



Health Care Professional Responsibility and Reporting Enhancement Act

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THE CULLEN LAW

Nurse Cullen

Charles Cullen may be the most prolific serial killer in history. In the course of a 16-year nursing career it is believed that he murdered around 30 patients, spiking their IV bags at random or administering lethal injections in person.

Healthcare Risk Management Review
<http://www.hrmronline.com/article/the-worst-nurse>

DEATH ON THE NIGHT SHIFT

Cullen, defies the cliché about serial killers - that nobody suspected anything, nobody noticed anything strange.

Wherever he went, people found his behavior erratic, suspicious, even criminal.

http://www.nytimes.com/2004/02/29/nyregion/death-night-shift-16-years-dozens-bodies-through-gaps-system-nurse-left-trail.html?rref=collection%2Ftimestopic%2FCullen%2C%20Charles&action=click&contentCollection=timestopics®ion=stream&module=stream_unit&version=latest&contentPlacement=7&pgtype=collection

Warning Signs

In hindsight, his life looks like a trail of signal flares, warning of instability and a capacity to harm himself or others.

Yet Mr. Cullen was able to go from job to job for a decade after the first homicide accusation, confounding co-workers, government investigators and relatives of patients who died.

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Charles Cullen: 60 Minutes Interview

60 Minutes Interview

[Part 1](#)

[Part 2](#)

Overview of the Law

- Criminal history background checks
- Reporting by licensed health care entities
- Reporting by health care professionals
- Disclosure by health care entity of reports filed

Basics

- Health Care Entity (HCE)
- Health Care Professional (HCP)

Health Care Entities (HCE)

- Facilities licensed by the NJDOH ;
- HMOs and carriers regulated by the NJDOBI;
- State or County psychiatric hospitals;
- State developmental centers;
- Staffing Registries; and
- Home care service agencies.

Health Care Professionals (HCP)

- Individuals licensed or authorized to practice a health care profession regulated by the Division of Consumer Affairs.

Health Care Professionals (HCP)

- Nursing
- Medical Examiners
- Dentistry
- Optometrists
- Pharmacy
- Chiropractic Examiners
- Acupuncture
- Physical Therapy
- Respiratory Care
- Orthotics & Prosthetics
- Psychological Examiners
- Social Work Examiners
- Veterinary Medical Examiners
- Ophthalmic Dispensers and Technicians
- Audiology & Speech-Language Pathology
- Marriage & Family Therapy
- Occupational Therapy
- Psychoanalysts.

Health Care Professionals (HCP)

- Nurse aides and personal care assistants certified by the Department of Health.

Relationship of HCE to HCP

- Employed by;
- Under contract;
- Has privileges granted; or
- Provides services via an agreement with a health care service firm or staffing.

Reporting

- A report is required if the HCE *takes action* based on the HCP's:
 - Impairment;
 - Incompetency; or
 - Unprofessional conduct.

Patient Care & Safety

- Incompetency and professional misconduct must adversely relate to patient care or safety.

What is an impairment?

Alcohol or chemical use, psychiatric or emotional disorder, senility or a disabling physical disorder resulting in:

- An inability to function at an acceptable level of competency, or
- Lacking the capacity to continue to practice with the requisite skill, safety and judgment.

Types of reportable actions (1 of 3)

- Discharges the HCP from the staff;
- Summarily or temporarily revokes; suspends or permanently reduces, suspends or revokes the full or partial clinical privileges or practice;

Reporting: HCE Action (2 of 3)

- Removes the HCP from the list of eligible employees of health service firm or staffing registry;
- Terminates or rescinds a contract to render services.

Reporting: HCE Action (3 of 3)

Places conditions or limitations on the exercise of clinical privileges or practice including

- Second opinion requirements;
- Non-routine concurrent or retrospective review of admissions or care specifically tailored after a preliminary review of care;
- Non-routine supervision by one or more members of the staff; or
- Completion of **remedial education or training**.

What is Remedial Education/Training?

Education or training required because the professional has exhibited

- A lack of knowledge or skills expected of a professional who has had the same level of education and training and the same degree of professional responsibility.
- Does not include a tailored education plan for professionals in training programs.

Resigning & Voluntarily Relinquishing Privileges or Authorizations

A report is required if an individual resigns or voluntarily relinquishes privileges of authorizations from the staff while under review or during an investigation* of:

1. Quality of patient care rendered;
2. Conduct that demonstrates
Impairment; incompetence; or unprofessional conduct;

* whether or not the HCP knows of the investigation

Report Required: Leave of Absence

A report is required if a leave of absence is granted for reasons relating to

A physical, mental or emotional condition or drug or alcohol use which impairs the health care professional's ability to practice with reasonable skill and safety while under, or subsequent to, a review of the health care professional's patient care or professional conduct.

Leaves of Absence –NO REPORT

No report required for:

- Pregnancy-related leaves of absence;
- Participation, or an agreement to participate, in a board-approved intervention program
- Professional must agree to follow, and then follow the treatment regimen or monitoring required by the program.

Leave of Absence: Monitoring Program

If the HCP participates in a board-approved intervention program, the HCE must:

- Confirm HCP's participation in the program; and
- Notify the HCP that a report would have been filed but for participation in and compliance with the intervention program.
- If the HCP is not in compliance with the program, then you must report.

Medical Malpractice

A report must be filed when the HCP and HCE are both parties to a medical malpractice suit, resulting in

- settlement
- judgment or
- arbitration award.

Some Details

- Reports must be filed within 7 days of the *HCE's* action
- Reporting form available on the Division's website
(<http://www.njconsumeraffairs.gov/Pages/hcreporting.aspx>)
- A copy to the HCP
- Follow-up reports
 - Full or partial restoration of the duties
 - Further limits on practice

Health Care Professionals' Reporting Requirements

A HCP is required to report if in possession of information which reasonably indicates another HCP has demonstrated

- An impairment,
- Gross incompetence or
- Professional misconduct
- Which would present an ***imminent danger*** to an individual patient or to the public health, safety or welfare

Reporting Requirements of Health Care Professionals

- A HCP would not need to file a report if
 - He/she is only aware of the information about the HCP as a result of participation in a review or other proceeding conducted by or for a HCE;
 - He/she joins the entity in making and signing a report
 - He/she receives written assurance from the entity that it has made a report.

Disclosure of Information

HCE are *required* to disclose:

- All reports filed, including restoration of privileges or the full or partial restoration of duties that had been limited, curtailed or prevented; AND
- Any information that the HCE has at the time of the inquiry about the disposition of any matter that was the subject of a report regarding that HCP.

UPDATE: HCE licensed by the Department of Health will be required to use the Health Care Facility Inquiry Regarding Health Care Professional form (CN-9)

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