

Board of Funeral Directors and Embalmers

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, 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 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 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.

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

- Failure to notify the Board of change of manager within 14 days of change (18VAC65-20-60).
- Failure to obtain required continuing education credit hours within the renewal period without a Board-approved exemption or extension, except in instances where a licensee is found to have untruthfully reported compliance.
- Failure to provide Q&A disclosures to buyer as part of preneed contract.
- Failure of intern to notify Board of change of supervisor and/or training site.
- Failure to post licenses as required by 18VAC65-20-50.
- Inadvertent breach of confidentiality.