

# Seven Things To Know When You Receive A Notice Of Investigation From The Department Of Health



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# WELCOME

**H**i. My name is George F. Indest III and I am the President and Managing Partner of The Health Law Firm, in Orlando, Florida. I am also Board Certified by the Florida Bar in Health Law , I have over 30 years of legal experience, mostly representing health care providers.

The health care industry is the most strictly regulated industry in the U.S. State and federal laws, state and federal administrative regulations and state and federal administrative oversight agencies complicate any business situation. We can help you form and structure your business to comply with all laws and regulations, we can provide legal opinion letters on proposed business ventures, we can prepare or negotiate contracts and agreements, we can provide legal representation in litigation in state or federal court.

When state or federal agencies audit or investigate, we can provide you legal representation, whether it is the Centers for Medicare and Medicaid Services (CMS) and its contractors, the Office of the Inspector General (OIG), the Food and Drug Administration (FDA), the Drug Enforcement Administration (DEA), the U.S. Attorney's Office, the Medicaid Fraud Control Unit (MFCU), the state Department of Health (DOH) or the professional licensing board. If you have your license investigated and are subject to administrative charges, we can represent you. We also routinely represent health care providers in state and federal administrative hearings.

We represent health care providers in complex litigation cases, in hospital medical staff peer review and fair hearings and in regulatory actions by the FDA and DEA. At The Health Law Firm, we provide legal services for all health care providers and professionals. These include physicians, nurses, dentists, psychologists, psychiatrists, mental health counselors, medical students and interns, home health agencies (HHAs), assisted living facilities (ALFs), hospitals, health care clinics (HCCs), ambulatory surgical centers (ASCs), nursing homes (SNFs), and other health care providers. We know how important your ability to practice in the field of health care is to you, which is why we focus on helping our clients to protect their licenses and preserve their careers.

Let us put our experience as health lawyers and health care professionals to work for you.



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Sincerely,

A handwritten signature in black ink that reads "George F. Indest III".

GEORGE F. INDEST III, J.D., M.P.A., LL.M.  
Board Certified by The Florida Bar in Health Law  
PRESIDENT & MANAGING PARTNER



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Being involved in a case that puts your professional license and reputation at stake can be very frightening. Not only are you at economic risk, but you are also at risk of impeding your ability to work in your chosen field to which you have dedicated many years of your life. While choosing to be a health care provider is a wonderful goal, it also can make you a target. When someone's health care does not go as planned, you are at risk of being blamed.

While the majority of health care professionals go through their entire career without receiving a notice of investigation from the Department of Health, not all individuals are so fortunate. No one expects to be contacted by a Department of Health investigator for this reason, so they are unprepared when they do receive a notice of this nature. Many recipients of these notices are ill-prepared and have no knowledge of the actual process ahead of them.

However, there are certain steps you can take and information you should know which can help you when confronted with this process, including the following:



## 1. Obtain the services of a qualified

**attorney.** This is a legal process, so it is important to have appropriate legal counsel. Also, you do not want just any attorney. Look for someone who has experience in professional license defense, particularly the defense of health care providers. It is important that the attorney you choose is familiar with the process and has a proven track record of defending individuals under a similar set of circumstances. Be sure that you are completely honest with your health care license defense attorney so that he or she can sufficiently prepare your defense.



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## 2. You may not want to make a statement.

One of the first questions that you ask your attorney may be whether you should make a statement for the investigation. If you feel innocent of the allegations lodged against you, the natural reaction may be to make a statement to clear your name. However, in many instances, it is simply not in your best interest to do this. Remember that the Department of Health has already notified you of its intent to investigate you, whether you plan to participate or not.

Nothing you say at this point is going to deter the department from continuing the investigation.

However, some things that you say or do may actually

hurt your case and be used against you. Department of Health investigations do not provide discovery to you in the same way that other formal legal proceedings do, so you will not know firsthand what information it already has against you. Your defense attorney can provide an honest assessment and recommendation as to whether it would be best for you to make any statement at this point.



**3. Understand the steps ahead.** If the probable cause panel of your professional board decides to pursue the complaint, it can file a formal administrative complaint, a process similar to filing a criminal complaint. Once this step is taken, you then have the right of discovery. At this juncture, you can discover the information, documents and witnesses that the department is planning to use against you. You can understand the extent and information in the allegations. Conversely, the department could issue a citation for certain minor offenses, which is less severe action and usually results in the need to pay a fine or take other minimal corrective action.



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**4. Make logical decisions.** While it is easy to get caught up in emotion when your livelihood and reputation are at stake, try to make all decisions from a logical standpoint. If you are confused about what decisions to make, take time to make the decision and review the options with your attorney, who should be unbiased and objective. Remember, your attorney should provide neutral and objective advice to you as a counselor and advisor. However, in presenting you at a hearing, your attorney should be an aggressive advocate.

**5. Continue working.** In most cases, you will still be permitted to continue to practice while the investigation is ongoing. If there are certain deficiencies that you can correct in the interim while the investigation is still underway, take the time to correct these deficiencies, such as entering into a rehabilitation program, if substance abuse or alcohol abuse is alleged. These behaviors demonstrate your willingness to correct past misconduct and to similarly avoid it in the future. Consult your attorney first, however.



**6. Ask your attorney questions.** You are not expected to be a legal expert. You may have many questions that come up during the process, including what information you will be required to supply. Do not ask the investigator questions. Do not call the Department of Health or your board staff and ask them questions. This is not their job and you will not be getting good legal advice. You may want to know the different options that are available and whether there are any mitigating steps you can take to avoid the worst case scenarios. Your attorney is there to guide you and to represent your best interests.

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**7. Explore options.** Know about the potential resolutions of your case. In many instances, you may be able to negotiate a resolution or ask for a hearing to assert your rights. Know the differences between an informal hearing and a formal hearing. Know about mitigating factors and how to prove them. Even if you do wind up with your license suspended or revoked, know about the process of having it reinstated or appealing the outcome.

## Legal Representation

*If your professional license is at stake, it is important that you contact a lawyer experienced in defending against administrative complaints against your license, actions by regulatory agencies or malpractice law suits. George F. Indest III is the President and Managing Partner of The Health Law Firm and is board certified in Health Law. This focus allows Mr. Indest to diligently represent professionals throughout Florida and in other states. Among his current and former clients are hospitals, long term care facilities, physicians, dentists, nurses, pharmacists and other health care providers. To schedule a confidential consultation, call his office at (407) 331-6620, Toll-Free at (888) 331-6620 or e-mail [kbrant@thehealthlawfirm.com](mailto:kbrant@thehealthlawfirm.com) to find out what options are available to you.*

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