

# BOARD OF LONG TERM CARE ADMINISTRATORS –

## *What's Involved in an Investigation and How Can Nursing Home and Assisted Living Facility Administrators Protect Themselves?*



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### Board of LTC Administrators Website

**Announcements**

**Important Message regarding the Advancing Excellence in America's Nursing Home Campaign - Phase II**

**Verification Information:** To request a verification of licensure submit your request in writing, include your full name, license number or social security number, your current mailing address and the address of where you want the verification sent. Attach the required processing fee of \$25.00 check or money order made payable to the Treasurer of Virginia.

Allow three to five business days for processing. The board verifies profession, license number, issue date, expiration date, how the licensee obtained Virginia licensure, and if there have been any disciplinary actions. Should a licensee need their national scores verified they should contact the National Association of Long Term Care Administrator Boards (NALTB) [www.naltnet.org](http://www.naltnet.org)

Verifications received without the required fee will not be processed.

Mail your request and fee to:

Board of Long Term Care Administrators  
Perimeter Center  
9950 Mayland Drive, Suite 300  
Richmond, Virginia 23233-1463

**Board of Long-Term Care Administrators**

Please note that we've moved.

Perimeter Center  
9950 Mayland Drive, Suite 300  
Henrico Virginia 22233-1463  
[Directions to the Board](#)

Phone: (804) 267-4595  
Fax: (804) 527-4413  
Complaints: (800) 533-1560  
Automated License Verification: (804) 270-6836  
Email: [hd@hca.virginia.gov](mailto:hd@hca.virginia.gov)

Hours: Mon-Fri 8:15 to 5:00  
except holidays

**Other Citizen Services**

Virginia Performance  
[www.vaperformance.virginia.gov](http://www.vaperformance.virginia.gov)

Disaster Preparedness

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## Board of LTC Administrators

### Contact Information

Board of LTC Administrators  
9960 Mayland Drive, Suite 300  
Henrico, VA 23233-1463  
Phone: 804.367.4595  
Fax: 804.527.4413  
Complaints: 800.533.1560  
[www.dhp.virginia.gov/nha](http://www.dhp.virginia.gov/nha)

## Board Composition

### Board Composition

- ◆ 3 NH Administrators (1 of whom is from a proprietary NH)
- ◆ 3 ALF Administrators
- ◆ 2 citizens who are from professions and institutions concerned with the care and treatment of chronically ill and elderly or mentally impaired patients or residents;
- ◆ 1 citizen who is a resident of a NH or ALF; or a family member of a resident
- ◆ All must be Virginia residents

## Board Members

### Virginia Board of Long-Term Care Administrators Board Members

<p><b>Mary Smith, NHA</b>  <b>Chair</b>          Nursing Home Administrator Member          2nd Term expires June 30, 2011          Gainesville, VA</p>	<p><b>John Randolph Scott, NHA, ALFA</b>  <b>Vice-Chair</b>          Assisted Living Facility Administrator Member          1st Term expires June 30, 2011          Richmond, VA</p>
<p><b>Ted LeNeave, NHA</b>          Nursing Home Administrator Member          2nd Term expires June 30, 2013          Salem, VA</p>	<p><b>Martha H. Hunt, ALFA</b>          Assisted Living Facility Administrator Member          2nd Term expires June 30, 2013          Smithfield, VA</p>
<p><b>Kathleen R. Fletcher, MSN</b>          Profession concerned with the elderly Member          2nd Term expires June 30, 2013          Palmyra, VA</p>	<p><b>Bertha Simmons, NHA, ALFA</b>          Assisted Living Facility Administrator Member          2nd Term expires June 30, 2011          Manassas, VA</p>
<p><b>Thomas J. Orsini, NHA</b>          Nursing Home Administrator Member          1st Term expires June 30, 2011          Norfolk, VA</p>	<p><b>Gracie Bowers</b>          Resident or a family member of a nursing home          or assisted living facility or a family member or          guardian of a resident of a nursing home or          assisted living facility          1st Term expires June 30, 2012          Portsmouth, VA</p>
<p><b>VACANT</b>          Profession concerned with the elderly member</p>	

## Staff Members

### Virginia Board of Long-Term Care Administrators Staff

<p><b>Lisa R. Han</b>          Executive Director</p>
<p><b>Annie B. Artis</b>          Licensing Operations Manager</p>
<p><b>Kathy A. Truesdale</b>          Discipline Operations Manager</p>
<p><b>Missy L. Currier</b>          Administrative Assistant</p>

# Nursing Home & Assisted Living Facility Administrator Regulations - Overview



## License Requirements

- ◆ NH Administrators
  - In order to engage in the general administration of a nursing home, it shall be necessary to hold a nursing home administrator's license issued by the Board.
- ◆ ALF Administrators
  - In order to engage in the general administration of an assisted living facility, it shall be necessary to hold an assisted living facility administrator's license or a nursing home administrator's license issued by the Board.

## NH Administrator

- ◆ **Degree and Practice Experience:**
  - NH administration or health care administration degree
  - 320 hour internship in a licensed NH under supervision of a preceptor
  - Pass NHA national exam
- ◆ **Certificate Program:**
  - Degree from an accredited college or university
  - 21 college semester hours in nursing home administration
  - 400 hr internship in a licensed NH under the supervision of a preceptor
  - Pass NHA national exam
- ◆ **Administrator-in-training (AIT) program**
  - Complete approved AIT program
  - Pass NHA national exam

## NH Administrator

- ◆ **To be eligible for an AIT program:**
  - 60 semester hours of college education
  - Obtain a preceptor
  - Submit fee (\$185)
  - Submit AIT program application
  - Additional documentation as necessary, demonstrating eligibility and hrs required
- ◆ **Program Hours:**
  - 2,000 hours of continuous training completed within 24 months
    - o Exception:
      - If prior health care work experience, provided certain qualifications (1,000 hrs)
      - Degree in healthcare administration w/ no internship (320 hrs)
      - Master's degree (1,000 hrs)
      - Baccalaureate degree (1,500 hrs)
  - Required to serve weekday, evening, night and weekend shifts

## AIT Program (cont.)

### NH Administrator

- ◆ Supervision:
  - Training must be under supervision of preceptor
  - Preceptor may not supervise more than 2 AITs
  - Training plan must be submitted and approved by Board
  - Preceptor must
    - o Provide direct instruction, planning and evaluation
    - o Be routinely present in the training facility
    - o Continually evaluate the development and experience of the AIT to determine areas that need concentration
- ◆ Reporting:
  - Preceptor must maintain progress reports for each month
  - AIT certificate of completion and accumulated original monthly reports must be submitted by preceptor to Board w/in 30 days following completion of AIT program

## AIT Program (cont.)

### NH Administrator

- ◆ Board voted unanimously to restrict maximum number of hours credited toward completion of the AIT program to 40 hours per week
- ◆ Board voted to disallow an Administrator in Training from conducting their training in a Provisionally licensed facility by DSS or a targeted Nursing Home Facility by Dept. of Health
- ◆ Future Guidance Documents

## NH Licensure by Endorsement

### NH Administrator

- ◆ Licensed in another state;
- ◆ Meets one of the following:
  - Practiced nursing home administration for one year, or
  - Equivalent education and experience

## Initial Licensure

### ALF Administrator

- ◆ Until January 2, 2009, any person who served in one of the following positions for one of the four years immediately preceding application for licensure:
  - Full time administrator of record or an assistant administrator in an ALF
  - Full-time regional administrator with onsite supervisory responsibilities for one or more ALFs with at least 2 years of previous experience as the administrator of an ALF
- ◆ Must pass National Credentialing Exam for ALF Administrators

## Initial Licensure (cont.)

### ALF Administrator

- ◆ **AIT Program:**
  - Pass National Credentialing Exam for Administrators of ALF; AND
  - At least 30 college semester hrs AND 640 hrs in an ALF AIT program; or
  - Licensed LPN AND 640hrs in an ALF AIT program; or
  - Licensed RN AND 480 hrs in an ALF AIT program; or
  - At least 30 college semester hrs with courses in i) client/resident care; ii) human resources management; iii) financial management; iv) physical environment; v) leadership and governance; AND 320 hrs in an ALF AIT program; or
  - College degree in health care related field AND 320 hrs in an ALF AIT program; or
  - College degree in an unrelated field and 480 hrs in an ALF AIT program.

## Initial Licensure (cont.)

### ALF Administrator

- ◆ **To be eligible for an AIT program:**
  - Meet AIT program requirements specified above
  - Obtain a preceptor
  - Submit fee (\$185)
  - Submit AIT program application
  - Additional documentation demonstrating eligibility and hrs required
  - An applicant with prior health care work experience may request approval to receive hours of credit toward total hours required
  - Required to serve weekday, evening, night and weekend shifts

## ALF Administrator

- ◆ **Certificate Program:**
  - Pass National Credentialing Exam for Administrators of ALF; AND
  - College degree in an unrelated field; AND
  - Complete a college program with a min. of 21 semester hours in a health care related field; AND
  - 320-hr internship or practicum in a licensed ALF under supervision of a preceptor.
- ◆ **Degree and Practical Experience:**
  - Pass National Credentialing Exam for Administrators of ALF; AND
  - College degree in a health care related field; AND
  - 320-hr internship or practicum in a licensed ALF as part of the degree program under the supervision of a preceptor.

## ALF Administrator

- ◆ **Supervision:**
  - Training must be under supervision of preceptor
  - Preceptor may not supervise more than 2 AITs
  - Training plan must be submitted and approved by Board
  - Preceptor must
    - o Provide direct instruction, planning and evaluation
    - o Be routinely present in the training facility
    - o Continually evaluate the development and experience of the AIT to determine areas need for concentration
- ◆ **Reporting:**
  - Preceptor must maintain progress reports for each month
  - AIT certificate of completion and accumulated original monthly reports must be submitted by preceptor to Board w/in 30 days following completion of AIT program

## Licensure by Endorsement

### ALF Administrator

- ◆ Current, unrestricted license in another state
- ◆ If state does not require licensing, may apply for licensure by credentials
- ◆ Has not been the subject of disciplinary action
- ◆ Meets one of the following:
  - Practiced as administrator in ALF for 2 of immediately preceding 4 years
  - Has education and experience substantially equivalent to initial licensure requirements
- ◆ Successfully completed National Credentialing Exam for ALF Administrators

## Renewal Requirements

- ◆ NH/ALF Administrators and Preceptors must renew their license/registration annually
- ◆ Must submit complete renewal form and fee no later than March 31 each year
- ◆ NH/ALF Administrator Renewal Fee: \$225
  - Penalty for late renewal: \$65
- ◆ Preceptor Renewal Fee: \$50
  - Penalty for late renewal: \$20

## Continuing Education Requirements

### Continuing Education NF/ALF

- ◆ 20 hrs of approved education is required each year
- ◆ 10 to 20 hrs may be obtained through internet or self-study courses
- ◆ 10 hrs may be carried over
- ◆ Courses must be approved by National Association of Boards of Examiners of Long Term Care Administrators (NAB) or an accredited institution
- ◆ Retain documentation for 3 years
- ◆ Board may grant extension up to 1 yr due to circumstances beyond the control of the administrator such as illness, temporary disability, mandatory military service, or official disasters

## Dually Licensed

- ◆ At its meeting on October 28, 2008, the Board voted unanimously to allow persons who are dually licensed as nursing home administrators and assisted living facility administrators to count the continuing competency hours for both professions, requiring that only 20 hours be accrued to meet the requirements for renewal

- ◆ Board may reinstate NH/ALF administrator that did not renew within a year if:
  - Submit reinstatement form
  - Reinstatement fee (\$315)
  - One of the following:
    - o Evidence of 20 hrs of CE credit for each yr since last renewal (not to exceed a total of 60hrs)
    - o Evidence of active practice in another state during lapse
    - o Evidence of re-qualifying for licensure
- ◆ Board may reinstate Preceptor that did not renew within a year if:
  - Submit reinstatement fee (\$95)
  - Meet current requirements for preceptor

- ◆ NH and ALF Administrators must report incidences of abuse, neglect, mistreatment, and/or misappropriation of personal property to:
- ◆ Va. Department of Social Services, Adult Protective Services
- ◆ Va. Department of Health Professions for incidences involving nurse aides, RNs, LPNs, physicians or other persons certified by DHP
- ◆ Va. Department of Health, Office of Licensure and Certification
  - Fax Facility Reported Incident (FRI) immediately
  - Fax Result of Investigation within 5 working days
- ◆ Local law enforcement

## Unprofessional Conduct

- ◆ Conducting the practice of a NH/ALF administrator in such a manner as to constitute a danger to health, safety and well-being of the residents, staff, or public
- ◆ Failure to comply with federal, state, or local laws and regulations governing operation of a NH/ALF
- ◆ Conviction of a felony or any misdemeanor involving abuse, neglect or moral turpitude
- ◆ Failure to comply with any regulations of the Board
- ◆ Inability to practice with skill or safety

## Investigations and Hearings

## Disciplinary Process

- ◆ Intake Unit – receives complaint and determines:
  - Not a violation – matter closed
  - Warrants further investigation – case opened and assigned to investigator
- ◆ Enforcement Division Investigator – interviews potential witnesses, obtains copies of relevant documents, accumulates evidence and submits report to the Board
- ◆ Board Member – determines if sufficient evidence to support violation:
  - CCA may be offered or requested; or
  - Notice issued and Informal Conference scheduled
- ◆ Informal Conference Committee – develops recommendation to:
  - Close case with a finding of no violation;
  - Offer a Consent Order; or
  - Refer to formal hearing
- ◆ Formal Board Hearing – open to the public, parties may call witnesses and introduce evidence
  - Final decision issued

## What is Involved in an Investigation?

- ◆ Enforcement Division Investigator will call you and may want to meet with you
- ◆ They will interview others in your building or those with whom you have worked
- ◆ They will request copies of documentation you may not release without a subpoena – nature of complaint will be determinative.
- ◆ Investigator prepares a report
- ◆ Respondent will not receive a copy of the materials investigator compiles unless the case is noticed for a hearing

## How to Prepare for an Interview with an Investigator

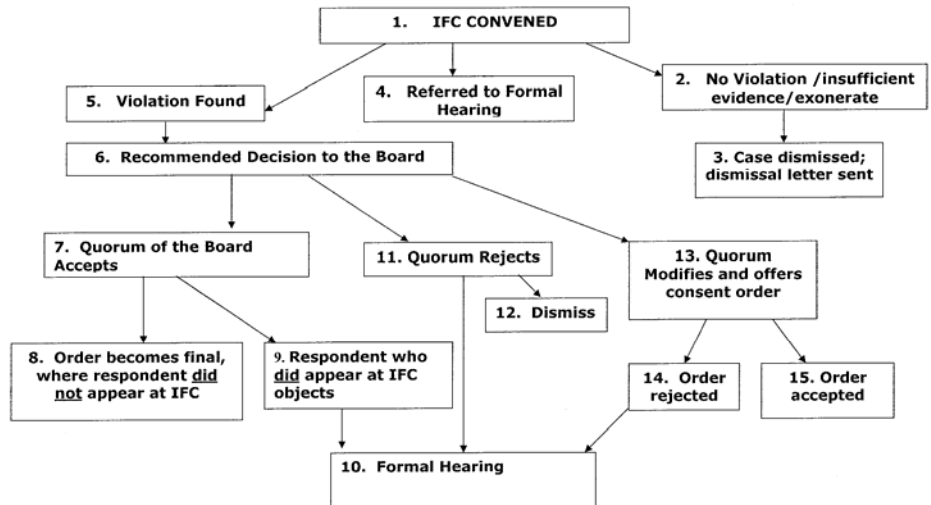
### ◆ How to Prepare for an Interview with An Investigator

- Request a copy of the complaint and review it carefully before talking with investigator
- Review regulations
- Gather documentation that supports your position
- Depending on severity of complaint, may want to consult an attorney prior to speaking with investigator
- Consider preparing a written response to the complaint either instead of or in addition to meeting with investigator
- Document conversations with investigator

## Confidential Consent Agreements

- ◆ Consideration of CCAs addressed during probable cause reviews conducted prior to Informal Conference (not available once notice issued)
- ◆ CCAs may be used to address minor or technical violations:
  - missing 5 or fewer CE credits
  - recordkeeping
  - technical probation violation
  - failing to follow policy where there is no negative patient outcome
  - a single misdemeanor conviction involving moral turpitude w/o any other issues

## Informal/Formal Hearing Process



## How to Prepare for a Hearing Before the Board

- ◆ How to Prepare for a Hearing Before the Board
  - Plan to attend hearing. Don't give up right to be present
  - Get organized
  - Review all documentation reviewed by the Board
  - Review regulations
  - Gather documentation that supports your position
  - Obtain affidavits from others supporting your position
  - Depending on severity of complaint, may want to consult an attorney to represent you at the hearing (informal or formal)
  - Review Sanctioning Reference Points Instruction Manual to determine how severe the penalty may be.
  - If any validity to the complaint, consider mitigating factors (i.e. remorse, restitution, self-corrective action, isolated incident)

# Disciplinary Action

## Disciplinary Actions

- ◆ Refuse to issue or renew license
- ◆ Reprimand
- ◆ Probation w/ conditions (i.e. completion of CE credits)
- ◆ Monetary Penalty
- ◆ Suspend License
- ◆ Revoke License
- ◆ Voluntary Surrender of License
- ◆ Sanctioning Reference Points Instruction Manual
  - a guideline for informal fact finding conferences

# Sanctioning Reference Points Case Type Table

Case Type	Included Case Categories	Applicable Points
Inability to Safely Practice	<ul style="list-style-type: none"> <li>• Impairment due to use of alcohol, illegal substances, or prescription drugs</li> <li>• Incapacitation due to mental, physical or medical conditions</li> <li>• Practicing a profession or occupation without holding a valid license as required by statute or regulation to include: practicing on a revoked, suspended, lapsed, non-existent or expired license, as well as aiding and abetting the practice of unlicensed activity.</li> </ul>	40
Fraud	<ul style="list-style-type: none"> <li>• Misappropriation of property</li> </ul>	30
Business Practice Issues	<ul style="list-style-type: none"> <li>• Records, inspections, audits</li> <li>• Required report not filed</li> </ul>	20
Continuing Education	<ul style="list-style-type: none"> <li>• Failure to obtain or document continuing education requirements</li> </ul>	10

# Offense and Respondent Factors

Offense	Applicable Points
Respondent was impaired at the time of the offense due to substance abuse (alcohol or drugs) or mental/physical incapacitation.	40
Respondent has had any past difficulties in the following areas: drugs, alcohol, mental or physical capabilities. Examples include: prior convictions for DUI/DWI, inpatient/outpatient treatment, and bona fide mental health care for a condition affecting his/her abilities to function safely or properly.	30
Financial or material gain by the respondent.	30
If this was an act of commission. An act of commission is interpreted as purposeful or with knowledge.	30
If the respondent was employed for more than three years with the facility associated with the current case.	20
If the respondent has any prior violations. Prior violations may have been decided by the Virginia Board of Long - Term Care Administrators, another state Board or another entity. DOH/DSS survey violations are not scored here	20
If a patient was injured. Patient injury is deprivation, neglect, or when a minimum of first aid was administered. This factor can be scored regardless of a respondent's lack of intent to harm (i.e. neglect or accidental injury).	20
If the offense involves two or more patients. Patient involvement does not require direct contact with a patient (i.e., fraudulent billing multiple patients).	10
If there were violations at multiple locations. Score this factor if the respondent has committed violations at more than one physical location and those violations are being considered as a part of the current case.	10
If the case involved a Department of Health or Department of Social Services Survey.	10
If there are more than 12 founded survey violations.	10
If there were survey violations upon re-inspection.	10

# Sanctioning Reference Points Threshold Table

Worksheet Score	Available Sanctions
0-50	Reprimand Monetary Penalty Stayed Monetary Penalty
51-90	Corrective Action Stayed Suspension Probation Terms: Continuing Education (CE) HPMP Submit all surveys Board approved management May only be an assistant administrator Administrator in training with preceptor Submit verification of employment
91 or more	Suspension Revocation Accept Surrender Recommend Formal

## Trends & Cases

## Current Statistics

- ◆ 170% increase in cases over last year (primarily due to the addition of the ALF Administrator Board)
- ◆ Majority of current cases are ALF
- ◆ Customer Satisfaction – 100%
- ◆ 100% closed within 250 business days
- ◆ 90% resolved at informal level
- ◆ 70% clearance rate (due to increased cases)

## #1 Issue for NH Administrators

- ◆ Failure to complete required CE credits
- ◆ SQC surveys
- ◆ Working on expired license
- ◆ Falsifying documents
- ◆ Failure to meet licensure requirements
- ◆ Allowing unlicensed staff to pass meds
- ◆ DHP must still investigate even if thought to be an illegitimate claim – disgruntled employees frequently report administrators
- ◆ 90% of cases resolved at informal stage (consent orders)

## Recent NH Administrator Investigation

### Egregious Nursing Home Administrator Case

- ◆ NHA accused of failing to investigate reports of sexual assault on 12 patients from 2000 until 2008 and neglecting to pass reports on to the patient's doctors or to APS
  - "Until 2007, you enforced a policy that employees could report allegations of abuse only to their next superior, rather than to the administrator and any state or local official as required by state law."
- ◆ Referred to Special Conference Committee for IFC
- ◆ Special Conference Committee ruled that the case proceed to a formal administrative hearing before the full Board
- ◆ Scheduled for a formal hearing
- ◆ Commonwealth's Attorney considering prosecution

## #1 Issue for ALF Administrators

- ◆ Failure to complete required CLE credits
- ◆ Failure to have license as administrator
  - ALF administrators not required to be licensed prior to January 2, 2009
  - District Attorney processes cases where non-licensed individuals are acting as administrators
- ◆ Passing meds without proper credentials
- ◆ Majority of current cases are ALF

# Recent Case Summary

Board of Long-Term Care Administrators Case Decisions (1/1/2009 to 5/25/2010)			
Date	Occupation	Summary of Allegation	Action
4/20/2010	NHA	NHA accused of failing to investigate reports of sexual assault on 12 patients from 2000 until 2008 and neglecting to pass reports on to the patient's doctors or to APS.	Referred to Formal Hearing
4/13/2010	NHA	Failed to complete required number of continuing education credits. False statement on renewal application regarding number of continuing education credits completed. Audit revealed violation.	Monetary Penalty (\$1,550)
4/2/2010	NHA	No consent order or decision available.	Violation but No Sanction
2/3/2010	NHA	Board issued license based on representation that she had completed the required number of hours as an administrator in training under the direct supervision of a preceptor who was routinely present in the training facility. Board later found that preceptor was not routinely present at training facility. NHA voluntarily surrendered her license. Consent order entered without prejudice stating that any hours already completed as an administrator may be credited toward total hours for licensure.	License Surrendered
1/21/2010	ALFA	Knowingly allowed an unlicensed individual to administer medications to residents at the facility.	Reprimand
11/19/2009	ALFAIT	Instructed staff to administer medications to residents in her absence and then signed the Medical Administration Records falsely indicating that she had administered the medications.	Complete 8 hrs of ethics and 4 hrs of medication admin.
11/18/2009	NHA	SQC survey (actual harm but not IJ) for failing to ensure that several residents were receiving the necessary care and services to attain or maintain the highest practical physical, mental, and psychosocial well-being (i.e. untreated pain, failure to administer medications, etc.); and for failing to ensure that residents did not develop pressure sores.	Reprimand
7/28/2009	ALFA	Determined ALFA did not satisfy the requirements for licensure by experience subsequent to issuing her a license. Documentation failed to demonstrate that she had a year of actual full-time experience as an ALF administrator. Consent order entered accepting voluntary surrender of license entered without prejudice to right to re-apply for licensure.	License Surrendered
3/31/2009	NHA	Violation of prior consent order requiring completion of 24 hrs of continuing education in survey preparedness and quality improvement processes for failing to supervise employees properly. NHA voluntarily surrendered her license.	License Surrendered / Suspended

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## Recommendations

## How Can Administrators Protect Themselves

- ◆ Know the regulations and guidance documents
- ◆ Keep copies of original CE
- ◆ Obtain company support and resources
- ◆ Ensure preventative mechanisms are in place regarding education and licensure requirements
- ◆ Monitor the DHP website
- ◆ Review Sanctioning Reference Points Instruction Manual/ Adjudication Manual
- ◆ Review Disciplinary Actions
- ◆ Pursue IDR
- ◆ Register with Town Hall ([www.townhall.state.va.us](http://www.townhall.state.va.us))



## When to “Fight” and When to Settle

- ◆ When to “Fight” and When to Settle
  - Case specific
  - Many complaints are filed by disgruntled employees – if the case has no basis – “fight”
  - If IDR for SQC is favorable – “fight”
  - Depending on the alleged violation it may be worth settling during the informal stage through CCA or Consent Order to avoid stress of delayed resolution, cost, threat of increased penalties – “settle”

## How to Respond to Staff, Families and Media

- ◆ How to Respond to Staff, Families and Media
  - Case specific
  - Positive response to surveys
  - Less said the better
  - Proactive

## Other Information - Financial Outlook

- ◆ Board is financially strapped due to unexpected surge in cases (172% increase)
- ◆ Looking at ways to streamline investigations (possibly protocol)
- ◆ Difficult to cut costs and maintain an effective process
- ◆ Online application process
- ◆ Considering: increase in fees
- ◆ Automatic Prehearing Consents for certain issues

# DISCUSSION

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