

## **Board of Long-Term Care Administrators**

### **CONFIDENTIAL CONSENT AGREEMENTS**

Virginia Code § 54.1-2400(14) authorizes the health regulatory boards to resolve certain allegations of practitioner misconduct by means of a Confidential Consent Agreement (“CCA”). This agreement may be used by a board in lieu of public discipline, but only in cases involving minor misconduct and non-practice related infractions, where there is little or no injury to a patient or the public, and little likelihood of repetition by the practitioner.

A CCA shall not be used if the board determines there is probable cause to believe the practitioner has (i) demonstrated gross negligence or intentional misconduct in the care of patients or (ii) conducted his/her practice in such a manner as to be a danger to the health and welfare of patients or the public.

A CCA shall be considered neither a notice nor an order of a health regulatory board, both of which are public documents. The acceptance and content of a CCA shall not be disclosed by either the board or the practitioner who is the subject of the agreement.

A CCA may be offered and accepted at any time prior to the issuance of a notice of informal conference by the board. By law, the agreement document must include findings of fact and may include an admission or a finding of a violation. A CCA may be considered by the board in future disciplinary proceedings. A practitioner may only enter into two confidential consent agreements involving a standard of care violation within a 10-year period. The practitioner shall receive public discipline for any subsequent violation within the 10-year period following the entry of two CCAs unless the board finds that there are sufficient facts and circumstances to rebut the presumption that such further disciplinary action should be made public.

**Violations of regulation or statute that may qualify for resolution by a Confidential Consent Agreement include, but are not limited to:**

- First violation regarding continuing education requirements (see Guidance Document 95-2).
- First violation of minor record keeping requirements.
- Inadvertent failure to report incidents as required by facility licensure regulations and the failure to report did not place residents at risk.