Virginia Department of Health Professions
Board of Health Professions

Agenda
Board of Health Professions
Full Board Meeting
February 25, 2019 at 10:00 a.m.
Board Room 4

Call to Order	**Dr. Clayton-Jeter**
▪ **Emergency Egress**	**Dr. Carter**
▪ **Welcome New Board Members**	**Dr. Clayton-Jeter**
▪ **Approval of Minutes** ▪ August 23, 2018 – page 2 ▪ December 4, 2018 – page 10	**Dr. Clayton-Jeter**
▪ **Director's Report**	**Dr. Brown**
▪ **Legislative and Regulatory Report**	**Ms. Yeatts**
▪ **Board Chair Report**	**Dr. Clayton-Jeter**
▪ **Executive Director's Report** ▪ Board Budget – page 19 ▪ Agency Performance – page 21	**Dr. Carter**
▪ **Policies and Procedures for the Evaluation of the Need to Regulate Health Occupations and Professions** – Page 27 ▪ Vote ▪ **Board Mission Statement** – page 44 ▪ Vote ▪ **Board Bylaws** – page 45 ▪ Vote	**Dr. Carter**
▪ **Healthcare Workforce Data Center** ▪ Update	**Dr. Shobo**
▪ **Individual Board Reports**	**Dr. Clayton-Jeter**
▪ **Nominating Committee – Board Election** – page 49 ▪ Chair ▪ Vice Chair	**Dr. Johnson**
▪ **New Business**	**Dr. Clayton-Jeter**
▪ **Next Full Board Meeting** ▪ May 14, 2019	**Dr. Clayton-Jeter**
▪ **Adjournment**	

Board of Health Professions Full Board Meeting

August 23, 2018
10:00 a.m. - Board Room 4
9960 Mayland Dr, Henrico, VA 23233

In Attendance	Kevin Doyle, EdD, LPC, LSATP, Board of Counseling
	Allen R. Jones, Jr., DPT, PT, Board of Physical Therapy
	Derrick Kendall, NHA, Board of Long-Term Care Administrators
	Trula E. Minton, MS, RN, Board of Nursing
	Kevin P. O'Connor, MD, Board of Medicine
	Martha S. Perry, MS, Citizen Member
	Herb Stewart, PhD, Board of Psychology
	Jacquelyn Tyler, RN, Citizen Member
	Laura P. Verdun, MA, CCC-SLP, Board of Audiology & Speech-Language Pathology
	James Wells, RPh, Citizen Member
Absent	Lisette P. Carbajal, Citizen Member
	Helene D. Clayton-Jeter, OD, Board of Optometry
	Mark Johnson, DVM, Board of Veterinary Medicine
	Ryan Logan, RPh, Board of Pharmacy
	Maribel E. Ramos, Citizen Member
	James D. Watkins, DDS, Board of Dentistry
	Vacant – Board of Social Work
	Vacant – Board of Funeral Directors and Embalmers
DHP Staff	Barbara Allison-Bryan, Deputy Director, DHP
	David Brown, Director, DHP
	Elizabeth A. Carter, Ph.D., Executive Director BHP
	Jaime Hoyle, Executive Director Behavioral Sciences Boards, DHP
	Laura L. Jackson, MSHSA, Operations Manager, BHP
	Elaine Yeatts, Senior Policy Analyst DHP
	Diane Powers, Communications Director, DHP
	Corie Tillman Wolf, Executive Director, Boards of Funeral Directors and Embalmers, Physical Therapy, Long-Term Care Directors, DHP
OAG Representative	Charise Mitchell

Presenters	Amy Marschean, DARS
	Dr. Richard Lindsay, Lindsay Institute for Innovations in Caregiving
	Christine Jensen, PhD, Riverside
	Stephanie Willinger, Deputy Director,
	Stephanie Willinger, Deputy Executive Director Licensing, Board of Nursing
	Na'im Campbell, Backgrounds Investigation Supervisor, CBC Unit DHP
Speakers	No speakers signed-in
Observers	Sarah Deaver, AATA
	Kandra Orr
	Terri Giller, VATA
	Darlene Green, VATA
	Carol Olson, VATA
	Gretchen Graves, VATA
Media	Katie O'Connor, Virginia Mercury
Emergency Egress	Dr. Carter

Call to Order

Acting Chair: Dr. Jones, Jr. **Time** 10:02 a.m.

Quorum Established

Public Comment

Discussion

There was no public comment

Approval of Minutes

Presenter Dr. Jones, Jr.

Discussion

The June 26, 2018 Full Board meeting minutes were approved with no revisions. All members in favor, none opposed.

Welcome

Presenter Dr. Jones, Jr.

Dr. Allen R. Jones, Jr. was acting Chair for this meeting as Dr. Clayton-Jeter is out of the state on business. He thanked the board members for their commitment to the Commonwealth and thanked staff for their work and dedication to DHP.

Directors Report

Presenter Dr. Brown

Discussion

Dr. Brown stated that the agency is gearing up for the 2019 legislative session.

In follow-up to the 2018 session:

- Dr. Brown briefed the Board on an upcoming e-prescribing meeting;
- Dr. Allison-Bryan will be meeting with stakeholders to take a preliminary look into regulating community health workers;
- DHP will be convening a meeting of the Behavioral Sciences Unit, Board of Nursing and Board of Medicine to come up with a common set of regulations regarding conversion therapy for minors;
- A workgroup will be convening to see how the PMP may be automated for greater efficiency in ER physicians notifying prescribers of a patient overdose;
- In lieu of yearly board member orientation, DHP will be initiating at the board level, 45 minute board member orientation sessions to train board members on changes relevant to the board and the agency;
- Ms. Hahn and Dr. Allison-Bryan are continuing to work with Virginia State Police and the Henrico County Crime Prevention Environmental Divide Unit to establish agency safety protocol.

Invited Presentations

Presenter Ms. Marschean

Virginia Family Caregivers

Dr. Richard Lindsay provided a PowerPoint presentation on the status of today's caregiving community. Ms. Marschean followed up with an overview of the Virginia Department for Aging and Rehabilitative Services report on Recommendations for Improving Family Caregiver Support in Virginia 2018. Dr. Jenson provided details of different approaches Riverside is taking to support their staff of caregivers.

Criminal Background Checks

Presenter Ms. Willinger

Discussion

Ms. Willinger provided a PowerPoint presentation on how the Virginia Board of Nursing obtained authority and the methods and impact on public safety of criminal background checks. The Board of Pharmacy is also utilizing CBCs for applicants seeking a Pharmaceutical Processor permit. *Attachment 1*

**Break*

Regulatory Research Committee - Art Therapist Study Recommendation

Presenter Mr. Wells

Discussion

Mr. Wells provided information regarding the Committee's recommendation to license Art Therapists in Virginia. He stated that the burden of regulation was justified and proof of The Criteria was supported.

Motion

A motion was made to accept the recommendation of the Regulatory Research Committee to license Art Therapists in Virginia was made and by a vote of eight (8) members in favor, one (1) opposed, was properly seconded.

Legislative and Regulatory Report

Presenter Ms. Yeatts

Discussion

Ms. Yeatts advised the Board that there are 13 proposals to move forward in the 2019 legislative session. Updates to regulations and General Assembly legislative actions relevant to DHP were also provided. *Attachment 2*

**Lunch*

Executive Directors Report

Presenter Dr. Carter

Board Budget

Dr. Carter stated that the Board is operating within budget.

Agency Performance

Dr. Carter reviewed the agencies performance measures in relation to clearance rate, age of pending caseload and time to disposition.

Sanction Reference Points (SRP) - Update

Dr. Carter advised that the Board of Long Term Care had just completed its latest SRP revisions, and the Board of Dentistry is next.

Policies and Procedures

Dr. Carter discussed the updating of the Board's sunrise policies and procedures guidance document, and that the matter will be placed on the December agenda for the full Board's consideration and vote.

New FTE Allocation

Dr. Carter advised the Board of a new FTE to the unit. Dr. Allison-Bryan added that the agency's statistical analysis and data reporting functions are returning to BHP. The new data analyst position will focus on data validation, analysis and reporting, methods documentation, and providing technical analytic support related to agency performance measures, strategic planning, and support for DHP HWDC increasing users.

Healthcare Workforce Data Center (HWDC)

Presenter Dr. Carter

Discussion

Dr. Carter stated that all 2017 profession workforce surveys have been approved by the respective Board and are posted on the agencies website. HWDC collaboration with VLDS is still ongoing. The HWDC released its first newsletter in August with quarterly reports to follow.

Board Reports

Presenter Dr. Jones, Jr.

Board of Audiology & Speech Language Pathology

Ms. Verdun was not in attendance.

Board of Counseling

Dr. Doyle stated that the Board of Counseling is convening a Supervisor's Summit on September 7, 2018 that will allow an opportunity to explain the laws and regulations around supervision. He stated that the board is also registering Qualified Mental Health Professionals. With the additional of QMHPs, the Board of Counseling now has an applicant count of over 24,000. He stated that the Behavioral Sciences Boards would also be participating in the conversion therapy for minor's workgroup.

Board of Dentistry

Dr. Watkins was not in attendance.

Board of Funeral Directors & Embalmers

The seat for this Board is currently vacant.

Board of Long Term Care Administrators

Mr. Kendall stated that the Board has finalized its revisions to the Sanction Reference Point manual and that the periodic review of the Regulations Governing the Practice of Nursing Home Administrators was in its final stage at the Secretary's Office. He was happy to announce that the Board has no vacancies at this time.

Board of Medicine

Dr. O'Connor reported that the board has five (5) new members. The Executive Committee met August 3, 2018 and discussed autonomous practice for Nurse Practitioners; the Board is currently undergoing a periodic review of regulations; and the Board of Medicine will be participating in the conversion therapy for minor's workgroup.

Board of Nursing

Ms. Minton attended the 40th annual NCSBN national meeting and was very excited to announce that Ms. Douglas, Executive Director for the Board of Nursing, has been appointed to the NCSBN Board. She also advised that the NCSBN is working to address the role of nurses working with patients who use medical marijuana. She also discussed that "Nursing Now" is a global campaign that aims to improve health by raising the profile of nursing worldwide.

Board of Optometry

Dr. Jones, Jr. provided the report as follows:

*Next meeting is scheduled for July 13, 2018.

Complaints FY2016: Received 13
Complaints FY2017: Received 36

Licenses (in state/out of state based on address of record provided by licensee)
FY2017: Total – 1,921 TPA – 1,148/390 DPA – 27/90 Professional Designations – 266
Y-T-D FY2018: Total – 1,929 TPA – 1,168/400 DPA – 20/84 Professional Designations – 257

Continuing Education: Audit has not yet commenced.

Regulatory Changes: The Board adopted emergency regulations for the prescribing of opioids, which became effective on 10/30/17. The final replacement regulations under review in the Secretary's office. In addition, a periodic review is in the proposed stage and is still under consideration by the administration.

In response to a petition for rulemaking, the Board moved forward with a NOIRA to add inactive licenses to the regulations.

Board of Pharmacy

Mr. Logan was not in attendance.

Board of Physical Therapy

Dr. Jones, Jr., reported that he is no longer the President of the Board, that Arkena Daily was appointed President at the August 16, 2018 meeting. He stated that the Virginia Board of Physical Therapy was chosen as one of two Boards across the country to receive the 2018 Excellence in Regulation Award from the Federation of State Boards of Physical Therapy (FSBPT). The Boards guidance documents have been reviewed and updated. The Board voted to pursue legislation to enact the Physical Therapy Licensure Compact.

Board of Psychology

Dr. Stewart stated they have approximately 6,500 applicants. The Board has a member seat specific to applied psychologist and due to the low number in the profession, this seat has been vacant for an extended period of time. The board is considering requesting reallocation of the seat. The Board is performing a top to bottom review of existing regulations and has submitted for a one-time fee reduction. The Board of Psychology will also be participating in the conversion therapy for minor's workgroup. In July, the Board voted to endorse PSYPAC and it has been added to 2019 legislation.

Board of Social Work

The seat for this Board is currently vacant.

Board of Veterinary Medicine

Dr. Johnson was not in attendance.

New Business

Presenter Dr. Jones, Jr.

There was no new business to discuss.

Next Full Board Meeting – December 4, 2018

Presenter Dr. Jones, Jr.

Dr. Jones, Jr. announced the next Full Board meeting date as December 4, 2018.

Adjourned 1:26 p.m.

Acting Chair Allen R. Jones, Jr., DPT, PT

Signature: _____ Date: _____/_____/_____

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

Signature: _____ Date: _____/_____/_____

Virginia Department of
Health Professions
Board of Health Professions

Board of Health Professions
Full Board Meeting
December 4, 2018 at 10:00 a.m.
Board Room 4
9960 Mayland Dr., Henrico, VA 23233
DRAFT

In Attendance	Helene D. Clayton-Jeter, OD, Board of Optometry
	Mark Johnson, DVM, Board of Veterinary Medicine
	Allen R. Jones, Jr., DPT, PT, Board of Physical Therapy
	Trula E. Minton, MS, RN, Board of Nursing
	Herb Stewart, PhD, Board of Psychology
	James D. Watkins, DDS, Board of Dentistry
	James Wells, RPh, Citizen Member
Absent	Lisette P. Carbajal, MPA, Citizen Member
	Kevin Doyle, EdD, LPC, LSATP, Board of Counseling
	Louis R. Jones, FSL, Board of Funeral Directors and Embalmers
	Derrick Kendall, NHA, Board of Long-Term Care Administrators
	Alison R. King, PhD, CCC-SLP, Board of Audiology & Speech-Language Pathology
	Ryan Logan, RPh, Board of Pharmacy
	Kevin O'Connor, MD, Board of Medicine
	Martha S. Rackets, PhD, Citizen Member
	Maribel Ramos, Citizen Member
	John M. Salay, MSW, Board of Social Work
DHP Staff	David Brown, DC, Director DHP
	Elizabeth A. Carter, Ph.D., Executive Director BHP
	Laura L. Jackson, MSHSA, Operations Manager BHP
	Charise Mitchel, OAG
	Yetty Shobo, PhD, Deputy Executive Director BHP
	Elaine Yeatts, Senior Policy Analyst DHP
Presenters	Charles Giles, Budget Manager DHP
	Yetty Shobo, PhD, Deputy Executive Direct BHP
Speakers	No speakers signed-in
Observers	No observers signed-in
Emergency Egress	Dr. Carter

Virginia Department of
Health Professions
Board of Health Professions

Board of Health Professions
Full Board Meeting
December 4, 2018 at 10:00 a.m.
Board Room 4
9960 Mayland Dr., Henrico, VA 23233
DRAFT

Call to Order

Chair: Dr. Clayton-Jeter **Time** 10:07 a.m.

Quorum Not established 7 members in attendance, 9 needed for quorum

Public Comment

Discussion

There was no public comment

Welcome of New Board Members

Discussion

Dr. Clayton Jeter welcomed three new board members:

- Louis R. Jones, Board of Funeral Directors & Embalmers
- Alison R. King, PhD, CCC-SLP, Board of Audiology & Speech Language Pathology
- John M. Salay, MSW, board of Social Work

Legislative and Regulatory Report

Presenter Ms. Yeatts

Discussion

Ms. Yeatts advised the Board of updates to the laws and regulations that affect DHP currently in the General Assembly. There are currently 59 actions with 21 at the Governor's office.

Directors Report

Presenter Dr. Brown

Discussion

Dr. Brown reported that DHP has hired a contractor to assist with the creation of a new agency website. This new website will be user friendly for both internal staff as well as the public. IT has made it possible for boards to enter their own information on the agencies webpage.

Dr. Brown provided two handouts that included the Summary and Recommendations made by JLARC in the findings from the DPOR review. He stated that there were several comparisons in the report to DHP and how DHP can use the report findings as a blueprint for the future.

Approval of Minutes

Presenter Dr. Clayton-Jeter

Discussion

Approval of minutes was carried over to February 25, 2019 due to lack of quorum.

Board Chair Report

Presenter Dr. Clayton-Jeter

Discussion

Dr. Clayton-Jeter read the agencies Mission statement and stressed that it is each board members job to serve and protect the public.

Budget Report

Presenter Mr. Giles

Discussion

Mr. Giles reviewed the agencies FY20 Budget.

Executive Directors Report

Presenter Dr. Carter

Board Budget

Dr. Carter stated that the Board is operating under budget.

Agency Performance

Dr. Carter provided a review of the agencies current license count, applicant satisfaction survey results and cases received, open & closed.

Up for Review – Board Bylaws and Mission Statement

Dr. Carter stated that the Board will be reviewing its Bylaws and Mission statement. This discussion served as the start of the 30-day review period. A vote will be taken at the February 25, 2019 meeting.

Sanction Reference Points (SRP) - Update

SRP work for the boards is ongoing.

Policies & Procedures

Due to lack of quorum, this vote has been carried over to the February 25, 2019 meeting.

Lunch break - 12:05 p.m.

Healthcare Workforce Data Center (DHP HWDC)

Presenter Dr. Shobo

Discussion

Dr. Shobo provided a PowerPoint presentation that she presented at the annual Southern Demographics Association meeting that utilized DHP licensure data. She also advised the Board that DHP HWDC is up to date on all survey reports and posting of the workforce briefs and is in the process of collecting the survey data from December license renewals.

Board Reports

Presenter Dr. Clayton-Jeter

Board of Audiology & Speech Language Pathology

Dr. King was not present. There was no report for this Board.

Board of Counseling

Dr. Doyle was not present. There was no report for this Board.

Board of Dentistry

Dr. Watkins provided an overview of the Boards activities since its last meeting. He stated that the since July 2018 they have received one new board member appointment and that the September 14, 2018 Board meeting was cancelled due to the hurricane. The Boards Regulatory and Legislative Review Committee met in October and SRP interviews are ongoing. The next board meeting is scheduled for December 14, 2018.

Board of Funeral Directors & Embalmers

Mr. Jones was not present. There was not report for this Board.

Board of Long Term Care Administrators

Mr. Kendall was not present. Dr. Carter provided his written update. The LTCA Board items of interest were that final regulations from its periodic review of regulations for both Assisted Living Facility

Administrators and Nursing Home Administrators are pending review in the Governor's Office. Additionally, one item of special interest on the Board's November agenda is Emergency Preparedness and the lessons learned from Hurricane Florence for LTC facilities. Board member Karen Stanfield, who oversees a number of nursing home facilities in the region, including in the Wilmington area of North Carolina, will share her insights about what went well and did not go well. This will likely stimulate discussion about the regulatory implications when there are emergencies of this magnitude.

Board of Medicine

Dr. O'Connor was not present. There was no report for this Board.

Board of Nursing

Ms. Minton stated that the Board last met November 13, 2018. She was happy to report that all Board staff vacancies within the department have been filled, and that Dr. Paula Saxby will be retiring in June 2019. She noted that Executive Director Jay Douglas has been appointed to the NCSBN Board of Directors. The Board is currently reviewing 14 guidance documents, including the prescribing of bupropion by licensed NPs. The Board had extensive turnover and is in the beginning phase of strategic planning for new board member training. Ms. Minton also stated that probable cause acceptance of recommendation was at 88%.

Board of Optometry

Dr. Clayton-Jeter provided an overview of the Boards activities since its last meeting. (Attachment 1)

Board of Pharmacy

Mr. Logan was not present. There was no report for this Board.

Board of Physical Therapy

Dr. Jones, Jr. provided an overview of the Boards activities since its last meeting. (Attachment 2)

Board of Psychology

Dr. Stewart provided an overview of the Boards activities since its last meeting. He stated that he and Ms. Hoyle attended the ASPPB annual meeting in Utah. The meeting focused on the roll-out of the Enhanced Examination for Professional practice in Psychology (EPPP), which would add a competency component to the current EPPP. Future meetings of the board will include discussion of the development of the competency part and its impact on Virginia.

Board of Social Work

Mr. Salay was not present. There was no report for this Board.

Board of Veterinary Medicine

Dr. Johnson provided an overview of the Boards activities since its last meeting. (Attachment 3)

Election of Officers - Nominating Committee

Presenter Ms. Haynes, Chair

Discussion

The Nominating Committee met prior to the Full Board meeting to organize a slate of officers for today's Chair and Vice Chair elections. Dr. Johnson stated that Dr. Allen Jones, Jr., submitted interest in the Chair position and James Wells, RPh, submitted interest in the Vice Chair position. Due to lack of quorum this vote will be carried over to the February 25, 2019 Full Board meeting.

New Business

Presenter Dr. Clayton-Jeter

No new business was discussed.

February 25, 2019 Full Board Meeting

Presenter Dr. Clayton-Jeter

Dr. Clayton-Jeter announced the next Full Board meeting date as February 25, 2019.

Adjourned

Adjourned 1:16 p.m.

Chair Helene Clayton-Jeter, OD

Signature: _____ Date: _____/_____/_____

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

Signature: _____ Date: _____/_____/_____

Virginia Board of Optometry
Board of Health Professions Meeting
December 4, 2018

Statistics

January 1 – December 4, 2018

Board - 3	Committee – 0	Disciplinary – 5

Complaints (no further update)

FY2016 Received - 13	FY2017 Received - 36	FY2018 Received - 42	Y-T-D FY2019 Received - 7

Licenses (in state/out of state based on address of record provided by licensee)

Licensure renewal is currently underway. There was a fee reduction with this renewal and a change in expiration date. The expiration date is moved to March 31. This year's renewal will result in a license that is valid for 15 months.

FY2017

Total – 1,921	TPA – 1,148/390	DPA – 27/90	Professional Designations - 266

Y-T-D as of 11/30/19

Total – 1,948	TPA – 1,178/407	DPA – 21/84	Professional Designations - 258

Continuing Education
Audit underway.

Regulatory Changes
The Board is promulgating regulations for and inactive optometry license.

Board of Physical Therapy

Last Meeting: November 13, 2018

Current Items of Interest:

- **PT Licensure Compact** - In May, the Board voted to pursue legislation to enact the Physical Therapy Licensure Compact. This legislation would allow agreement between member states to improve access to physical therapy services for the public by increasing the mobility of eligible physical therapy providers to work in multiple states. The Board has received word that this legislation will be in the Governor's Legislative Package for 2019.

- In October, the Board received the 2018 Excellence in Regulation Award from the Federation of State Boards of Physical Therapy (FSBPT). The Board was one of two states chosen for the award.

- In November, the Board received training from Kim Small and Neal Kauder from Visual Research, Inc., regarding the Board's updated Sanctioning Reference Points (SRP) worksheets. The Board voted to make slight changes to the manual, which is being updated for use.

- The Board has initiated the periodic review process for its regulations related to the practice of physical therapy, as well as the Board's public participation guidelines.

Virginia Board of Veterinary Medicine
Board of Health Professions Meeting
December 4, 2018

Statistics

Next scheduled meeting is November 6, 2018.

Complaints (62 additional cases equates to a 31.5% increase; complexity of cases have also increased)

FY2016 Received – 197	FY2017 Received - 259	FY2018 Received - 217	Y-T-D FY2019 Received - 76

Licenses (in state/out of state based on address of record provided by licensee)
Renewal currently underway.

Type of Licensee	Total # of Licensees	In-State Address Active/Inactive	Out-of-State Address Active/Inactive
Veterinarian	4,458	3234/56	946/222
Veterinary Technician	2,318	1,986/43	253/28
Equine Dental Technician	26	17/0	9/0
Veterinary Establishment Stationary & Ambulatory	1156		

Continuing Education
Continuing education (CE) audit is complete.

Inspection Update
Starting in January, the routine inspection process will focus on the most frequent types of violations, which are related to drug stocks and surgical suites. Focused inspection will be a better utilization of resources and improve efficiency of the inspection process. A focused inspection will not preclude and inspection from citing a violation related to other areas.

Legislation of Interest
The Board continues to oversee the new PMP reporting requirements for veterinarians. There are 1,163 veterinarians with a current, active license that have not completed a waiver or registered to report to the PMP. The Board is working with the PMP to resolved this issue.

Staffing Update
A Veterinary Review Coordinator has been added to board staff to help with the disciplinary caseload. The VRC has been delegated authority by the Board to make probable cause decisions for cases involving impairment, facility inspections violations, non-compliance with a board order and PMP reporting.

The next board meeting is scheduled for March 7, 2017.

Virginia Department of Health Professions

Revenue and Expenditures Summary

Department 30900 - Board of Health Professions

For the Period Beginning July 1, 2018 and Ending January 31, 2019

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
5011110	Employer Retirement Contrib.	19,212.46	46,046.00	26,833.54	41.72%
5011120	Fed Old-Age Ins- Sal St Emp	12,754.67	26,054.00	13,299.33	48.95%
5011130	Fed Old-Age Ins- Wage Earners	95.63	6,682.00	6,586.37	1.43%
5011140	Group Insurance	2,051.70	4,462.00	2,410.30	45.98%
5011150	Medical/Hospitalization Ins.	5,063.00	29,868.00	24,805.00	16.95%
5011160	Retiree Medical/Hospitalizatn	1,833.30	3,985.00	2,151.70	46.01%
5011170	Long term Disability Ins	974.98	2,112.00	1,137.02	46.16%
	Total Employee Benefits	41,985.74	119,209.00	77,223.26	35.22%
5011200	Salaries				
5011230	Salaries, Classified	156,608.70	340,574.00	183,965.30	45.98%
	Total Salaries	156,608.70	340,574.00	183,965.30	45.98%
5011300	Special Payments				
5011340	Specified Per Diem Payment	1,250.00	4,350.00	3,100.00	28.74%
5011380	Deferred Compnstn Match Pmts	750.00	1,920.00	1,170.00	39.06%
	Total Special Payments	2,000.00	6,270.00	4,270.00	31.90%
5011400	Wages				
5011410	Wages, General	10,673.76	45,739.00	35,065.24	23.34%
	Total Wages	10,673.76	45,739.00	35,065.24	23.34%
5011600	Terminatn Personal Svce Costs				
5011660	Defined Contribution Match - Hy	1,957.95	-	(1,957.95)	0.00%
	Total Terminatn Personal Svce Costs	1,957.95	-	(1,957.95)	0.00%
5011930	Turnover/Vacancy Benefits		-	-	0.00%
	Total Personal Services	213,226.15	511,792.00	298,565.85	41.66%
5012000	Contractual Svs				
5012100	Communication Services		-		
5012140	Postal Services	21.82	950.00	928.18	2.30%
5012160	Telecommunications Svcs (VITA)	1,759.69	2,800.00	1,040.31	62.85%
5012170	Telecomm. Svcs (Non-State)	337.50	-	(337.50)	0.00%
5012190	Inbound Freight Services	12.63	20.00	7.37	63.15%
	Total Communication Services	2,131.64	3,770.00	1,638.36	56.54%
5012200	Employee Development Services				
5012210	Organization Memberships	275.00	-	(275.00)	0.00%
5012220	Publication Subscriptions	-	50.00	50.00	0.00%
5012240	Employee Trainng/Workshop/Conf	909.50	4,900.00	3,990.50	18.56%
5012250	Employee Tuition Reimbursement	3,648.00	-	(3,648.00)	0.00%
5012270	Emp Trning- Trns, Ldgng & Meals	-	600.00	600.00	0.00%
	Total Employee Development Services	4,832.50	5,550.00	717.50	87.07%
5012400	Mgmnt and Informational Svcs				
5012470	Legal Services	360.00	1,050.00	690.00	34.29%
	Total Mgmnt and Informational Svcs	360.00	1,050.00	690.00	34.29%
5012600	Support Services				
5012640	Food & Dietary Services	844.30	675.00	(169.30)	125.08%

Virginia Department of Health Professions

Revenue and Expenditures Summary

Department 30900 - Board of Health Professions

For the Period Beginning July 1, 2018 and Ending January 31, 2019

Account Number	Account Description	Amount	Budget	Amount Under/(Over) Budget	% of Budget
5012660	Manual Labor Services	-	25.00	25.00	0.00%
5012670	Production Services	-	10.00	10.00	0.00%
5012680	Skilled Services	82,377.50	120,000.00	37,622.50	68.65%
	Total Support Services	83,221.80	120,710.00	37,488.20	68.94%
5012700	Technical Services				
5012790	Computer Software Dvp Svs	-	8,860.00	8,860.00	0.00%
	Total Technical Services	-	8,860.00	8,860.00	0.00%
5012800	Transportation Services				
5012820	Travel, Personal Vehicle	2,947.97	3,945.00	997.03	74.73%
5012830	Travel, Public Carriers	538.60	1,020.00	481.40	52.80%
5012850	Travel, Subsistence & Lodging	2,089.79	1,600.00	(489.79)	130.61%
5012880	Trvl, Meal Reimb- Not Rprtble	874.75	985.00	110.25	88.81%
	Total Transportation Services	6,451.11	7,550.00	1,098.89	85.45%
	Total Contractual Svs	96,997.05	147,490.00	50,492.95	65.77%
5013000	Supplies And Materials				
5013100	Administrative Supplies				
5013120	Office Supplies	1,244.40	3,800.00	2,555.60	32.75%
	Total Administrative Supplies	1,244.40	3,800.00	2,555.60	32.75%
	Total Supplies And Materials	1,244.40	3,800.00	2,555.60	32.75%
5015000	Continuous Charges				
5015300	Operating Lease Payments				
5015340	Equipment Rentals	293.48	900.00	606.52	32.61%
5015350	Building Rentals	19.20	-	(19.20)	0.00%
5015360	Land Rentals	-	40.00	40.00	0.00%
5015390	Building Rentals - Non State	13,651.15	23,398.00	9,746.85	58.34%
	Total Operating Lease Payments	13,963.83	24,338.00	10,374.17	57.37%
	Total Continuous Charges	13,963.83	24,338.00	10,374.17	57.37%
5022000	Equipment				
5022100	Computer Hrdware & Sftware	-			
5022170	Other Computer Equipment	1,595.50	-	(1,595.50)	0.00%
5022180	Computer Software Purchases	23,386.41	-	(23,386.41)	0.00%
	Total Computer Hrdware & Sftware	24,981.91	-	(24,981.91)	0.00%
5022200	Educational & Cultural Equip	-			
5022240	Reference Equipment	108.00	458.00	350.00	23.58%
	Total Educational & Cultural Equip	108.00	458.00	350.00	23.58%
5022600	Office Equipment				
5022630	Office Incidentals	-	30.00	30.00	0.00%
	Total Office Equipment	-	30.00	30.00	0.00%
	Total Equipment	25,089.91	488.00	(24,601.91)	5141.38%
	Total Expenditures	350,521.34	687,908.00	337,386.66	50.95%

Virginia Department of Health Professions

Patient Care Disciplinary Case Processing Times (with Continuance Days): Quarterly Performance Measurement, Q1 2015 - Q1 2019

David E. Brown, D.C.
Director

"To ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public."
DHP Mission Statement

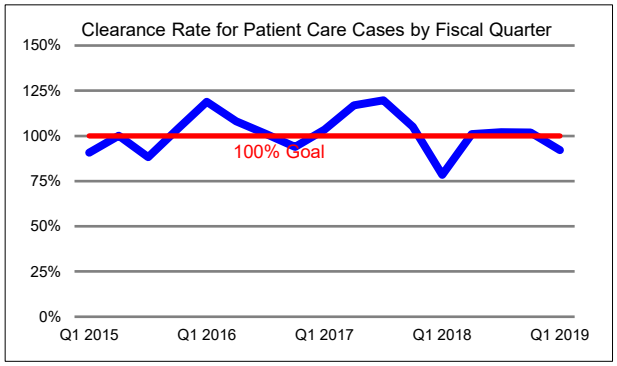
In order to uphold its mission relating to discipline, DHP continually assesses and reports on performance. Extensive trend information is provided on the DHP website, in biennial reports, and, most recently, on Virginia Performs through Key Performance Measures (KPMs). KPMs offer a concise, balanced, and data-based way to measure disciplinary case processing. These three measures, taken together, enable staff to identify and focus on areas of greatest importance in managing the disciplinary caseload; Clearance Rate, Age of Pending Caseload and Time to Disposition uphold the objectives of the DHP mission statement. The following pages show the KPMs by board, listed in order by caseload volume; volume is defined as the number of cases received during the previous 4 quarters. In addition, readers should be aware that vertical scales on the line charts change, both across boards and measures, in order to accommodate varying degrees of data fluctuation. This report includes the number of days the case was in the continuance activity.

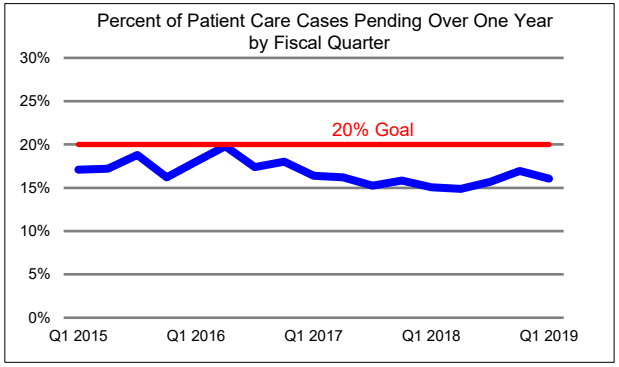
Clearance Rate - the number of closed cases as a percentage of the number of received cases. A 100% clearance rate means that the agency is closing the same number of cases as it receives each quarter. DHP's goal is to maintain a 100% clearance rate of allegations of misconduct. The current quarter's clearance rate is **92%**, with **1173** patient care cases received and **1081** closed.

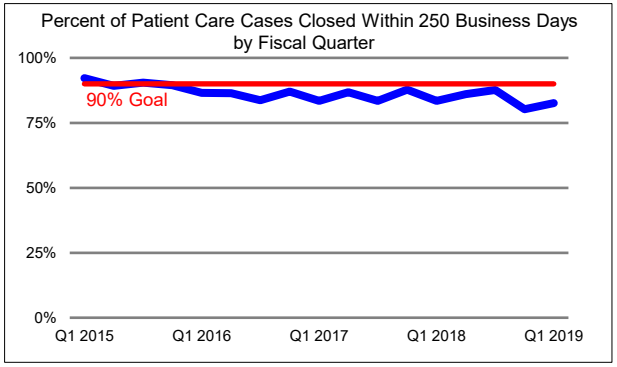
Age of Pending Caseload - the percent of open patient care cases over 250 business days old. This measure tracks the backlog of patient care cases older than 250 business days to aid management in providing specific closure targets. The goal is to maintain the percentage of open patient care cases older than 250 business days at no more than 20%. The current quarter shows **16%** patient care cases pending over 250 business days with **2878** patient care cases pending and **462** pending over 250 business days.

Note: This measure may be off 1%-2% in Q4 2018

Time to Disposition - the percent of patient care cases closed within 250 business days for cases received within the preceding eight quarters. This moving eight-quarter window approach captures the vast majority of cases closed in a given quarter and effectively removes any undue influence of the oldest cases on the measure. The goal is to resolve 90% of patient care cases within 250 business days. The current quarter shows **83%** percent of patient care cases being resolved within 250 business days with **884** cases closed and **1071** closed within 250 business days.







Note: Q4 2018 data was gathered 08/01/2018, rather than the day after the end of the quarter.

Virginia Department of Health Professions - Patient Care Disciplinary Case Processing Times (with Continuance Days), by Board

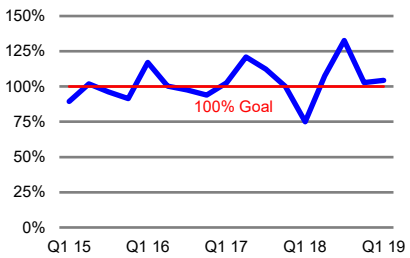
Clearance Rate

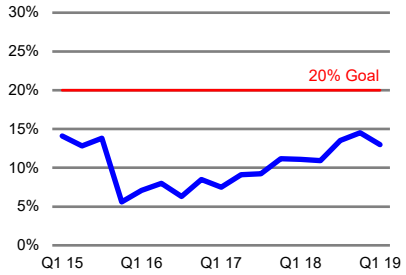
Age of Pending Caseload
(percent of cases pending over one year)

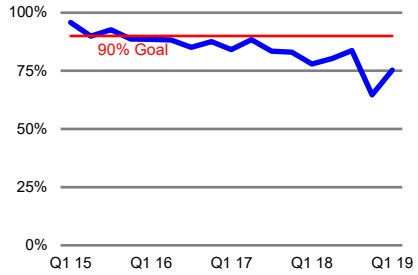
Percent Closed in 250 Business Days

Nursing - In Q1 2019, the clearance rate was **104%**, the Pending Caseload older than 250 business days was **13%** and the percent closed within 250 business days was **75%**

Q1 2019 Caseloads:
Received = **503** , Closed = **525**
Pending over 250 days = **158**
Closed within 250 days = **394**

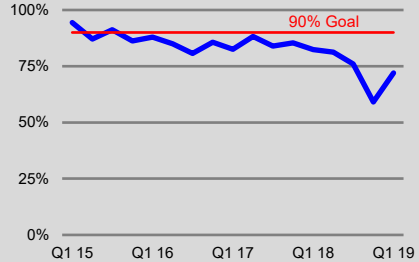






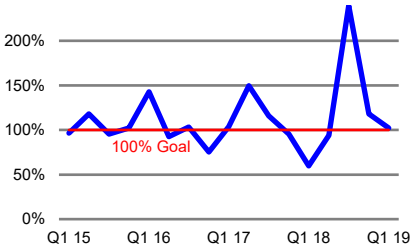
Nurses - In Q1 2019, the clearance rate was **105%,** the Pending Caseload older than 250 business days was **14%** and the percent closed within 250 business days was **72%.**

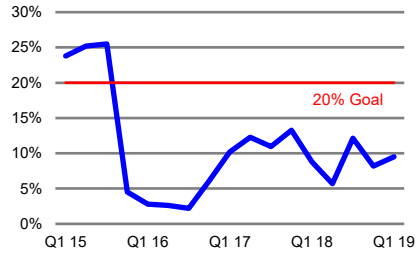
Q1 2019 Caseloads:
Received = **371** , Closed = **390**
Pending over 250 days = **134**
Closed within 250 days = **280**

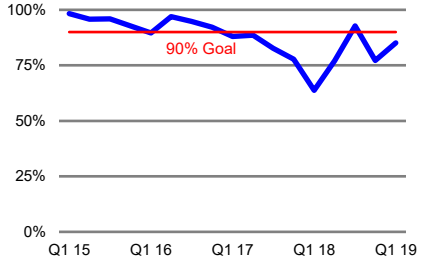


CNA - In Q1 2019, the clearance rate was **102%,** the Pending Caseload older than 250 business days was **10%** and the percent closed within 250 business days was **85%.**

Q1 2019 Caseloads:
Received= **132** , Closed = **135**
Pending over 250 days = **24**
Closed within 250 days = **114**







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

Virginia Department of Health Professions - Patient Care Disciplinary Case Processing Times (with Continuance Days), by Board

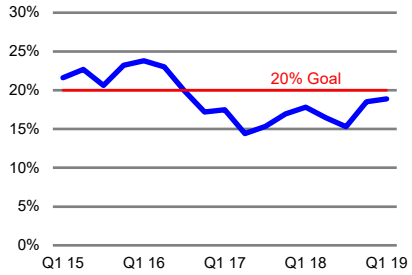
Clearance Rate

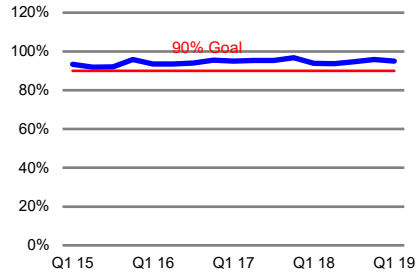
Age of Pending Caseload
(percent of cases pending over one year)

Percent Closed in 250 Business Days

Medicine - In Q1 2019, the clearance rate was **86%,** the Pending Caseload older than 250 business days was **19%** and the percent closed within 250 business days was **95%.**

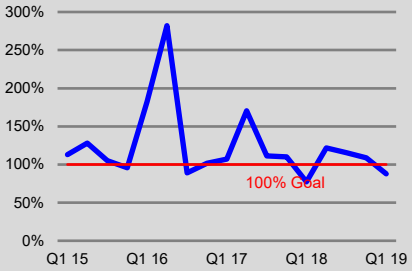
Q1 2019 Caseloads:
Received = **359** , Closed = **310**
Pending over 250 days = **155**
Closed within 250 days = **291**

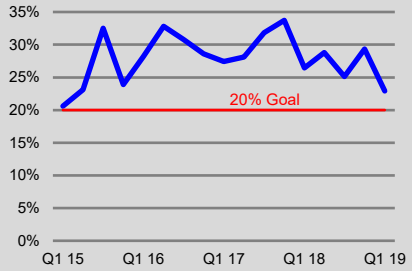


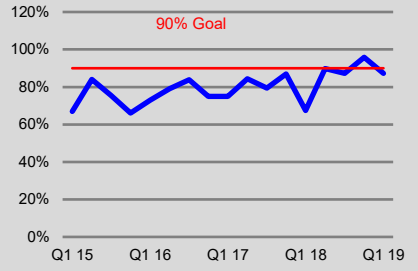


Dentistry - In Q1 2019, the clearance rate was **88%,** the Pending Caseload older than 250 business days was **23%** and the percent closed within 250 business days was **87%.**

Q1 2019 Caseloads:
Received= **91** , Closed = **80**
Pending over 250 days = **41**
Closed within 250 days = **69**

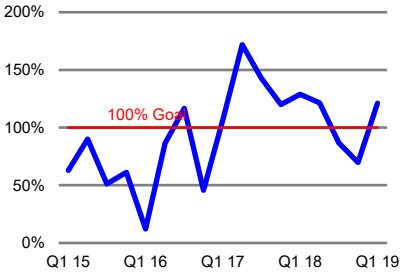


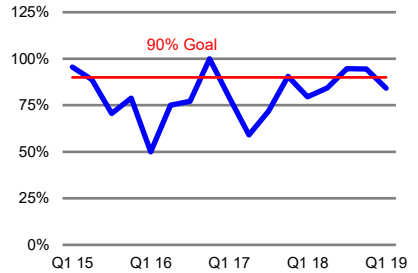




Pharmacy - In Q1 2019, the clearance rate was **121%,** the Pending Caseload older than 250 business days was **7%** and the percent closed within 250 business days was **84%.**

Q1 2019 Caseloads:
Received = **52** , Closed = **63**
Pending over 250 days = **9**
Closed within 250 days = **53**





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

Virginia Department of Health Professions - Patient Care Disciplinary Case Processing Times (with Continuance Days), by Board

Clearance Rate

Age of Pending Caseload

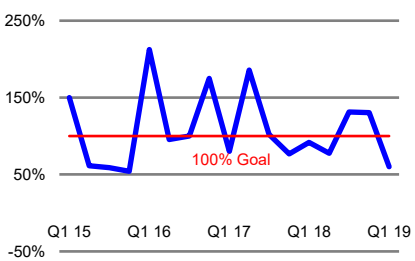
(percent of cases pending over one year)

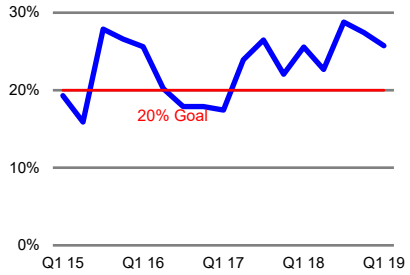
Percent Closed in 250 Business Days

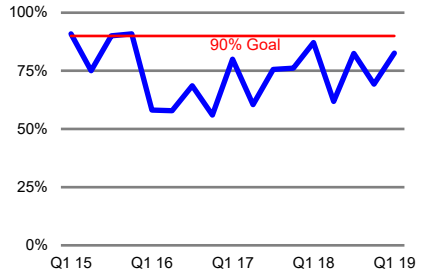
Veterinary Medicine - In Q1 2019, the clearance rate was **60%,** the Pending Caseload older 250 business days was **26%** and the percent closed within 250 business days was **83%.**

Q1 2019 Caseloads:

Received = **40** , Closed = **24**
Pending over 250 days = **35**
Closed within 250 days = **19**



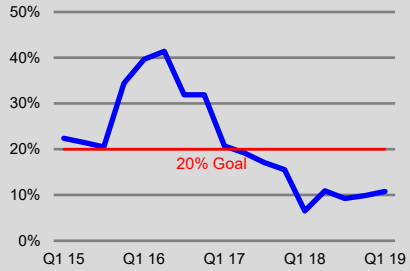




Counseling - In Q1 2019, the clearance rate was **58%,** the Pending Caseload older than 250 business days was **11%** and the percent closed within 250 business days was **78%.**

Q1 2019 Caseloads:

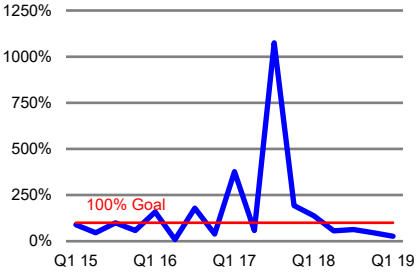
Received = **31** , Closed = **18**
Pending over 250 days = **10**
Closed within 250 days = **14**

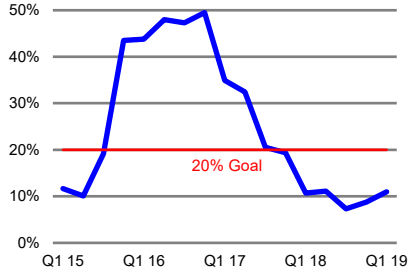


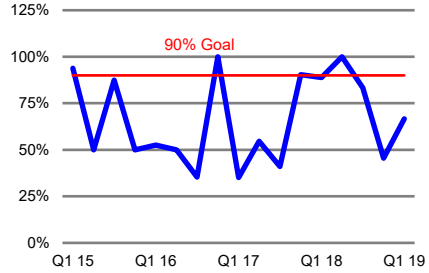
Social Work - In Q1 2019, the clearance rate was **27%,** the Pending Caseload older than 250 business days was **11%** and the percent closed within 250 business days was **67%.**

Q1 2019 Caseloads:

Received = **22** , Closed = **6**
Pending over 250 days = **8**
Closed within 250 days = **4**







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

Virginia Department of Health Professions - Patient Care Disciplinary Case Processing Times (with Continuance Days), by Board

Clearance Rate

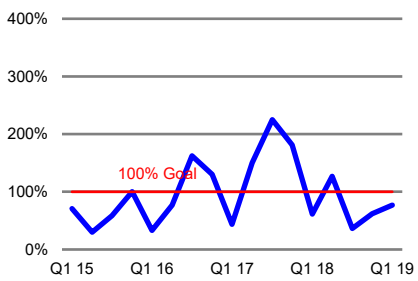
Age of Pending Caseload
(percent of cases pending over one year)

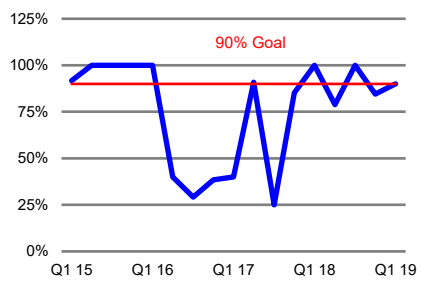
Percent Closed in 250 Business Days

Psychology - In Q1 2019, the clearance rate was **77%,** the Pending Caseload older than 250 business days was **22%** and the percent closed within 250 business days was **90%.**

Q1 2019 Caseloads:

Received = **13** , Closed = **10**
Pending over 250 days = **11**
Closed within 250 days = **9**

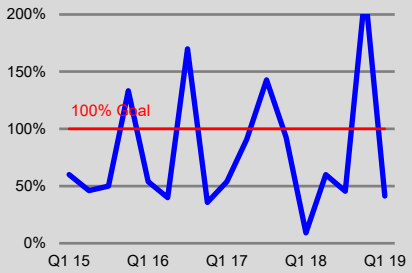


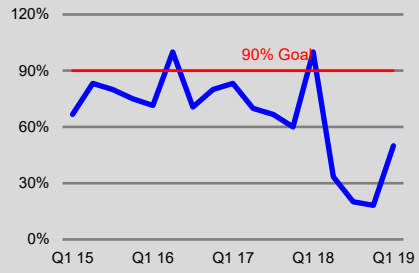


Long-Term Care - In Q1 2019, the clearance rate was **41%,** the Pending Caseload older than 250 business days was **31%** and the percent closed within 250 business days was **100%.**

Q1 2019 Caseloads:

Received = **17** , Closed = **7**
Pending over 250 days = **21**
Closed within 250 days = **68**

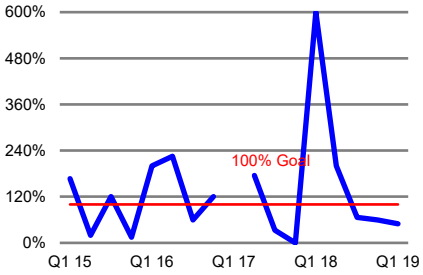


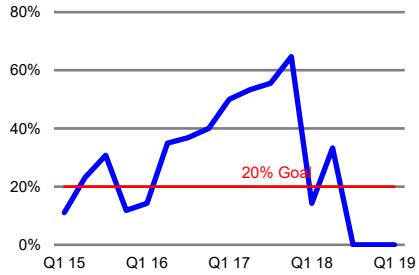


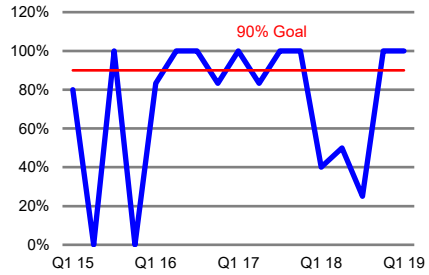
Optometry - In Q1 2019, the clearance rate was **50%,** the Pending Caseload older than 250 business days was **0%** and the percent closed within 250 business days was **100%.**

Q1 2019 Caseloads:

Received = **2** , Closed = **1**
Pending over 250 days = **0**
Closed within 250 days = **1**







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

Virginia Department of Health Professions - Patient Care Disciplinary Case Processing Times (with Continuance Days), by Board

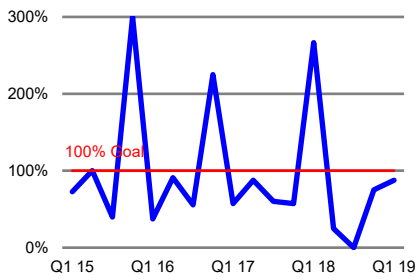
Clearance Rate

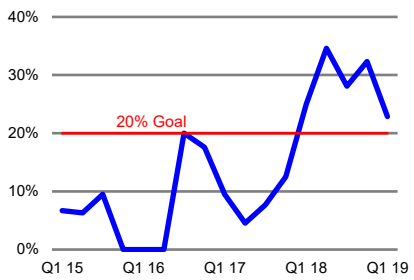
Age of Pending Caseload
(percent of cases pending over one year)

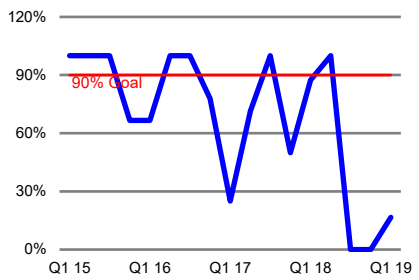
Percent Closed in 250 Business Days

Physical Therapy - In Q1 2019, the clearance rate was **88%,** the Pending Caseload older than 250 business days was **23%** and the percent closed within 250 business days was **17%.**

Q1 2019 Caseloads:
Received = **8** , Closed = **7**
Pending over 250 days = **8**
Closed within 250 days = **1**

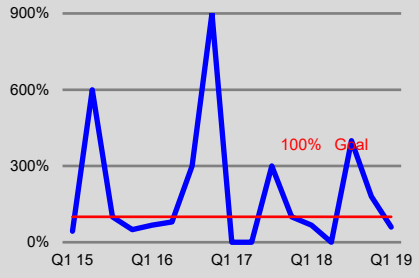


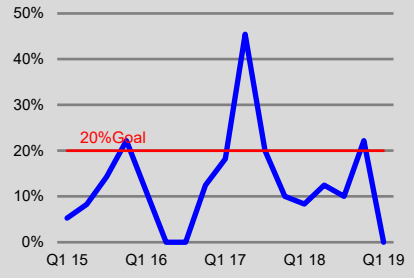


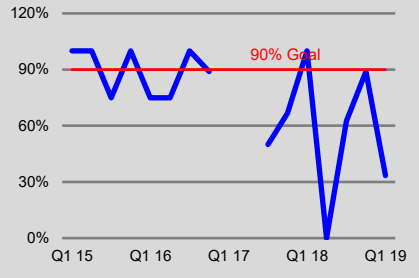


Funeral - In Q1 2019, the clearance rate was **60%,** the Pending Caseload older than 250 business days was **0%** and the percent closed within 250 business was **33%.**

Q1 2019 Caseloads:
Received = **5** , Closed = **3**
Pending over 250 days = **0**
Closed within 250 days = **1**

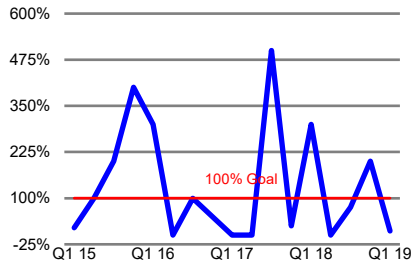


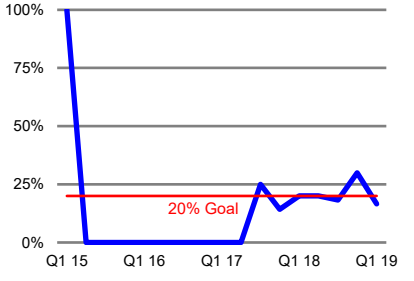


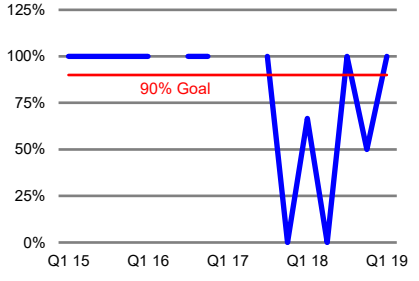


Audiology - In Q1 2019, the clearance rate was **11%,** the Pending Caseload older than 250 business days was **17%** and the percent closed within 250 business days was **100%.**

Q1 2019 Caseloads:
Received = **9** , Closed = **1**
Pending over 250 days = **3**
Closed within 250 days = **1**







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

Virginia Department of
Health Professions
Board of Health Professions

Policies and Procedures for the Evaluation of the Need to Regulate Health Occupations and Professions

2018

Table of Contents

Introduction

In 1992, the Virginia Board of Health Professions published *Policies and Procedures for the Evaluation of the Need to Regulate Health Occupations and Professions*, a standard reference that defines the evaluative criteria and methodologies to assess objectively the public's need for state protection through practitioner regulation. Its approach dates back to 1983.

In 1998, the Board updated the 1992 version in response to an independent analysis of its approach pursuant to *Code of Virginia* §54.1-2409.2.[1] The study reaffirmed the Board's policies and procedures but offered that additional sources of objective data could strengthen the approach. Hence, the Board added malpractice insurance information and job analysis data to the methodology.

Nearly twenty years have passed between updates. The Board undertook an environmental scan of the literature and relevant statutes, policies, and procedures of other states.[2] As of this publication, there are 12 other states with formal policies. The existing literature pertains to those states systems. There are differences among the states with regard to the empowered organizational structure and minor logistics, but the principles, criteria and policies employed essentially mirror Virginia's current practice. The 2018 revision updates statutory references, provides hyperlinks to cited materials, and clarifies language that has become outdated otherwise but does not reflect a significant change in overall procedure.

The remainder of this document references the Board's authority to conduct evaluative reviews and details specific policies and procedures.

Authority

In 1977, the General Assembly established the Virginia Board of Health Professions to advise the Governor and the General Assembly on matters pertaining to the regulation of health occupations and professions and to provide policy coordination for the boards administered within the Virginia Department of Health Professions.

Currently, the Board is comprised of 18 members appointed by the Governor: five citizen members and a member from each of the thirteen licensing boards.

Code of Virginia § 54.1-2510 provides that

> **. . . [The Board shall] evaluate all health care professions and occupations in the Commonwealth, including those regulated and those not regulated by other provisions [of Title 54] *to consider whether each such profession or occupation should be regulated and the degree of regulation to be imposed* [emphasis added]. Whenever the Board determines that the public interest requires that a health care profession or occupation which is not regulated by law should be regulated, the Board shall recommend to the General Assembly a regulatory system to establish the appropriate degree of regulation.**

[1] Accessible at (https://law.lis.virginia.gov/vacode/title54.1/chapter24/section54.1-2409.2/). The 1998 report, *Study of the Appropriate Criteria in Determining the Need for Regulation of Any Health Care Occupation or Profession* is accessible in executive summary and full report form from the Virginia General Assembly's House Document sites (https://rga.lis.virginia.gov/Published/1998/HD8) and https://rga.lis.virginia.gov/Published/1998/HD8/PDF, respectively.

[2] See the Appendix for References

The General Assembly, and not the Board, is the body empowered to make the final determination of the need for state regulation of a health care profession or occupation. Only the General Assembly has the authority to enact legislation specifying the profession to be regulated, the degree of regulation to be imposed and the organizational structure to be used to manage the regulatory program (e.g., board, advisory committee, or registry).

The Board's role is purely advisory. It has the authority and responsibility to study and make recommendations concerning the need to regulate new (i.e., currently unregulated) occupations and professions (i.e., a "sunrise" review) as well as to routinely re-examine the appropriateness of the regulatory schemes for currently regulated professions and occupations.

Policies

The Board's evaluation policies are grounded in the Commonwealth's philosophy on occupational regulation as expressed in statute and in the Board's own *Criteria for Evaluating the Need for Regulation* (i.e., the Criteria). Alternatives to regulation are also always considered.

Statute

The following statement epitomizes the Commonwealth's philosophy on the regulation of professions and occupations. ***The occupational property rights of the individual may be abridged only to the degree necessary to protect the public.*** This tenet is clearly stipulated in statute and serves as the Board's overarching philosophy in its approach to all its reviews of professions or occupations:

> **. . . the right of every person to engage in any lawful profession, trade or occupation of his choice is clearly protected by both the Constitution of the United States and the Constitution of the Commonwealth of Virginia. The Commonwealth cannot abridge such rights except as a reasonable exercise of its police powers when (*i)* it is found that such abridgement is necessary for the *protection or* preservation of the health, safety and welfare of the public *and (ii) any such abridgement is no greater than necessary to protect or preserve the public health, safety, and welfare*. (*Code of Virginia* 54.1-100 – amended by 2016 Acts of the Assembly Chapter 467)**[3]

Additional statutory guidance is provided in the same *Code* section. The following conditions must be met before the state may impose regulation on a profession or occupation:

1. **The unregulated practice of a profession or occupation can endanger the health, safety or welfare of the public, and the potential for harm is recognizable and not remote or dependent upon tenuous argument;**
2. **The practice of the profession or occupation has inherent qualities peculiar to it that distinguish it from ordinary work or labor:**
3. **The practice of the profession or occupation requires specialized skill or training and the public needs, and will benefit by, assurances of initial and continuing professional and occupational ability; and**
4. **The public is not effectively protected by other means.**

[3] Accessible at http://leg1.state.va.us/cgi-bin/legp504.exe?161+ful+CHAP0467

In addition, although the General Assembly has established that the following factors be considered in evaluating the need for the regulation of *commercial* occupations and professions, the Board has determined that these factors should be considered in evaluating proposals for the regulation of *health* professions, as well.

1. **Whether the practitioner, if unregulated, performs a service for individuals involving a hazard to the public health.**
2. **The opinion of a substantial portion of the people who do not practice the particular profession. . . on the need for regulation.**
3. **The number of states which have regulatory provisions similar to those proposed.**
4. **Whether there is sufficient demand for the service for which there is no regulated substitute and this service is required by a substantial portion of the population.**
5. **Whether the profession or occupation requires high standards of public responsibility, character and performance of each individual engaged in the profession or occupation, evidenced by established and published codes of ethics.**
6. **Whether the profession requires such skill that the public generally is not qualified to select a competent practitioner without some assurance that he has met minimum qualifications.**
7. **Whether the professional or occupational associations do not adequately protect the public from incompetent, unscrupulous or irresponsible members of the profession or occupation.**
8. **Whether current laws which pertain to public health, safety and welfare generally are ineffective or inadequate.**
9. **Whether the characteristics of the population or occupation make it impractical or impossible to prohibit those practices of the profession or occupation which are detrimental to the public health, safety and welfare.**
10. **Whether the practitioner performs a service for others which may have a detrimental effect on third parties relying on the expert knowledge of the practitioner.**

(*Code of Virginia* §54.1-311(B)1-2,4-10)

In addition to amending §54.1-100, Chapter 467 also created a new section, §54.1-310.1[4] which governs the petitioning of state regulation for an unregulated commercial profession or occupation and details the Board of Professional and Occupational Regulation's sunrise review responsibilities. Subsection (A) mandates that evaluation requests be submitted no later than December 1 of any year for analysis and evaluation during the following year. Although the Board of Health Professions is not bound by this section, in order to allow sufficient time and resources for each study, preference for proposals submitted before December 1 will be considered.

[4] Accessible at: https://law.lis.virginia.gov/vacode/title54.1/chapter3/section54.1-310.1/

The Criteria and Their Application

Based on the principles of occupational and professional regulation established by the General Assembly, the Board has adopted the following criteria to guide the evaluation of the need for regulation of a health occupation or profession.

VIRGINIA BOARD OF HEALTH PROFESSIONS
CRITERIA FOR EVALUATING THE NEED FOR REGULATION
Initially Adopted 1991
Readopted 1998 and 2018

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.

In the process of evaluating the need for regulation, the Board's seven criteria are applied differently depending upon the level of regulation which appears most appropriate for the occupational group. The following outline delineates the characteristics of licensure, certification, and registration (the three most commonly used methods of regulation) and specifies the criteria applicable to each level.

Licensure. Licensure confers a monopoly upon a specific profession whose practice is well defined. It is the most restrictive level of occupational regulation. It generally involves the delineation in statute of a scope of practice which is reserved to a select group based upon their possession of unique, identifiable, minimal competencies for safe practice. In this sense, state licensure typically endows a particular occupation or profession with a monopoly in a specified scope of practice.

RISK: High potential, attributable to the nature of the practice.
SKILL & TRAINING: Highly specialized accredited post-secondary education required; clinical proficiency is certified by an accredited body.
AUTONOMY: Practices independently with a high degree of autonomy; little or no direct supervision.
SCOPE OF PRACTICE: Definable in enforceable legal terms.
COST: High
APPLICATION OF THE CRITERIA: When applying for licensure, the profession must demonstrate that Criteria 1 - 6 are met.

Statutory Certification. Certification by the state is also known as "title protection." No scope of practice is reserved to a particular group, but only those individuals who meet certification standards (defined in terms of education and minimum competencies which can be measured) may title or call themselves by the protected title.

RISK: Moderate potential, attributable to the nature of the practice, client vulnerability, or practice setting and level of supervision.
SKILL & TRAINING: Specialized; can be differentiated from ordinary work. Candidate must complete education or experience requirements that are certified by a recognized accrediting body.
AUTONOMY: Variable; some independent decision-making; majority of practice actions directed or supervised by others.
SCOPE OF PRACTICE: Definable, but not stipulated in law.
COST: Variable, depending upon level of restriction of supply of practitioners.
APPLICATION OF CRITERIA: When applying for statutory certification, a group must satisfy Criterion 1, 2, 4, 5, and 6.

Registration. Registration requires only that an individual file his name, location, and possibly background information with the State. No entry standard is typically established for a registration program.

RISK: Low potential, but consumers need to know that redress is possible.
SKILL & TRAINING: Variable, but can be differentiated for ordinary work and labor.
AUTONOMY: Variable.
APPLICATION OF CRITERIA: When applying for registration, Criteria 1, 4, 5, and 6 must be met.

Alternatives to Occupational and Professional Regulation

When a risk or potential risk has been demonstrated but it is not substantiated that licensure, certification, or registration are appropriate remedies, other alternatives are available. Inspections and injunctions, disclosure

requirements, and the strengthening of consumer protection laws and regulations are examples of methods for protecting the public that do not require the regulation of specific occupations or professions.

These alternatives are less restrictive means of addressing the need to adequately protect the public health, safety, and welfare than restricting the occupational property rights of individuals.

Procedures

The Board has established general guidelines and procedures for the conduct of evaluation studies. These procedures assure the fair and equitable assessment of the need to regulate a profession or occupation or to determine the need for changing a current regulatory approach. These procedures translate the Board's policies into operational terms. Three questions are addressed: Who may request a study and how? How is a study conducted? and What happens to the results?

Who may request a study and how?

Requests for the Board to conduct an evaluation may come from a number of sources:

- the General Assembly
  - as a legislative resolution
  - as a request from an individual member,
- the Governor,
- the Director of the Department of Health Professions,
- Professional or Occupational Associations and Organizations,
- Concerned Members of the Public.

Prior to filing a request, it is recommended that the responsible individual(s) meet with Director of the Department of Health Professions and the Executive Director for the Board. At this meeting, proposal preparation may be discussed in detail and a suggested timetable agreed upon.

For requests from organizations or individuals, the review process commences with a formal letter of intent proposing the study. Because the time frame for such studies can require over a year (from request to recommendations), it is preferred that requests be received by December 1 for consideration during the following year. It is important that a contact person or persons be identified in this letter who will provide continuity to the review process. It should be noted that this time frame does not include consideration of the Director's review or the Board's recommendations by the Governor or General Assembly. Nor does it take into account the extensive work that must be accomplished between the time the General Assembly may enact enabling legislation and the promulgation of regulations which would be required to implement such legislation.

When a request for study is presented to the Board, the Board may agree to go forward or it may ask for additional information from the professional or organizational group in question.

How is a study conducted?

If the Board agrees to go forward with the study, the matter is referred to the Regulatory Research Committee, which conducts the study and prepares a report with recommendations for the full Board's review and final recommendations.

The Committee reviews and approves a staff prepared workplan, which details the background for the study, its scope, and the specific methodology to be employed. The specific questions to be addressed are detailed and reflect those questions outlined in the Appendix. Traditional workplans include a comprehensive review of the relevant literature and provide opportunities for receipt of public comment. In some instances, further information is gathered through Board sponsored surveys of practitioners, other states, or other parties knowledgeable about the issues germane to the profession or occupation.

As discussed earlier, as a result of the Board's formal review of the Criteria conducted pursuant to §54.1-2409.2 of the *Code of Virginia*, the evidentiary basis for application of the Criteria was strengthened to include references to recent job analyses (or role delineation studies) and actuarial risk assessments of malpractice insurers.

Commonly used to develop credentialing examinations, a job analysis (or role delineation study) abstracts the knowledge, skills, and abilities that define a profession and help distinguish it from related professions. In its simplest terms, a job analysis provides a detailed job description. An occupation or profession is broken down into performance domains, which broadly define the profession being delineated. Then each performance domain is broken down further into tasks. The tasks are categorized further into knowledge, skills, and ability statements.

Malpractice insurance underwriters establish premium rates and the extent of coverage based upon their actuarial assessment of the risk posed by the insured group. Data on civil suits, assessments of the type of work and work settings involved in practice, and evaluations of similar professions' claim histories, among other factors are considered.

Job analyses and data derived from malpractice insurance were selected to strengthen the Board's evidentiary basis for three reasons. First, they are generally readily available. Most health occupations and professions have professionally developed examinations based on job analyses, and most professions have malpractice insurance. Second, because they were designed for purposes other than to promote the regulation of the respective profession, these sources are viewed as relatively objective. Third, and most important, they are viewed as providing insight into better applying the most crucial criterion, Criterion One – Risk of Harm to the Consumer.

It has often been difficult or impossible to obtain objective information about actual harm to consumers gathered collectively by profession, precisely because the group is unregulated. The literature is usually unavailing and evaluation of anecdotal evidence alone makes attributions to the profession (and not simply individuals) questionable. Thus, to make fair assessments about the *potential* risks to the public when actual data are lacking, the Board's evaluations of recent job analyses and actuarial risk predictions found in the rationale for malpractice insurance coverage are factored into the reasoning.

Job analyses and actuarial risk predictions are not only useful in applying Criterion One. To appropriately apply the entire Criteria, the Board must have a thorough understanding of what comprises the practice of the profession and the necessary educational and training background required for entry level competency.

To answer the questions posed by the Criteria, the Board reviews the job analysis information garnered and may apply its own measures of importance or *criticality*. Criticality "generally refers to the extent to which the ability to perform the task is essential to the performance on the job." (National Organization for Competency Assurance (1996) p.54). Scales such as those on the next page may be used. Here, all major tasks are reviewed and data tabulated to provide an overall score on each criterion.

Sample Criticality Scales for Rating Risk of Harm

Using the occupation as veterinary technician as an example, the following are sample scales for rating the risk of harm.

TASK 1: Scaling teeth above the gum line.

What is the effect of poor performance on public health & safety?

1. No risk
2. Little risk
3. Some risk
4. Significant risk
5. Severe risk

TASK 2: Preparing patient for surgery by shaving surgical area.

Could this activity be omitted on some occasions without having a major impact on client well-being?

1. Can sometimes omit – This activity could sometimes be omitted for some clients without a substantial risk of unnecessary complications, impairment of function or serious distress.

2. Can never omit – This activity could NEVER be omitted without a substantial risk of unnecessary complications, impairment of function, or serious distress.

Based on Correspondence with Kara Schmidt October 30, 1997 11:35 a.m.

These scores, along with the malpractice insurance risk assessment, literature review, public comment, and any other sources of information the Committee would like to explore serve as the basis to answer the questions expressed in the workplan. The responses form the basis for the report and recommendations.

What happens to the results?

Once completed, the Committee's study report including recommendations goes to the full Board for review. Upon adoption or revision of the report, the Board prepares its report for the consideration of the Director of the Department, the Secretary of Health and Human Resources, the Governor, and the General Assembly.

Once the final draft is approved, the Board or the source of the study may disseminate the report as they deem appropriate.

Appendix

QUESTIONS TO BE CONSIDERED FOR THE EVALUATION OF THE NEED FOR REGULATION OF A HEALTH OCCUPATION OR PROFESSION

A. GENERAL INFORMATION

1. What occupational or professional group is seeking regulation?
2. What is the level or degree of regulation sought?
3. Identify by title the association, organization, or other group representing Virginia-based practitioners. (If more than one organization, provide the information requested below for each organization.)
4. Estimate the number of practitioners (members and nonmembers) in the Commonwealth.
5. How many of these practitioners are members of the group preparing the proposal? (If several levels or types of membership are relevant to this proposal, explain these level and provide the number of members, by type).
6. Do other organizations also represent practitioners of this occupation/profession in Virginia? If yes, provide contact information for these organizations.
7. Provide the name, title, organizational name, mailing address, and telephone number of the responsible contact person(s) for the organization preparing this proposal.
8. How was this organization and individual selected to prepare this proposal?
9. Are there other occupations/professions within the broad occupational grouping? What organization(s) represent these entities? (List those in existence and any that are emerging).
10. For each association or organization listed above, provide the name and contact information of the *national* organizations with which the state associations are affiliated.

B. QUESTIONS WHICH ADDRESS THE CRITERIA

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.*

1. Provide a description of the typical functions performed and services provided by members of this occupational group.
2. Has the public actually been harmed by unregulated providers or by providers who are regulated in other states? If so, how is the evidence of harm documented (i.e., court case or disciplinary or other administrative action)? Was is physical, emotional, mental, social, or financial?
3. If no evidence of actual harm is available, what aspects of the provider group's practice constitute a potential for harm?
4. To what can the harm be attributed? Elaborate as necessary.
    - lack of skills
    - lack of knowledge
    - lack of ethics
    - lack of supervision
    - practices inherent in the occupation

- characteristics of the client/patients being served
- characteristics of the practice setting
- other (specify)

5. Does a potential for fraud exist because of the inability of the public to make an informed choice in selecting a competent practitioner?
6. Does a potential for fraud exist because of the inability for third party payors to determine Competency?
7. Is the public seeking regulation or greater accountability of this group?

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.*

1. What are the educational or training requirements for entry into this occupation? Are these programs accredited? By whom?
    - Are sample curricula available?
    - Are there training programs in Virginia?
2. If no programs exist in Virginia, what information is available on programs elsewhere which prepare practitioners for practice in the Commonwealth? What are the minimum competencies (knowledge, skills, and abilities) required for entry into the profession? How were they derived?
3. Are there national, regional, and/or state examinations available to assess entry-level competency?
    - Who develops and administers the examination?
    - What content domains are tested?
    - Are the examinations psychometrically sound -- in keeping with *The Standards for Educational and Psychological Testing*?
4 Are there requirements and mechanisms for ensuring continuing competence? For example, are there mandatory education requirements, re-examination, peer review, practice audits, institutional review, practice simulations, or self-assessment models?
5. Why does the public require state assurance of initial and continuing competence? What assurances do the public have already through private credentialing or certification or institutional standards, etc.?
6. Are there currently recognized or emerging specialties (or levels or classifications) within the occupational grouping? If so,
    - What are these specialties? How are they recognized? (by whom and through what mechanisms – e.g., specialty certification by a national academy, society or other organization)?
    - What are the various levels of specialties in terms of the functions or services performed by each?
    - How can the public differentiate among these levels or specialties for classification of practitioners?
    - Is a "generic" regulatory program appropriate, or should classifications (specialties/levels) be regulated separately (e.g., basic licensure with specialty certification)?
    -

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

1. What is the nature of the judgments and decisions which the practitioner must make in practice?
    - Is the practitioner responsible for making diagnoses?
    - Does the practitioner design or approve treatment plans?
    - Does the practitioner direct or supervise patient care?
    - Does the practitioner use dangerous equipment or substance in performing his functions?

If the practitioner is not responsible for diagnosis, treatment design or approval, or directing patient care, who is responsible for these functions?

2. Which functions typically performed by this practitioner group are **unsupervised**, i.e., neither directly monitored or routinely checked?
    - What proportion of the practitioner's time is spent in unsupervised activity?
    - Who is legally accountable/liable for acts performed with no supervision?
3. Which functions are performed **only under supervision**?
    - Is the supervision *direct* (i.e., the supervisor is on the premises and responsible) or *general* (i.e., supervisor is responsible but not necessarily on the premises)?
    - Who provides the supervision? How frequently? Where? For what purpose?
    - Who is legally accountable/liable for acts performed under supervision?

Is the supervisor a member of a regulated profession (please elaborate)?

- What is contained in a typical supervisory or collaborative arrangement protocol?

3. Does the practitioner of this occupation supervise others? Describe the nature of this supervision (as in #3 above).
4. What is a typical work setting like, including supervisory arrangements and interaction of the practitioner with other regulated/unregulated occupations and professions?
5. Does this occupational group treat or serve a specific consumer/client/patient population?
6. Are clients/consumers/patients referred to this occupational group for care or services? If so, by whom? Describe a typical referral mechanism.
7. Are clients/consumers/patients referred from this occupational group for care or services? If so, to what practitioners are such referrals made? Describe a typical referral mechanism. How and on what basis are decisions to refer made?

Criterion Four: 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.*

1. Which functions of this occupation are **similar to** those performed by other health occupational groups?
    - Which group(s)?
    - Are the other groups regulated by the state?
    - If so, why might the applicant group be considered different?
2. Which functions of this occupation are **distinct from** other similar health occupational groups?
    - Which group(s)?
    - Are the other groups regulated by the state?
3. How will the regulation of this occupational group affect the scope of practice, marketability, and economic and social status of the other, similar groups (whether regulated or unregulated)?

Criterion Five: 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.*

1. What are the range and average incomes of members of this occupational group in the Commonwealth? In adjoining states? Nationally?
2. What are the typical current fees for services provided by this group in the Commonwealth? In adjoining states? Nationally?
3. Is there any evidence that cost for services provided by this occupational group will increase if the group becomes state regulated? In other states, have there been any effects on fees/salaries attributable to state regulation?

4. Would state regulation of this occupation restrict other groups from providing care given by this group?
    - Are any of the other groups able to provide similar care at lower costs?
    - How is it that this lower cost is possible?
5. Are there current shortages/oversupplies of practitioners in Virginia? In the region? Nationally?
6. Are third-party payers in Virginia currently reimbursing services of the occupational group? By whom? For what?
    - If not in Virginia, elsewhere in the country?
    - Are similar services provided by another occupational group reimbursed by third-party payers in Virginia? Elsewhere? Elaborate.
7. If third-party payment does not currently exist, will the occupation seek it subsequent to state regulation?

Criterion Six: 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.]*

1. What laws or regulations currently exist to govern:
    - Facilities in which practitioners practice or are employed?
    - Devices and substances used in the practice?
    - Standards or practice?
2. Does the institution or organization where the practitioners practice set and enforce standards of care? How?
3. Does the occupational group participate in a nongovernmental credentialing program, either thorough a national certifying agency or professional association (e.g., Institute for Credentialing Excellence National Commission for Certifying Agencies).
    - How are the standards set and enforced in the program?
    - What is the extent of participation of practitioners in the program?
4. Does a Code of Ethics exist for this profession?
    - What is it?
    - Who established the Code?
    - How is it enforced?
    - Is adherence mandatory?
5. Does any peer group evaluation mechanism exist in Virginia or elsewhere? Elaborate.
6. How is a practitioner disciplined and for what causes?
    - Violation of standards of care?
    - Unprofessional conduct?
    - Other causes?
7. Are there specific legal offenses which, upon conviction, preclude a practitioner from practice?
8. Does any other means exist within the occupational group to protect the consumer from negligence or incompetence (e.g., malpractice insurance, review boards that handle complaints)?
    - How are challenges to a practitioner's competency handled?
9. What is the most appropriate level of regulation?

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Mission of the Board of Health Professions

To serve as an active agent and provide an objective forum for people in Virginia for the delivery of safe, effective and appropriate health professional services.

Vision for the Board of Health Professions - Reasons for its existence

- To improve access to safe and effective health care at the most appropriate levels.
- To provide a forum and offer solutions for common issues/problems facing the health care professions.
- To promote appropriate regulation.
- To encourage efficient resolution of disciplinary cases.
- To provide a forum for debate/consensus for scope of practice issues between health care professions.
- To determine the need for regulation of unregulated professions and examine emerging professions and treatments.
- To conduct studies mandated by the General Assembly or requested by the public.
- To provide a forum for dialogue, communication and plans for action.
- To effectively orient new members and continue to focus the Board on its important Mission.
- To more effectively execute its statutory authority.
- To put appropriate information about health care practitioners in the hands of consumers.
- To have a system to monitor the effect and impact of professional regulation on the delivery of appropriate health care.
- To educate and inform policy makers - the Governor, the Secretary and the General Assembly.

VIRGINIA BOARD OF HEALTH PROFESSIONS

BYLAWS

ARTICLE I. Name.

This body shall be known as the Virginia Board of Health Professions as set forth in the *Code of Virginia* Chapter 25, Title 54.1, Subtitle III, hereinafter referred to as the Board.

ARTICLE II. Powers and Duties.

The powers and duties of the Board (§54.1-2510 *Code of Virginia*) are:

1. To evaluate the need for coordination among the health regulatory boards and their staffs and report its findings and recommendations to the Director (of the Department of Health Professions) and the boards (within the Department of Health Professions);

2. To evaluate all health care professions and occupations in the Commonwealth, including those regulated and those not regulated by other provisions of Title 54.1, Subtitle III, *Code of Virginia*, to consider whether each such profession or occupation should be regulated and the degree of regulation to be imposed. Whenever the Board determines that the public interest requires that a health care profession or occupation which is not regulated by law should be regulated, the Board shall recommend to the General Assembly a regulatory system to establish the appropriate degree of regulation;

3. To review and comment on the budget for the Department;

4. To provide a means of citizen access to the Department;

5. To provide a means of publicizing the policies and programs of the Department in order to educate the public and elicit public support for Department activities;

6. To monitor the policies and activities of the Department, serve as a forum for resolving conflicts among the health regulatory boards and between the health regulatory boards and the Department and have access to Departmental information;

7. To advise the Governor, the General Assembly and the Director on matters relating to the regulation or deregulation of health care professions and occupations;

8. To make bylaws for the government of the Board of Health Professions and the proper fulfillment of its duties under Chapter 25 of the *Code of Virginia*;

9. To promote the development of standards to evaluate the competency of the professions and occupations represented on the Board of Health Professions;

10. To review and comment, as it deems appropriate, on all regulations promulgated or proposed for issuance by the health regulatory boards under the auspices of the Department. At least one member of the relevant Board shall be invited to present during any comments by the Board on proposed board regulations;

11. To review periodically the investigatory, disciplinary and enforcement processes of the Department and the individual boards to ensure the protection of the public and the fair and equitable treatment of health professionals;

12. To examine the scope of practice conflicts involving regulated and unregulated professions and advise the health regulatory boards and the General Assembly of the nature and degree of such conflicts;

13. To receive, review, and forward to the appropriate health regulatory board any departmental investigative reports related to complaints of violations by practitioners to Chapter 24.1 (§54.1-2410 et seq.) of the *Code of Virginia*, entitled "Practitioner Self-Referral Act.";

14. To determine compliance with and violations of and grant exceptions to the prohibitions set forth in the "Practitioner Self-Referral Act" (Chapter 24.1 §54.1-2410 et seq. of the *Code of Virginia*); and

15. To take appropriate actions against entities, other than practitioners as defined in §54.1-2410 et seq. of the *Code of Virginia*, for violations of the "Practitioner Self-Referral Act."

ARTICLE III. Members.

1. The membership of the Board shall be the persons appointed by the Governor of the Commonwealth as set forth in the *Code of Virginia* (§54.1-2507).

2. Members of the Board shall attend all regular and special meetings of the Board unless prevented by illness or other unavoidable cause.

ARTICLE IV. Officers and Election.

1. The Officers of the Board shall be the Chairman and Vice Chairman.

2. The Officers shall be elected by the Board members at the Annual Meeting of the Board each fall.

3. The term of office shall be for the next calendar year following the election, or until the successor shall be elected as herein provided.

4. A vacancy occurring in any elected position shall be filled by the Board at the next meeting.

ARTICLE V. Duties of Officers.

1. The Chairman shall preside at all meetings of the Board; appoint all committees, except as where specifically provided by law; call special meetings; and perform duties as prescribed by parliamentary authority.

2. The Vice Chairman shall act as Chairman in the absence of the Chairman.

ARTICLE VI. Executive Committee.

1. This Committee shall consist of the Officers.

2. The Committee shall review matters of interest to the Board and may make recommendations to the Board.

3. The Chairman of the Board shall be the Chairman of the Committee.

ARTICLE VII. Committees.

1. The Chairman may appoint committees as necessary to assist in fulfilling the duties of the Board.

2. The committees shall be advisory to the Board and shall offer recommendations to the Board for final action.

ARTICLE VIII. Meetings.

1. The Board shall meet at least one time per year on a date at the discretion of the Board.

2. Special meetings shall be called by the Chairman or by written request to the Chairman of any three members of the board, provided that there is at least seven days' notice given to Board members.

3. A quorum for any Board meeting shall consist of a majority of the members of the board. A quorum for any committee shall consist of a majority of committee members. No member shall vote by proxy.

4. A majority vote of the members present shall determine all matters at any meeting, regular or special, unless otherwise provided herein.

5. Members shall attend all scheduled meetings of the Board and committees to which they serve. In the event of two consecutive absences at any meeting of the Board or its committees, the Chairman shall make a recommendation to the Director of the Department of Health Professions for referral to the Secretary of Health and Human Resources and Secretary of the Commonwealth.

ARTICLE IX. Parliamentary Authority.

The rules contained in the current edition of Robert's Rules of Order shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with these bylaws and any special rules the Board may adopt and any statutes applicable to the Board.

ARTICLE X. Amendment of Bylaws.

The bylaws may be amended at any meeting of the Board by an affirmative vote of two-thirds of the members present, provided the proposed amendment was distributed to all members of the Board at least 30 days in advance.

Approved by the Board of Health Professions on May 28, 2015.

Virginia Department of Health Professions
Board of Health Professions

February 25, 2019
10:00 a.m. - Board Room 4
9960 Mayland Dr, Henrico, VA 23233

Full Board Meeting-Election of Officers

Board Chair and Vice Chair Election

Nominations from the Floor for Board Chair

Nominations from the floor will be taken for each office just before the election for that office.

Board Chair will open nominations from the floor, "Nominations are now in order for the office of Board Chair/Vice Chair. Are there nominations for Board Chair/Vice Chair?" After each nomination, the chair repeats the name as having been nominated.

The process of making floor nominations is subject to the following rules:

- Recognition by the chair isn't required to make a nomination. A member may call out a nomination while remaining seated.
- It is not in order under any circumstances for a member to nominate more persons than there are seats available.
- A person can be nominated for more than one office and can even serve in more than one office, if elected.
- Nominations don't have to be seconded for endorsement.
- Nominations are taken for successive offices in the order they're listed in the bylaws.

Closing Nominations

Board Chair will ask if there are more nominations, if there are not, he/she will declare nominations closed.

Determining Who Wins

After nominations are closed, the voice vote is taken on each nominee in the order in which they were nominated. Elections are decided by majority vote. A position will not be filled until a candidate receives the majority number of votes required for election.