriate Relationship   
 Inability to Safely Practice   
 Fraud/Continuing Education   
 Standard of Care   
 Unlicensed Activity

Sanction Threshold Level:   
 0-50   
 51-85   
 86 and up

Imposed Sanction(s):   
 No Sanction   
 Terms   
 Courses \_\_\_\_\_   
 Take No Action   
 HPMP entry/compliance  Other: \_\_\_\_\_   
 Probation with Terms: \_\_\_\_\_   
 Reprimand   
 Monetary Penalty for \$ \_\_\_\_\_   
 Suspension (*check all that apply*)   
 not < 1 year   
 not < 2 years   
 Stay contingent upon \_\_\_\_\_   
 Offer CO   
 Surrender   
 Revocation   
 Recommend Formal   
 Other Sanction: \_\_\_\_\_

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: \_\_\_\_\_

# SRP Worksheet for LMTs

Case Type Score (score only one)	Points	Score
a. Abuse/Inappropriate Relationship	50	_____
b. Inability to Safely Practice	35	_____
c. Fraud/Continuing Education	25	_____
d. Standard of Care	15	_____
e. Unlicensed Activity	10	_____
Case Type Score		<input style="width: 50px; height: 20px;" type="text"/>

Offense and Respondent Score (score all that apply)	Points	Score
a. Concurrent criminal conviction	40	_____
b. Past difficulties (substances, mental/physical)	30	_____
c. Case involved a mental health admission	25	_____
d. Concurrent action by employer	20	_____
e. Act of commission	15	_____
f. Respondent failed to initiate corrective action	15	_____
g. License ever taken away by any state	10	_____
h. Financial or material gain	10	_____
i. Any prior Virginia Board violations	10	_____
j. Patient physical injury	10	_____
Offense and Respondent Score		<input style="width: 50px; height: 20px;" type="text"/>

**Total Worksheet Score**  
(Case Type + Offense and Respondent)

Score	Sanctioning Recommendations
0-50	No Sanction Reprimand Monetary Penalty
51-85	Probation Stayed Suspension Terms
86 and up	Refer to Formal Hearing Revocation Suspension Surrender

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

# SRP Worksheet Instructions for LMTs

## Case Type Score

**Step 1:** (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 29 for an expanded list.)

- |                                     |    |
|-------------------------------------|----|
| a. Abuse/Inappropriate Relationship | 50 |
| b. Inability to Safely Practice     | 35 |
| c. Fraud/Continuing Education       | 25 |
| d. Standard of Care                 | 15 |
| e. Unlicensed Activity              | 10 |

**Step 2:** Enter Case Type Score

## Offense/Respondent Score

**Step 3:** (score all that apply)

- Enter "40" if the respondent received a criminal conviction related to this offense. This factor includes respondents pleading guilty with first offender status.
- Enter "30" 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.
- Enter "25" if the case involved a mental health admission. The admission can be either voluntary or a temporary detention order (TDO).
- Enter "20" if the respondent received any action from his/her employer in response to the current incident. This may include, but is not limited to: suspension, termination, or disciplinary counseling notice.
- Enter "15" if this was an act of commission. An act of commission is interpreted as purposeful or with knowledge.
- Enter "15" if the respondent failed to take corrective action prior to the time at which the SRP worksheet is being considered.
- Enter "10" if the respondent's LMT license was previously revoked, suspended, or summarily suspended in any state or if any license type was previously revoked by the Virginia Department of Health Professions.
- Enter "10" if the respondent's motivation for the violation was financial or material gain.
- Enter "10" if the respondent has any prior orders issued by the Virginia Board of Nursing finding them in violation.
- Enter "10" if a patient was intentionally or unintentionally injured. Injury includes, but is not limited to, any physical injury that requires first aid, subsequent treatment, and emergency care.

**Step 4:** Combine all for Total Offense and Respondent Score

**Step 5:** Combine Case Type Score and Offense and Respondent Score for Total Worksheet Score

## Sanctioning Grid

**Step 6: Sanction Recommendation** – The Total Worksheet Score corresponds to the sanctioning recommendations located at the bottom of the worksheet. To determine the appropriate recommended sanction, find the range on the left that contains the Total Worksheet Score. These points correspond to the recommended sanction in the right column. For instance, a Total Worksheet Score of 70 is recommended for "Probation/Stayed Suspension/Terms."

**Step 7:** Coversheet

Complete the coversheet, including the grid sanction, the imposed sanction, and the reasons for departure if applicable.