

APPENDIX 14-2

**LITTLE KNOWN FACTS ABOUT STATE INVESTIGATIONS
(INCLUDING DOH INVESTIGATIONS) THAT COULD SAVE YOUR LICENSE**

1. You do not have to make any statement at all to an investigator. The Fifth Amendment applies. We recommend you never speak to an investigator or make any statement.
2. You do not have to sign an affidavit that your medical/dental records are complete. In fact, we strongly recommend against doing this.
3. If you receive a DOH subpoena for records, you do not have to provide them. You may file an objection to producing them based on an invasion of the privacy of the patient, lack of relevance to the investigation, super-confidential medical information (including HIV/AIDS testing or information, drug or alcohol counseling or testing information, or mental health information) or other proper grounds.
4. The Surgeon General (formerly known as the Secretary of the Department of Health) does not have the authority to enforce a subpoena or to issue a final order to you compelling you to respond to the subpoena. Only a court of law with jurisdiction has the legal authority to compel you to produce records in response to a DOH subpoena.
5. If you have filed an objection to an administrative procedure, you cannot be legally charged with violating an order from the head of the agency to produce those records. The head of the Department of Health does not have the legal authority to enforce such subpoenas.
6. If you are facing an emergency suspension order (ESO) for certain types of misconduct (e.g., drug abuse, alcohol abuse, sexual misconduct, mental impairment) you may be able to submit a voluntary request/agreement to refrain from practice in the state of Florida. This may avoid having an ESO issued, which is a public record and is published through the media. If you have a license in another state, you may still practice in that state.
7. A voluntary relinquishment of your professional license after an investigation has begun is treated the same as a revocation of your license. This will result in a report being made to the National Practitioner Data Bank (NPDB), just the same as a revocation of your license would be (even for LPN, R.N., or ARNP). This will then result in your exclusion from the Medicare and Medicaid Programs, and you debarment/exclusion from all government contracting or employment.
8. You do not have to report your investigation to anyone. A DOH investigation is and remains completely confidential until at least ten (10) days after there is a finding of probable cause.
9. Until there is a suspension or other final action taken against you, there is no indication on your license or in your licensure file that you are being investigated.