

**DRAFT**  
**VIRGINIA BOARD OF HEALTH PROFESSIONS**  
**DEPARTMENT OF HEALTH PROFESSIONS**  
**FULL BOARD MEETING**  
**December 14, 2010**

**TIME AND PLACE:** The meeting was called to order at 1:00 p.m. on Tuesday, December 14, 2010 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2<sup>nd</sup> Floor, Board Room 2, Henrico, VA, 23233

**PRESIDING OFFICER:** Damien Howell, MS, PT, OCS

**MEMBERS PRESENT:** Damien Howell, MS, PT, OCS, Board of Physical Therapy  
Michael Stutts, Ph.D., Board of Psychology  
John T. Wise, D.V.M., Board of Veterinary Medicine  
Mary M. Smith, N.H.A., Board of Long Term Care  
Mary Lou Argow, L.P.C., Board of Counseling  
Billie W. Hughes, F.S.L., Board of Funeral Directors & Embalmers  
Jonathan Noble, O.D., Board of Optometry  
Patricia Lane, R.N., Board of Nursing  
Maureen Clancy, Citizen Member  
Paul N. Zimmet, DDS, Board of Dentistry

**MEMBERS NOT PRESENT:** Vilma Seymour, Citizen Member  
Demis Stewart, Citizen Member  
Juan M. Montero, II, M.D., Board of Medicine  
Fernando Martinez, Citizen Member  
Paul T. Conway, Citizen Member  
Yvonne Haynes, Board of Social Work

**STAFF PRESENT:** Elizabeth A. Carter, Ph.D., Executive Director for the Board  
Elaine Yeatts, DHP Senior Policy Analyst  
Justin Crow, Research Assistant  
Laura Chapman, Operations Manager

**OTHERS PRESENT:** Neal Kauder, Visual Research, Inc.

**QUORUM:** With 10 members present a quorum was established.

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

**PUBLIC COMMENT:** There was no public comment.

**APPROVAL OF MINUTES:** Meeting minutes from September 29, 2010 were approved. Motion made by Ms. Hughes and 2<sup>nd</sup> by Ms. Argow.

**WELCOME TO NEW BOARD MEMBERS AND BHP STAFF** Mr. Howell had each member introduce themselves and an introduction of new board members was made. Mr. Justin Crow has been hired as a full time Policy and Planning Specialist for the Board. This position will serve as the Board's first full-time support dedicated to research.

**DEPARTMENT DIRECTOR'S  
REPORT:**

Dr. Reynolds-Cane and Mr. Arne Owens were attending the Governor's Health Reform Initiative meeting and unable to attend. Dr. Carter reported that the agency's performance measures were uniformly positive.

**LEGISLATIVE/REGULATORY  
UPDATE:**

Ms. Yeatts advised the Board that DHP submitted 10 proposals. Six have already been approved for introduction, which means that the Governor supports them. All 2010 bills that were carried over have died. VITA costs have gone from approximately \$585,000.00 in 2005 to \$3.6 million in 2010. This increase has a huge impact on DHP. Five DHP Boards are requesting fee increases due, in large part, to these added costs. (Attachment 1)

**COMMITTEE REPORT:**

**Regulatory Research Committee**

The Regulatory Research Committee meeting was cancelled as there were no attendees. To update the full Board, Mr. Justin Crow provided a PowerPoint presentation on Emerging Professions Review, and an update on Medical Laboratory Scientists and Technicians, as well as a preliminary review on Phlebotomists and progress on the Genetic Counselors workplan (Attachment 2).

**Enforcement Committee**

The Enforcement Committee meeting was cancelled as there were no attendees; however, Mr. Neal Kauder also provided information to the Full Board regarding assessing the effectiveness of Sanctioning Reference Points systems (Attachment 3).

**Education Committee**

Chair, Mary Smith, updated the Board on the following actions taken by the Education Committee:

- The 2010 New Board Orientation was convened by the 13 health regulatory boards and the BHP for the first time in two years. Forty-four new and returning board members participated in the five-hour session.
- The Healthcare Workforce Data Center prepared an ad hoc special report for the Board of Nursing that was disseminated at the IOM Future of Nursing implementation webcast. The report compared the Center's findings for Virginia with the US Bureau of Health Professions (USBHP)'s recently published findings from the 2008 National Sample Survey of Registered Nurses (NSSRN).
- DHP 2008-2010 Biennial Report has been written and will be posted to the DHP website soon.
- Media Relations played a big part in our education and outreach this year. DHP has responded to more than 50 state, regional and national new organizations as well as with professional healthcare publications. Requests for information regarding findings released by the DHP Healthcare Workforce Data Center were among the top

news items regarding the work of the agency covered this year.

- Initiatives to educate and inform DHP stakeholders are now in the early stages of development, they include: purchasing a portal on the Commonwealth Knowledge Learning Center site; a facelift of the DHP website home page; and message maps regarding fee increases among select boards.

### **Nominating Committee**

The Nominating Committee selected Damien Howell as Chair and Michael Stutts as Vice Chair. A motion was made by Ms. Hughes and seconded by Ms. Smith to accept these nominations. The vote was unanimous.

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

#### **2011 Workplan Review**

Dr. Carter reviewed the 2011 Workplan (Attachment 4) with the board.

#### **Healthcare Workforce Data Center**

Dr. Carter advised the Board of the on going progress being made by the Healthcare Workforce Data Center.

#### **BHP Budget**

The BHP budget is very sound. The Board's work unit has merged with the Healthcare Workforce Data Center which has received grant funding for the next two years.

#### **Biennial Report**

The biennial report is complete and will be posted to the DHP website shortly.

### **NEW BUSINESS:**

There was no new business.

### **ADJOURNMENT:**

The meeting adjourned at 2:39 p.m.

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Damien Howell, MS, PT, OCS  
Acting Chair

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



**Summary of Legislative Proposals for 2011 General Assembly** .....  
**Department of Health Professions** .....

**Statement of Intent** .....

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*Authorizes the Department to collect social security numbers from practitioners or employee identification numbers from facilities in an investigation* .....

*Authorizes registration of dentists in offices in which anesthesia or sedation are performed* .....

*Makes revisions/corrections to Chapter 29; change in terminology for osteopathy and podiatry to osteopathic medicine and podiatric medicine* .....

*Expands types of practitioners who can sign a death certificate; clarifies responsibility for signing; provides civil liability for signing* .....

*Adds assisted living facility administrators as required reporters to DHP* .....

*Changes the requirements for assessment of physician after three paid claims so it affects only actively practicing Virginia doctors and raises the threshold for reporting to paid claims over \$75,000*

## Current Status of Regulatory Actions Department of Health Professions

<b>Board</b>		<b>Board of Audiology and Speech-Language Pathology</b>	
<b>Chapter</b>		<b>Action / Stage Information</b>	
Regulations of the Board of Audiology and Speech-Language Pathology [18 VAC 30 - 20]		<u>Action:</u> Requirements for practice of fiberoptic endoscopic evaluation by speech-language pathologists	<u>Stage:</u> NOIRA - Register Date: 1/3/11 Comment closes 2/2/11
<b>Board</b>		<b>Board of Dentistry</b>	
<b>Chapter</b>		<b>Action / Stage Information</b>	
Virginia Board of Dentistry Regulations [18 VAC 60 - 20]		<u>Action:</u> Periodic review; reorganization of chapter	<u>Stage:</u> NOIRA - Register Date: 8/2/10 Waiting for DA II regs to be effective
Virginia Board of Dentistry Regulations [18 VAC 60 - 20]		<u>Action:</u> Recovery of disciplinary costs	<u>Stage:</u> Proposed - Register Date: 1/3/11 Comment closes 3/4/11
Virginia Board of Dentistry Regulations [18 VAC 60 - 20]		<u>Action:</u> Registration of mobile clinics	<u>Stage:</u> Proposed - Register Date: 1/3/11 Comment closes 3/4/11 Emergency regs expire 1/7/11
Virginia Board of Dentistry Regulations [18 VAC 60 - 20]		<u>Action:</u> Registration and practice of dental assistants	<u>Stage:</u> Final - At Governor's Office 174 days
<b>Board</b>		<b>Board of Funeral Directors and Embalmers</b>	
<b>Chapter</b>		<b>Action / Stage Information</b>	
Regulations of the Board of Funeral Directors and Embalmers [18 VAC 65 - 20]		<u>Action:</u> Identification of human remains	<u>Stage:</u> Emergency/NOIRA - At Governor's Office 33 days Statute requires regs to be effective 1/14/11
Regulations of the Board of Funeral Directors and Embalmers [18 VAC 65 - 20]		<u>Action:</u> Fee increase	<u>Stage:</u> Proposed - DPB Review in progress 32 days

Regulations of the Board of Funeral Directors and Embalmers [18 VAC 65 - 20]	<u>Action:</u> Clarification of requirements
	<u>Stage:</u> Fast-Track - At Governor's Office 172 days
Regulations for Preened Funeral Planning [18 VAC 65 - 30]	<u>Action:</u> Termination of irrevocable trusts
	<u>Stage:</u> Fast-Track - At Governor's Office 33 days

<b>Board</b>	<b>Board of Long-Term Care Administrators</b>
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Chapter	Action / Stage Information
Regulations Governing the Practice of Nursing Home Administrators [18 VAC 95 - 20]	<u>Action:</u> Fee increase <u>Stage:</u> NOIRA - Register Date: 8/16/10 Proposed regulations adopted 12/6/10

<b>Board</b>	<b>Board of Medicine</b>
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Chapter	Action / Stage Information
Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, and Chiropractic [18 VAC 85 - 20]	<u>Action:</u> Periodic review <u>Stage:</u> Proposed - At Governor's Office 141 days
Regulations Governing the Practice of Physician Assistants [18 VAC 85 - 50]	<u>Action:</u> Supervision of physician assistant practice <u>Stage:</u> NOIRA - Register Date: 12/6/10 Comment closes 1/5/11
Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited [18 VAC 85 - 101]	<u>Action:</u> Licensure of radiologist assistants <u>Stage:</u> Proposed - Register Date: 12/6/10 Comment closes 2/4/11
Regulations Governing the Licensure of Athletic Trainers [18 VAC 85 - 120]	<u>Action:</u> Revision to provisional licensure <u>Stage:</u> Fast-Track - At Governor's Office 141 days
Regulations Governing the Practice of Licensed Midwives [18 VAC 85 - 130]	<u>Action:</u> Disclosure requirements for high-risk pregnancies <u>Stage:</u> Proposed - At Governor's Office 105 days

<b>Board</b>	<b>Board of Nursing</b>
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Chapter	Action / Stage Information
Regulations of the Board of Nursing [18 VAC 90 - 20]	<u>Action:</u> Requirements for approval of nursing education programs <u>Stage:</u> NOIRA - Register Date: 8/2/10

Regulations of the Board of Nursing [18 VAC 90 - 20]	<u>Action:</u> Continued competency requirements <u>Stage:</u> NOIRA - Register Date: 8/2/10 Proposed regulations adopted 11/16/10
Regulations of the Board of Nursing [18 VAC 90 - 20]	<u>Action:</u> Consistency with Compact rules on licensure <u>Stage:</u> Fast-Track - At Governor's Office 33 days
Regulations of the Board of Nursing [18 VAC 90 - 20]	<u>Action:</u> Elimination of prior licensure requirement for foreign-educated applicants <u>Stage:</u> Fast-Track - DPB Review in progress 8 days
Regulations of the Board of Nursing [18 VAC 90 - 20]	<u>Action:</u> Increase in fees <u>Stage:</u> Final - At Secretary's Office 12 days

<b>Board</b> Board of Optometry	
<b>Chapter</b>	<b>Action / Stage Information</b>
Regulations of the Virginia Board of Optometry [18 VAC 105 - 20]	<u>Action:</u> Fee increase <u>Stage:</u> NOIRA - Register Date: 8/16/10 Board is not moving forward with fee increase at this time

<b>Board</b> Board of Pharmacy	
<b>Chapter</b>	<b>Action / Stage Information</b>
Virginia Board of Pharmacy Regulations [18 VAC 110 - 20]	<u>Action:</u> Repackaging in CSB's and BHA's <u>Stage:</u> Emergency/NOIRA - Register Date: 1/3/11 Comment on NOIRA closes 2/2/11 Emergency regulations in effect 12/20/10
Virginia Board of Pharmacy Regulations [18 VAC 110 - 20]	<u>Action:</u> Signing of automated dispensing devices in hospitals <u>Stage:</u> Fast-Track - At Governor's Office 147 days
Virginia Board of Pharmacy Regulations [18 VAC 110 - 20]	<u>Action:</u> Addition of administrative fees and elimination of alarm system for certain EMS agencies <u>Stage:</u> Fast-Track - At Governor's Office 140 days

<b>Board</b> Board of Physical Therapy	
<b>Chapter</b>	<b>Action / Stage Information</b>



Regulations Governing the Practice of Physical Therapy [18 VAC 112 - 20]	<u>Action:</u> Traineeship changes; continuing education <u>Stage:</u> Proposed - <i>At Governor's Office</i> 141 days
<b>Board</b>	<b>Board of Psychology</b>
<b>Chapter</b>	<b>Action / Stage Information</b>
Regulations Governing the Practice of Psychology [18 VAC 125 - 20]	<u>Action:</u> Periodic review recommendations; acceptance of pre-internship hours <u>Stage:</u> Proposed - <i>At Governor's Office</i> 141 days
<b>Board</b>	<b>Board of Social Work</b>
<b>Chapter</b>	<b>Action / Stage Information</b>
Regulations Governing the Practice of Social Work [18 VAC 140 - 20]	<u>Action:</u> Licensure requirements <u>Stage:</u> NOIRA - <i>Register Date: 8/2/10</i> <i>Proposed regulations adopted</i>
Regulations Governing the Practice of Social Work [18 VAC 140 - 20]	<u>Action:</u> Fee increase and renewal cycle <u>Stage:</u> Proposed - <i>DPB Review in progress</i> 5 days
Regulations Governing the Practice of Social Work [18 VAC 140 - 20]	<u>Action:</u> Clinical course of study <u>Stage:</u> Final - <i>At Governor's Office</i> 147 days
<b>Board</b>	<b>Board of Veterinary Medicine</b>
<b>Chapter</b>	<b>Action / Stage Information</b>
Regulations Governing the Practice of Veterinary Medicine [18 VAC 150 - 20]	<u>Action:</u> Fee increase <u>Stage:</u> Proposed - <i>Register Date: 8/30/10</i> <i>Board to adopt final regs in January</i>
Regulations Governing the Practice of Veterinary Medicine [18 VAC 150 - 20]	<u>Action:</u> Drug destruction requirements <u>Stage:</u> Fast-Track - <i>At Governor's Office</i> 33 days



# Emerging Professions Review

Updates:

Medical Laboratory

Scientists/Technicians: Update

Phlebotomists: Preliminary Review

Genetic Counselors: Work plan



Medical Laboratory Scientists  
Medical Laboratory Technicians

Update

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## Medical Laboratory Scientists/Technicians

- Still awaiting CMS survey results
  - Studies on laboratory errors from 1990s (CLIA)
  - Error rates were low
  - **Mostly in the pre- and post-analytic phases**
- Licensure would have the most impact on waived tests

	CLIA Minimum Personnel Requirements	Minimum Personnel Requirements if impacted by licensure
Waived	None	Certificate/associate or military training and certification as MLT
Moderate Complexity	HS diploma and documented training	Certificate/associate or military training and certification as MLT
High Complexity	Associate degree and completion of either: 1) accredited or approved clinical laboratory training program 2) three months laboratory training in specialty	Associate degree and certification as MLT



## Waived Tests

- Least Complex
- Lowest Risk of Harm
- Point of Care Tests
  - Ambulance
  - Pharmacy
  - School/Prison Health Service
  - Health Fair
  - Skilled Nursing Facility
  - Home Health Agency
  - Physician Offices

### Waived Tests Performed by:

- Nurses
- Pharmacists/Pharmacy Techs
- EMTs
- Medical Assistants*



## Risk of Harm

The *unregulated* practice of the health occupation will harm or endanger the public health, safety or welfare.

This implies that regulation should diminish the risk of harm to patients



## Phlebotomists

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## Phlebotomy

- Laboratory Specimen Collection/Blood donation collection
- One Billion annually
- High volume/low wage
  - High turnover
  - Minimal entry requirements
    - Often OJT, right out of HS
    - Certification eligibility
      - 1 yr work experience
      - Training—100 hrs/100 collections



## Risk of Harm

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## Genetic Counselors



## A Dynamic Field

- Explosion of Knowledge & Testing
  - Direct-to-consumer tests
- Few clinically useful applications (so far)
- Slow integration
- ***Revolutionary Potential***

Prediction & Prevention

Diagnosis & Treatment

### Genome Sequencing

2003-1<sup>st</sup> Genome Sequencing

-13 years

-\$3 billion

2008-10 Genomes Sequenced to date

2009-50 Genomes

-Complete Genomics, Inc

2010-Thousands

-\$5,000

2011-Tens of Thousands?

-\$1,500?

Low Visibility



Genomics is transforming medicine, but we have yet to see what this means for the health care workforce.

Photo "Sunrise, beginning of the Tongariro Crossing" courtesy of [Velvet Android](#) via Flickr on a Creative Commons License. [Some Rights Reserved](#).

*. . . Many experts believe [the likeliest] scenario is one in which geneticists play a larger role in educating PCPs, who will then incorporate more extensive genetic care into their daily practice.*

-Virginia GeneSEAN, 2006

*The future role of genetic counselors, and thus workforce needs, is also uncertain, although recent trends suggest that genetic counselors are increasingly working directly with other non-genetic medical specialists as part of health care delivery teams.*

-Virginia GeneSEAN, 2006



## Risk of Harm

### Risk Prediction/Diagnosis

- “False Positive” (false diagnosis or report of increased risk)
  - Prophylactic Actions (Breast, Ovary, Colon Removal)
  - Termination of Pregnancy
- “False Negative” (Undiagnosed condition or report of decreased risk)
  - Forego prophylactic actions/screening

### Psychological/Social Implications

- Difficult Practical Choices
- Difficult Ethical Choices
- Social Implications
  - Non-directive counseling
  - Heightened privacy needs

### Upon diagnoses of Downs Syndrome:

#### Overemphasize negative aspects to encourage termination

- Physicians: 13%
- Genetic Professionals: 13%

#### Overemphasize positive aspects to encourage continuation

- Physicians: 10%
- Genetic Professionals: 2%

#### Actively “urge” mothers to continue

- Physicians: 4%



## Sources of Harm

- Physicians and other Regulated Practitioners
  - Lack of training
  - Fast-changing genetic test scene
  - Underdeveloped/ underutilized clinical guidelines
- Direct-to-consumer genetic tests
  - Genetic information as a consumer good
  - Includes “snapshot” of increased or decreased risk of developing conditions
  - Many overseas companies
  - Different companies provide different results on the same DNA

*“You’d be in the high risk of pretty much getting it”*

Response from a customer service representative to a GAO investigator about an elevated risk of breast cancer

#### Practice of Medicine?

**Yes**-Actions already violate statute and regulations

**No**-Health Professions regulation may have limited impact



## Risk of Harm

The **unregulated** practice of the health occupation will harm or endanger the public health, safety or welfare.

This implies that regulation should diminish the risk of harm to patients



## Alternatives to Regulation

### **FDA Classification of DTC Genetic Tests as Medical Devices**

--FDA study of DTC genetic testing and regulation is ongoing

### **New York & California independently defined DTC genetic tests as medical devices**

--Genetic Counselor Legislation accompanied these efforts

--Genetic counselor licensure alone has not diminished access to DTC genetic tests

### **Physician Education**

--Continuing education requirements



# Workplan

Jan 13, 2011

-Public Hearing on Draft Report

Spring Meeting

-Receive updated report

-Recommendation?



**Criterion One: Risk for Harm to the Consumer**

The unregulated practice of the health occupation will harm or endanger the public health, safety or welfare. The harm is recognizable and not remote or dependent on tenuous argument. The harm results from: (a) practices inherent in the occupation, (b) characteristics of the clients served, (c) the setting or supervisory arrangements for the delivery of health services, or (d) from any combination of these factors.

**Criterion Two: Specialized Skills and Training**

The practice of the health occupation requires specialized education and training, and the public needs to have benefits by assurance of initial and continuing occupational competence.

**Criterion Three: Autonomous Practice**

The functions and responsibilities of the practitioner require independent judgment and the members of the occupational group practice autonomously.

**Criterion Four: Scope of Practice**

The scope of practice is distinguishable from other licensed, certified and registered occupations, in spite of possible overlapping of professional duties, methods of examination, instrumentation, or therapeutic modalities.

**Criterion Five: Economic Impact**

The economic costs to the public of regulating the occupational group are justified. These costs result from restriction of the supply of practitioner, and the cost of operation of regulatory boards and agencies.

**Criterion Six: Alternatives to Regulation**

There are no alternatives to State regulation of the occupation which adequately protect the public. Inspections and injunctions, disclosure requirements, and the strengthening of consumer protection laws and regulations are examples of methods of addressing the risk for public harm that do not require regulation of the occupation or profession.

**Criterion Seven: Least Restrictive Regulation**

When it is determined that the State regulation of the occupation or profession is necessary, the least restrictive level of occupational regulation consistent with public protection will be recommended to the Governor, the General Assembly and the Director of the Department of Health Professions.

DRAFT - Working Papers

Virginia Department of Health Professions  
Board of Health Professions

## Assessing the Effectiveness of Sanctioning Reference Points

December 14, 2010

Prepared by VisualResearch, Inc.  
Neal Kauder, President

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### Goals

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

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### Study Tasks & Progress

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

\* in progress

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### Nurse Samples Used in Effectiveness Study

#### Nurses

<b>Completed SRP Worksheets</b>	560 cases June 2006 to June 2010 based on WS completion date
<b>Original SRP Sample Cases (comparison group)</b>	294 cases Jan 2002 to Dec 2004

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### Initial BON Recommendations

Recommendation #1:  
Move CE into  
Reprimand/Monetary  
Penalty

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

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Recommendation #1: Supporting Data

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

- Overall Agreement Rate moves from 75% to 79%
- Standard of Care moves from 60% to 77%
- Impairment moves from 82% to 79%
- Unlicensed Activity/Fraud steady at 79%

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### Initial BON Recommendations

Recommendation #2:

Add Recommend Formal to grid cell 3 on the Impairment Worksheet

	0-25	26-45	46 or more
0-5	1 No Sanction ... to > Reprimand/ Monetary Penalty	2 Reprimand/Monetary Penalty ... to > Education/Monitoring	3 Education/Monitoring ... to > Recommend Formal/C.O. for Indefinite Suspension or Revocation
6-40	4 Reprimand/Monetary Penalty ... to > Education/Monitoring	5 Education/Monitoring ... to > Recommend Formal/ C.O. for Indefinite Suspension or Revocation	6 Education/Monitoring ... to > Recommend Formal/ C.O. for Indefinite Suspension or Revocation
41 or more	7 Education/Monitoring	8 Education/Monitoring ... to > Recommend Formal/ C.O. for Indefinite Suspension or Revocation	9 Recommend Formal C.O. for Indefinite Suspension or Revocation

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Recommendation #2: Supporting Data

### Effect of Changing Grid Cell 3 on Impairment Worksheet

- Impairment worksheet agreement moves from 82% to 89%

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

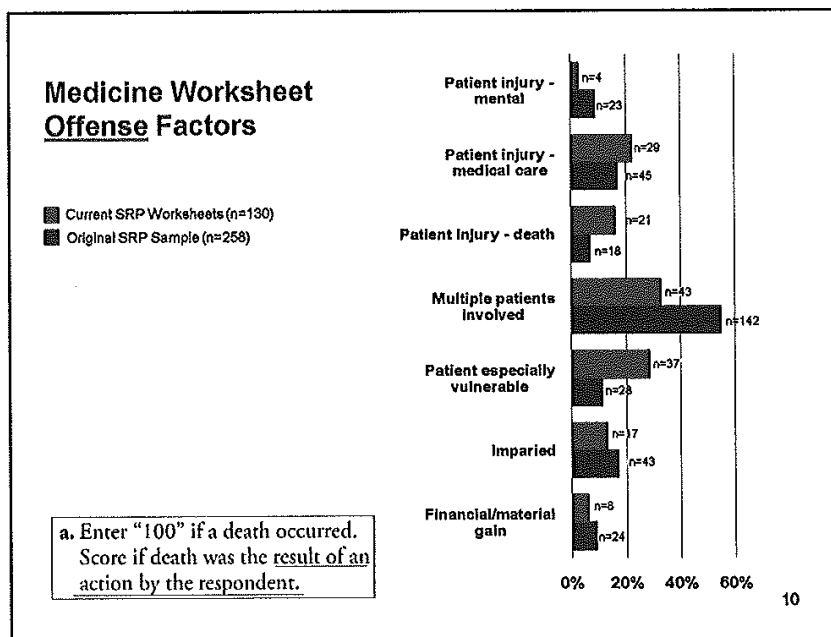
8

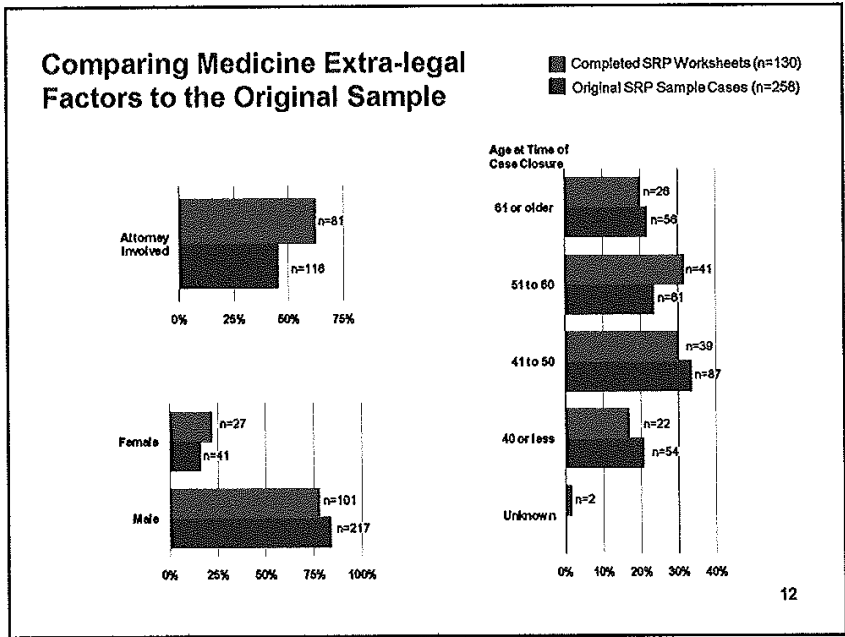
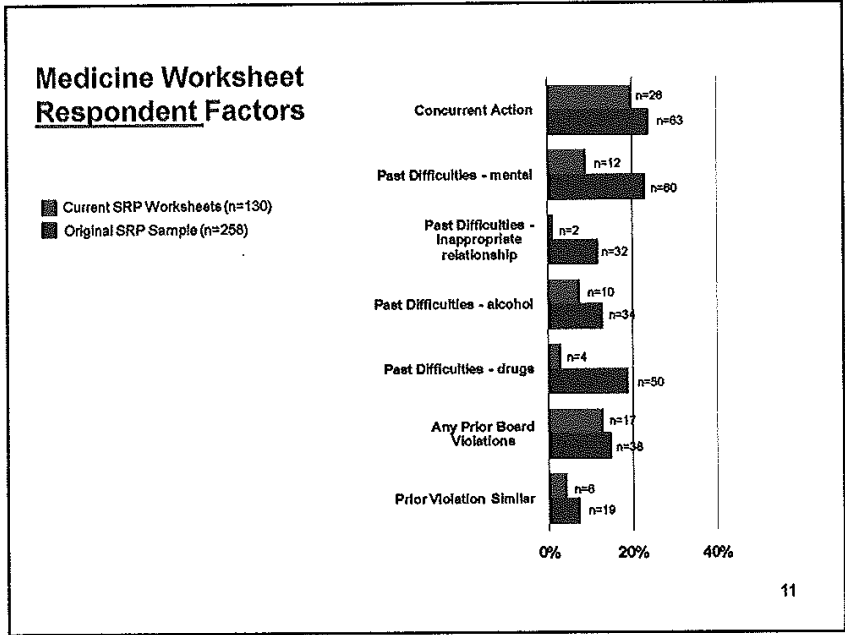
### Medicine Samples Used in Effectiveness Study

<u>Medicine</u>	
<b>Completed SRP Worksheets</b>	130 cases, all completed worksheets August 2004 to October 2010 based on WS completion date
<b>Original SRP Sample Cases</b> (comparison group)	258 cases *All violations between Jan 1996 to Dec 2001

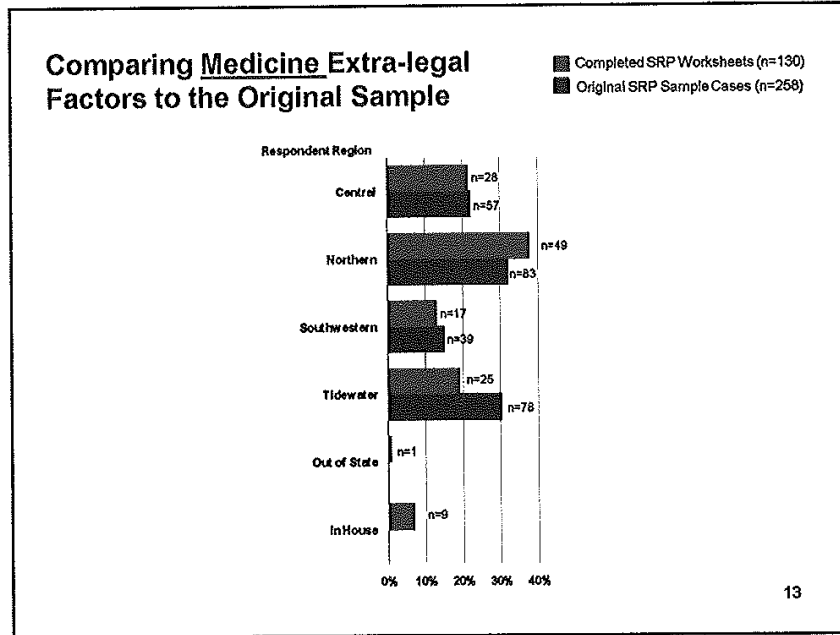
\*Excluded mandatory suspension, actions by other boards, and compliance/reinstatement cases

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### SRP Re-Training

<u>Board</u>	<u>Date</u>
Nursing	✓
Physical Therapy	✓
Vet Med	✓
Optometry	✓
Dentistry	✓
ASLP	✓
Medicine	To be determined
Pharmacy	12-15-10 (4 new board members)
Behavioral Sciences	Spring 2011

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## Recommendation for SRP Manual Modification Across Boards

### Worksheets Not Used in Certain Cases

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

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

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## SRP Agreement Analysis

thru October 1, 2010

Board	Start Date	Completed Worksheets	Agreement		Aggravating Departures		Mitigating Departures		Agreement by Board
			#	%	#	%	#	%	
Medicine	Aug-04	138	102	74%	3	2%	33	24%	Medicine ██████████ 74%
Nursing	Jul-05	696	518	74%	146	21%	32	5%	Nursing ██████████ 74%
CHA	Jul-05	331	320	97%	6	2%	5	2%	CHA ██████████ 97%
Dentistry	Jun-06	101	85	84%	5	5%	11	11%	Dentistry ██████████ 84%
Funeral	May-07	18	13	72%	1	6%	4	22%	Funeral ██████████ 72%
Vet. Medicine	May-07	58	49	85%	8	14%	1	2%	Vet. Medicine ██████████ 85%
Pharmacy	Nov-07	47	31	66%	3	6%	13	28%	Pharmacy ██████████ 66%
Optometry	Dec-08	6	5	83%	1	17%			Optometry ██████████ 83%
Social Work	Jun-09	2	1	50%	1	50%			Social Work ██████████ 50%
Psychology	Jun-09	2	2	100%					Psychology ██████████ 100%
Counseling	Jun-09	3	2	67%			1	33%	Counseling ██████████ 67%
Physical Therapy	Nov-09								Physical Therapy N/A
<b>DHP Total</b>		<b>1401</b>	<b>1120</b>	<b>81%</b>	<b>174</b>	<b>12%</b>	<b>100</b>	<b>7%</b>	<b>DHP Total ██████████ 81%</b>

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DRAFT - CY2011 WORKPLAN DISCUSSION – DECEMBER 14, 2010

**VIRGINIA BOARD OF HEALTH PROFESSIONS  
CY2011 WORKPLAN**

DRAFT

**I. CHAIR— (Also serves as Ex Officio Member of All Committees)**

- A. Set agenda - (30 days in advance of meeting) **Status: Ongoing**
- B. Appoint Members to Committees - (as new members are oriented to the Board and for ad hoc committees)  
**Status: Ongoing**

**II. EXECUTIVE COMMITTEE—Chair, Vice-Chair, Chairs of Standing Committees**

*Mission: To review matters of interest to the Board and make recommendations to the Board. To evaluate the need for coordination among the boards and their staffs and report findings and recommendations to the Director and the boards. To monitor policies and activities of the Department, to serve as a forum for resolving conflicts among the boards and Between the boards and the Department. To review and comment on the budget for the Department.*

- A. Orient new appointees – Orient new members within 30 days of appointment, individually and at Board Member Training conducted annually. **Status: Ongoing.**
- B. Review and comment on budgetary proposal for the agency. **Status: Ongoing**
- C. Develop a committed membership by working with current and future board members for a clearer understanding of the role of BHP . Review minutes of health regulatory boards after each meeting for their use in respective health regulatory board's meetings and discussions of the citizen members as they deem appropriate (Draft now available on Townhall within ten (10) days after board meeting and final minutes within three (3) days of approval). **Status: Ongoing.**

### III. REGULATORY RESEARCH COMMITTEE

*Mission: To evaluate regulated and unregulated health care professions to consider whether the professions should be regulated and the degree of regulation to be imposed. To examine scope of practice conflicts involving regulated and unregulated professions and advise the boards and the General Assembly regarding the nature and extent of these conflicts.*

- A. Monitor the introduction of all legislation substantially affecting regulation of health providers and provide comment to the Secretary, Governor, and relevant General Assembly Members through the Director. Status: Future work pending legislation introduced for 2011.
- B. Remain abreast of emerging health occupations and professions and the need for required regulation.

#### The Emerging Professions Review - Status – Reports completed for:

- Central Services/Sterile Processing Technicians - published December 2008
- Orthopedic Technologists and Orthopedic Physician's Assistants - published December 2008
- Orthotists, Prosthetists and Pedorthists - published May 2009
- Polysomnographers – published July 2010
- Surgical Assistants and Surgical Technologists – published July 2010
- Medical Interpreters (forwarded to VDH)
- Kinesiotherapists – published September 2010

#### The Emerging Professions Review – Status – Monitoring outside developments

- Community Health Worker – Grand Aides
- Medical Laboratory Scientists and Laboratory Technicians (interim report published September 2010)

#### Requests for new studies:

- Genetic Counselors sunrise review (study under way)
- Phlebotomists sunrise review (update on request to Board in December)

- C. Consider efficacy of a new allied health board. -- **Status: pending**  
Analysis of other states methods of regulating all “allied health” professions completed July 2010  
Analysis of logistical needs of the Board of Medicine to continue to operate as the “Board of Medicine & Allied Health” underway

#### IV. EDUCATION COMMITTEE

*Mission: To provide a means of citizen access to the Department. To provide a means of publicizing the policies and programs of the Department to educate the public and elicit public support. To promote the development of standards to evaluate the competency of professions represented on the Board.*

- A. Assist the public and licensees in better understanding licensure and disciplinary procedures by developing informational brochures in a “user-friendly,” executive summary format. **Status: pending**
- B. Enhanced public outreach through the development of web portal, educational forum, partnering with Virginia business, publications and speaking engagements. **Status: ongoing** –  
Agency speakers’ numerous presentations throughout the year (Speakers Bureau planned)
- C. Continued Board Member Education via CE credit opportunities. **Status: ongoing**  
New Board Member Training (video presentations included)  
DHP Knowledge Center Web portal obtained (course development under way)

#### V. ENFORCEMENT COMMITTEE

*Mission: To review periodically the investigatory, disciplinary, and enforcement processes of the Department and the boards to ensure the protection of the public and the fair and equitable treatment of health professions.*

- A. Continue work on Sanction Reference Points Study. **Status: Ongoing; Progress reports each meeting.**
  - All Boards have a working SRP by June 30, 2010.
  - Formal evaluation underway
  - Produce a monograph for professional publication.

- B. Monitor agency DHP enforcement processes and performance. **Status: Ongoing.**
  - Continue to remain abreast of agency performance in meeting investigative and case resolution standards through periodic reports at Board meetings.
  - Receive reports on strategies being used by the individual boards as well as the agency staff to more effectively address discipline caseloads.
- C. Consider Ongoing Board Member Training in Disciplinary Process. **Status: Planning phase**
- D. Respond to Legislative Requests by 2011 General Assembly relating to discipline. **Status: Awaiting requests.**

#### VI. NOMINATING COMMITTEE

*Mission: To develop a slate of officers for annual elections of offices and a listing of members for consideration as acting officer, should the need arise.*

**Status: Will develop slate for elections at the December 14, 2010 meeting.**

#### VII. PRACTITIONER SELF-REFERRAL

*Mission: To evaluate applications for advisory opinions or exceptions to the Virginia Practitioner Self-Referral Act*

**Status: Regulations now enable referral to an appropriate agency subordinate. No new requests were received in 2010.**