Virginia Board of Social Work

Confidential Consent Agreements

Legislation enacted in 2003 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, 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 a manner as to be a danger to 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 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. The entry of a CCA in the past may be considered by a board in future disciplinary proceedings. A practitioner may only enter into only 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, unless the board finds there are sufficient facts and circumstances to rebut the presumption that such further disciplinary action should be made public.

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The **Board of Social Work** adopted the following list of violations of Regulation or Statute that may qualify for resolution by a Confidential Consent Agreement:

1. Advertising

Example: A licensee or certificate holder using the title "Dr." without specifying "Ph.D.," "Ed.D.," or such similar designation after his or her name.

2. Continuing education

Example: Insufficient or improper coursework to meet the requirements. Confidential Consent Agreements will not, however, be used in instances where a licensee is found to have untruthfully reported compliance.

3. Record keeping

Example: To include such infractions as failure to record in a timely fashion; omission or inaccurate recording of dates, names, or times; and illegibility to the point of reasonably being unreadable.

4. Inadvertent breach of confidentiality

Example: Providing information about a client to another person without authorization, such as responding to, "what time is my wife's appointment?" By acknowledging the appointment the licensee has verified that he or she is treating someone.

5. Failure to report a known violation

Example: A licensee working at an agency is "instructed" by a supervisor (non-licensee) not to report a violation. As a result, the licensee does not report the violation under fear of action from his or her employer.

6. Fees and billing issues

Example: The licensee charges more than originally agreed upon. This would also apply in situations of unintentionally billing for the wrong date(s).

7. Practicing on an expired license for 90 days or less

Example: The licensee has failed to renew his license but has continued to practice for 90 days or less (see Guidance document 140-11)