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Health Care Professional Responsibility and Reporting Enhancement Act Table of Contents

45:1-33 Short title.	1
26:2H-12.2b. Notification relative to certain impairments of health care professionals; definitions..	1
26:2H-12.2a. Maintenance of records of complaints, disciplinary actions.	3
45:1-28. Definitions relative to criminal history background checks for health care professionals. ...	4
45:1-29. Criminal history record background check required for licensure of health care professional.....	4
45:1-30. Submission of information by applicant or licensee.	5
45:1-31. Applicant or licensee to assume cost.	6
45:9-19.9. Notice received by review panel; actions, recommendations.	6
45:1-34. Definitions relative to healthcare professionals.....	8
45:1-35. Immunity from civil liability.	9
45:1-36. Confidentiality of information.	9
45:1-37. Notification to division of impairment of health care professional.	10
45:1-38. Notification to board relative to impairment, misconduct of health care professional.	10
45:1-39. Fraud, misrepresentation, deception; disciplinary proceedings.	11
26:2H-12.2c. Disclosure of information by health care entity.....	11
26:2H-12.2d. Provision of information by health care professional, immunity from civil liability.....	12
45:1-40. Health Care Professional Information Clearinghouse Coordinator.....	12
45:9-22.23. Information included in profile of physician, podiatrist, optometrist.....	13
45:1-41. Rules, regulations.	15

45:1-33. Short title.

This act shall be known and may be cited as the "Health Care Professional Responsibility and Reporting Enhancement Act."

L.2005,c.83,s.1.

26:2H-12.2b. Notification relative to certain impairments of health care professionals; definitions.

a. A health care entity shall notify the division in writing if a health care professional who is employed by, under contract to render professional services to, or has privileges granted by, that health care entity, or who provides such services pursuant to an agreement with a health care services firm or staffing registry:

(1) for reasons relating to the health care professional's impairment, incompetency, or professional misconduct, which incompetency or professional misconduct relates adversely to patient care or safety: (a) has full or partial privileges summarily or temporarily revoked or suspended, or permanently reduced, suspended, or revoked; (b) has been removed from the list of eligible employees of a health services firm or staffing registry; (c) has been discharged from the staff; or (d) has had a contract to render professional services terminated or rescinded;

(2) has conditions or limitations placed on the exercise of clinical privileges or practice within the health care entity for reasons relating to the health care professional's impairment, incompetency, or professional misconduct or, which incompetency or professional misconduct relates adversely to patient care or safety, including, but not limited to, second opinion requirements, non-routine concurrent or retrospective review of admissions or care, non-routine supervision by one or more members of the staff, or the completion of remedial education or training;

(3) voluntarily resigns from the staff if: (a) the health care entity is reviewing the health care professional's patient care or reviewing whether, based upon its reasonable belief, the health care professional's conduct demonstrates an impairment or incompetence or is unprofessional, which incompetence or unprofessional conduct relates adversely to patient care or safety; or (b) the health care entity, through any member of the medical or administrative staff, has expressed an intention to do such a review;

(4) voluntarily relinquishes any partial privilege or authorization to perform a specific procedure if: (a) the health care entity is reviewing the health care professional's patient care or reviewing whether, based upon its reasonable belief, the health care professional's conduct demonstrates an impairment or incompetence or is unprofessional, which incompetence or unprofessional conduct relates adversely to patient care or safety; or (b) the health care entity, through any member of the medical or administrative staff, has expressed an intention to do such a review;

(5) while under, or subsequent to, a review by the health care entity of the health care professional's patient care or professional conduct is granted a leave of absence 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, except that no report is required for pregnancy-related leaves of absence or if the health care professional has sought assistance from a professional assistance or intervention program approved or

designated by the division or a board to provide confidential oversight of the health care professional and is following the treatment regimen or monitoring as that program requires; or

(6) is a party to a medical malpractice liability suit, to which the health care entity is also a party, and in which there is a settlement, judgment, or arbitration award.

As used in this subsection, incompetence, professional misconduct, and unprofessional conduct shall not include personal conduct, such as tardiness, insubordination, or other similar behavior, which does not relate to patient care or safety.

b. A health care entity shall notify the division in writing if it is in possession of information that indicates that a health care professional has failed to comply with a request to seek assistance from a professional assistance or intervention program approved or designated by the division or a board to provide confidential oversight of the health care professional, or has failed to follow the treatment regimen or monitoring program required by that program to assure that the health care professional's physical, mental, or emotional condition or drug or alcohol use does not impair the health care professional's ability to practice with reasonable skill and safety.

c. A health care entity shall notify the division in writing if any health care professional who has been the subject of a report pursuant to this section, has had conditions or limitations on the exercise of clinical privileges or practice within the health care entity altered, or privileges restored, or has resumed exercising clinical privileges that had been voluntarily relinquished.

d. In the case of a health care professional who is providing services at a health care entity pursuant to an agreement with a health care services firm or staffing agency and is the subject of a notice pursuant to this section, the health care entity shall, when it submits a notice to the division concerning that health care professional, provide a copy of the notice to the health care services firm or staffing agency.

e. The form of notification shall be prescribed by the Commissioner of Health, in consultation with the Commissioner of Human Services in the case of psychiatric facilities and developmental centers, and shall contain such information as may be required by the division and shall be made within seven days of the date of the action, settlement, judgment, or award.

f. A health care entity which fails to provide such notice to the division or fails to cooperate with a request for information by the division, the board or the Medical Practitioner Review Panel established pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8) shall be subject to such penalties as the Department of Health may determine pursuant to sections 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).

g. A health care entity, or any employee thereof, which provides information to the division, the board, the Medical Practitioner Review Panel, a health care services firm or staffing agency, or the Department of Health, in good faith and without malice, regarding a health care professional pursuant to the provisions of this section or section 3 of P.L.1989, c.300 (C.26:2H-12.2a), is not liable for civil damages in any cause of action arising out of the provision or reporting of the information.

h. A health care entity shall provide the health care professional who is the subject of a notice pursuant to paragraphs (1), (2), (4), and (5) of subsection a. of this section and subsection c. of this section with a copy of the notice provided to the division, when the health care entity submits the notice to the division.

- i. For the purposes of this section, section 3 of P.L.1989, c.300 (C.26:2H-12.2a) and section 15 of P.L.2005, c.83 (C.26:2H-12.2c):

"Board" means a professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety which licenses or otherwise authorizes a health care professional to practice a health care profession.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Health care entity" means a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), a health maintenance organization authorized to operate pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.), a carrier which offers a managed care plan regulated pursuant to P.L.1997, c.192 (C.26:2S-1 et seq.), a State or county psychiatric hospital, a State developmental center, a staffing registry, and a home care services agency as defined in section 1 of P.L.1947, c.262 (C.45:11-23).

"Health care professional" means a person licensed or otherwise authorized pursuant to Title 45 or Title 52 of the Revised Statutes to practice a health care profession that is regulated by the Director of the Division of Consumer Affairs or by one of the following boards: the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Dentistry, the New Jersey State Board of Optometrists, the New Jersey State Board of Pharmacy, the State Board of Chiropractic Examiners, the Acupuncture Examining Board, the State Board of Physical Therapy, the State Board of Respiratory Care, the Orthotics and Prosthetics Board of Examiners, the State Board of Psychological Examiners, the State Board of Social Work Examiners, the State Board of Veterinary Medical Examiners, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology and Speech-Language Pathology Advisory Committee, the State Board of Marriage and Family Therapy Examiners, the Occupational Therapy Advisory Council and the Certified Psychoanalysts Advisory Committee. "Health care professional" also includes a nurse aide and a personal care assistant certified by the Department of Health.

L.2005, c.83, s.2; amended 2012, c.17, s.179.

26:2H-12.2a. Maintenance of records of complaints, disciplinary actions.

a. A health care entity shall maintain all records of all documented complaints of events related to patient care about, and disciplinary proceedings or actions against, a health care professional who is employed by or has an affiliation with the health care entity. The health care entity shall retain the information for a period of seven years and make the records, including any information the health care entity has pertaining to records maintained on the health care professional prior to the effective date of P.L.1989, c.300 (C.45:9-19.4 et al.), available to the division, the board which licenses or otherwise authorizes the health care professional to practice, the Medical Practitioner Review Panel established pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8), and the Department of Health, as applicable, upon request.

b. A health care entity shall maintain for a period of four years all records and source data relating to its mortality, morbidity, complication, infection, and readmission and shall make the records available to the division, the board which licenses, or otherwise authorizes the health care professional, the review panel and the Department of Health, as applicable, upon request.

c. A health care entity which fails to maintain the records required pursuant to this section shall be subject to such penalties as the Department of Health shall determine pursuant to sections 13 and

14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14) and section 16 of P.L.1997, c.192 (C.26:2S-16), or the director shall determine pursuant to P.L.1989, c.331 (C.34:8-43 et seq.), as applicable.

L.1989, c.300, s.3; amended 2005, c.83, s.3; 2012, c.17, s.178.

45:1-28. Definitions relative to criminal history background checks for health care professionals.

As used in this act:

"Applicant" means an applicant for the licensure or other authorization to engage in a health care profession.

"Board" means a professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Health care professional" means a health care professional who is licensed or otherwise authorized, pursuant to Title 45 or Title 52 of the Revised Statutes, to practice a health care profession that is regulated by one of the following boards or by the Director of the Division of Consumer Affairs: the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Dentistry, the New Jersey State Board of Optometrists, the New Jersey State Board of Pharmacy, the State Board of Chiropractic Examiners, the Acupuncture Examining Board, the State Board of Physical Therapy, the State Board of Respiratory Care, the Orthotics and Prosthetics Board of Examiners, the State Board of Psychological Examiners, the State Board of Social Work Examiners, the State Board of Veterinary Medical Examiners, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology and Speech-Language Pathology Advisory Committee, the State Board of Marriage and Family Therapy Examiners, the Occupational Therapy Advisory Council, the Certified Psychoanalysts Advisory Committee or the State Board of Polysomnography.

Health care professional shall not include a nurse aide or personal care assistant who is required to undergo a criminal history record background check pursuant to section 2 of P.L.1997, c.100 (C.26:2H-83) or a homemaker-home health aide who is required to undergo a criminal history record background check pursuant to section 7 of P.L.1997, c.100 (C.45:11-24.3).

"Licensee" means an individual who has been issued a license or other authorization to practice a health care profession.

L.2002,c.104,s.1; amended 2005, c.83, s.4; 2005,c.244,s.17.

45:1-29. Criminal history record background check required for licensure of health care professional.

a. A professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety or the director who regulates the practice of a health care professional, as applicable, shall not issue an initial license or other authorization to practice a health care profession that is regulated by that board or the director to any applicant therefor unless the board or director, as applicable, first determines, consistent with section 8 of P.L.1978,

c.73 (C.45:1-21), that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which may disqualify the applicant from being licensed or otherwise authorized to practice as a health care professional.

b. A board or the director, as applicable, shall not renew or, if renewed, shall revoke a license or other authorization to practice a health care profession that is regulated by that board or the director of any applicant therefor unless the board or director determines, consistent with section 8 of P.L.1978, c.73 (C.45:1-21), that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which may provide grounds for the refusal to renew the license or other authorization to practice as a health care professional.

The director shall establish, by regulation, a schedule of dates by which the requirements of this subsection shall be implemented, so that all licensees will have been required to submit to a criminal history record background check beginning no later than four years after the effective date of P.L.2005, c.83 (C.45:1-33 et al.).

The director may, in an emergent circumstance, temporarily waive the requirement to undergo a criminal history record background check as a condition of renewal of a license or other authorization to practice a health care profession.

L.2002,c.104,s.2; amended 2005, c.83, s.5.

45:1-30. Submission of information by applicant or licensee.

a. An applicant or licensee who is required to undergo a criminal history record background check pursuant to section 2 of P.L.2002, c.104 (C.45:1-29) shall submit to the director that individual's name, address and fingerprints taken on standard fingerprint cards, or through any equivalent means, by a State or municipal law enforcement agency or by a private entity under contract with the State. The director is authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required pursuant to this act.

b. Upon receipt of the criminal history record information for an applicant or licensee from the Federal Bureau of Investigation or the Division of State Police, the director shall immediately notify the board, as applicable.

c. If an applicant refuses to consent to, or cooperate in, the securing of a criminal history record background check, the board or director, as applicable, shall not issue a license or other authorization to practice a health care profession to the applicant and shall notify the applicant of that denial.

d. If a licensee refuses to consent to, or cooperate in, the securing of a criminal history record background check as required during the licensure or other authorization renewal process, the board or director, as applicable, shall refuse to renew the license or other authorization of the licensee, without a hearing, and shall notify the licensee of that denial.

e. A licensee who:

(1) has permitted a license or other authorization to lapse or whose license or other authorization has been suspended, revoked or otherwise has had licensure or other authorization privileges restricted, and

(2) has not already submitted to a criminal history record background check, shall be required to submit fingerprints as part of the licensure or other authorization reinstatement process. If a reinstatement applicant refuses to consent to, or cooperate in, the securing of a criminal history record background check as required during the reinstatement process, the board or director, as applicable, shall automatically deny reinstatement of the license or other authorization, without a hearing, and shall notify the licensee of that denial.

L.2002,c.104,s.3; amended 2005, c.83, s.6.

45:1-31. Applicant or licensee to assume cost.

An applicant or licensee shall be required to assume the cost of the criminal history record background check conducted pursuant to sections 1 through 3 of P.L.2002, c.104 (C.45:1-28 through 45:1-30) and section 14 of P.L.1997, c.100 (C.53:1-20.9a), in accordance with procedures determined by regulation of the director.

L.2002,c.104,s.4; amended 2005, c.83, s.7.

45:9-19.9. Notice received by review panel; actions, recommendations.

a. The review panel shall receive:

(1) Notice from a health care entity, provided through the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to section 2 of P.L.2005, c.83 (C.26:2H-12.2b);

(2) Notice from an insurer or insurance association or a practitioner, pursuant to section 2 of P.L.1983, c.247 (C.17:30D-17), regarding a medical malpractice claim settlement, judgment or arbitration award or a termination or denial of, or surcharge on, the medical malpractice liability insurance coverage of a practitioner; and

b. The review panel may receive referrals from the board which may include complaints alleging professional misconduct, incompetence, negligence or impairment of a practitioner from other health care providers and consumers of health care.

c. Upon receipt of a notice or complaint pursuant to this section, the review panel shall investigate the information received, obtain any additional information that may be necessary in order to make a recommendation to the board, and make that recommendation within 90 days after receipt of the referral, except that the 90-day period shall be tolled, whenever additional time is required: to obtain information, records, or evidence sought pursuant to this section that is necessary for the review panel to make its recommendation; for the review panel to consider additional information furnished more than 30 days after receipt of the referral; for expert consultation related to the subject matter under investigation; or for other good cause shown due to extraordinary or unforeseen circumstances. In the event that the 90-day period is tolled, the review panel shall so notify the board, indicating the reason and the amount of additional time required to make its recommendation. A copy of the notice shall be transmitted to the Attorney General and the

referring entity. Nothing in this subsection shall be construed to limit or otherwise impair the authority of the board to take any action against a licensee or applicant for a license, or of the review panel to make a recommendation. The review panel may seek the assistance of a consultant or other knowledgeable person, as necessary, in making its recommendation. The review panel may request the board or the Attorney General to exercise investigative powers pursuant to section 5 of P.L.1978, c.73 (C.45:1-18) in the conduct of its investigation.

(1) If the review panel has reasonable cause to believe that a practitioner represents an imminent danger to his patients, the review panel shall immediately notify the State Board of Medical Examiners and the Attorney General and recommend the initiation of an application before the board to temporarily suspend or otherwise limit the practitioner's license pending further proceedings by the review panel or the board.

If the board temporarily suspends or otherwise limits the license, the board shall notify each health care entity with which the practitioner is affiliated and every practitioner in the State with which the practitioner is directly associated in his private practice.

(2) A practitioner who is the subject of an investigation shall be promptly notified of the investigation, pursuant to procedures adopted by regulation of the board that give consideration to the health, safety and welfare of the practitioner's patients and to the necessity for a confidential or covert investigation by the review panel. At the panel's request or upon a good cause showing by the practitioner an informal hearing shall be scheduled before the review panel or a subcommittee of at least three review panel members, in accordance with regulations adopted by the board. The hearing shall be transcribed and the practitioner shall be entitled to a copy of the transcript, at his own expense. A practitioner who presents information to the review panel is entitled to be represented by counsel.

(3) Notwithstanding any provision of this section to the contrary, in any case in which the board determines to conduct an investigation of a practitioner who it has reasonable cause to believe represents an imminent danger to his patients, the board may direct the review panel to provide the board with its files pertaining to that practitioner and may direct the review panel to promptly terminate its investigation of that practitioner without making a recommendation pursuant to subsection d. of this section.

Upon request of the review panel, the State Board of Medical Examiners shall provide the review panel with any information contained in the board's files concerning a practitioner.

d. Upon completion of its review, the review panel shall prepare a report recommending one of the following dispositions:

(1) Recommend to the State Board of Medical Examiners that the matter be referred to the Attorney General for the initiation of disciplinary action against the practitioner who is the subject of the notice or complaint, pursuant to section 8 or 9 of P.L.1978, c.73 (C.45:1-21 or 45:1-22);

(2) Defer making a recommendation to the board pending the outcome of litigation or a health care entity disciplinary proceeding, if there is no evidence that the practitioner's professional conduct may jeopardize or improperly risk the health, safety or life of a patient;

(3) Refer the practitioner to the appropriate licensed health care practitioner treatment program recognized by the State Board of Medical Examiners and promptly notify the medical director of the board of the referral;

(4) Refer the practitioner to the appropriate focused education program recognized by the State Board of Medical Examiners and promptly notify the educational director of the board of the referral; or

(5) Find that no further action is warranted at this time.

e. A member of the State Board of Medical Examiners shall not participate by voting or any other action in any matter before the board on which the board member has participated previously as a review panel member.

f. The State Board of Medical Examiners may affirm, reject or modify any disposition of the review panel. After its consideration of the panel recommendation the board shall notify the practitioner who has been the subject of a notice or complaint of the review panel's recommendation and the board's determination.

g. Nothing in this section shall be construed to prevent or limit the State Board of Medical Examiners, the Director of the Division of Consumer Affairs in the Department of Law and Public Safety or the Attorney General from taking any other action permitted by law against a practitioner who is the subject of an investigation by the review panel.

h. For the purposes of this section, "practitioner" means a person licensed to practice: medicine and surgery under chapter 9 of Title 45 of the Revised Statutes or a medical resident or intern; or podiatric medicine under chapter 5 of Title 45 of the Revised Statutes.

i. As used in this section, "focused education program" means an individualized and systematic process to assess the educational needs of a licensee based on scientific analysis, technical skill and interpersonal evaluation as they relate to the licensee's professional practice, and the institution of remedial education and any supervision, monitoring or limitations of the licensee.

L.1989, c.300, s.9; amended 2001, c.307, s.8; 2005, c.83, s.8; 2005, c.259, s.14; 2011, c.22, s.3.

45:1-34. Definitions relative to healthcare professionals.

As used in sections 9 through 14 and 16 and 17 of P.L.2005, c.83 (C.45:1-34 through C.45:1-39 and C.26:2H-12.2d and C.45:1-40):

"Board" means a professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety which licenses or otherwise authorizes a health care professional to practice a health care profession.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety;

"Health care entity" means a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), a health maintenance organization authorized to operate pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.), a carrier which offers a managed care plan regulated pursuant to P.L.1997, c.192 (C.26:2S-1 et seq.), a State or county psychiatric hospital, a State developmental center, a staffing registry, and a home care services agency as defined in section 1 of P.L.1947, c.262 (C.45:11-23).

"Health care professional" means a person licensed or otherwise authorized pursuant to Title 45 or Title 52 of the Revised Statutes to practice a health care profession that is regulated by the Director of the Division of Consumer Affairs or by one of the following boards: the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Dentistry, the New Jersey State Board of Optometrists, the New Jersey State Board of Pharmacy, the State Board of Chiropractic Examiners, the Acupuncture Examining Board, the State Board of Physical Therapy, the State Board of Respiratory Care, the Orthotics and Prosthetics Board of Examiners, the State Board of Psychological Examiners, the State Board of Social Work Examiners, the State Board of Veterinary Medical Examiners, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology and Speech-Language Pathology Advisory Committee, the State Board of Marriage and Family Therapy Examiners, the Occupational Therapy Advisory Council and the Certified Psychoanalysts Advisory Committee.

"Licensee" means an individual who has been issued a license or other authorization to practice a health care profession.

"Review panel" means the Medical Practitioner Review Panel established pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8).

L.2005,c.83,s.9.

45:1-35. Immunity from civil liability.

A health care entity, health care professional or any other person who provides to the division, a board or the review panel, in good faith and without malice, any information concerning an act by a health care professional which the person has reasonable cause to believe involves misconduct that may be subject to disciplinary action by the division, board or review panel, as applicable, or any information relating to such conduct requested by the division, board or review panel in the exercise of its statutory responsibilities or which may be required by statute, shall not be liable for civil damages in any cause of action arising out of the provision of such information or services.

L.2005,c.83,s.10.

45:1-36. Confidentiality of information.

Any information provided to the division or a board concerning the conduct of a health care professional, pursuant to section 2 of P.L.2005, c.83 (C.26:2H-12.2b), section 5 of P.L.1978, c.73 (C.45:1-18) or any other provision of law, shall be treated as confidential pending final disposition of the inquiry or investigation, except for that information required to be shared with the Attorney General, Department of Health and Senior Services or any other government agency.

If the result of the inquiry or investigation is a finding of no basis for disciplinary action, the information shall remain confidential, except that the board or division, as applicable, may release the information to a government agency to facilitate the discharge of its public responsibilities.

The provisions of this section shall not apply to information that the division, or its designated agent, is required to include in a physician's profile pursuant to P.L.2003, c.96 (C.45:9-22.21 et seq.).

L.2005,c.83,s.11.

45:1-37. Notification to division of impairment of health care professional.

a. A health care professional shall promptly notify the division if that health care professional is in possession of information which reasonably indicates that another health care professional has demonstrated an impairment, gross incompetence or unprofessional conduct which would present an imminent danger to an individual patient or to the public health, safety or welfare. A health care professional who fails to so notify the division is subject to disciplinary action and civil penalties pursuant to sections 8, 9 and 12 of P.L.1978, c.73 (C.45:1-21, 45:1-22 and 45:1-25).

b. A health care professional shall be deemed to have satisfied the reporting requirement concerning another health care professional's impairment by promptly providing notice to the division, the board or a professional assistance or intervention program approved or designated by the division or a board to provide confidential oversight of the licensee.

c. (1) There shall be no private right of action against a health care professional for failure to comply with the notification requirements of this section.

(2) There shall be no private right of action against a health care entity if a health care professional who is employed by, under contract to render professional services to, or has privileges granted by, that health care entity, or who provides such services pursuant to an agreement with a health care services firm or staffing registry, fails to comply with the notification requirements of this section.

d. A health care professional who provides notification to the division, board or review panel, in good faith and without malice, about a health care professional who is impaired or grossly incompetent or who has demonstrated unprofessional conduct, pursuant to this section, is not liable for civil damages to any person in any cause of action arising out of the notification.

e. Notwithstanding the provisions of this section to the contrary, a health care professional is not required to provide notification pursuant to this section about an impaired or incompetent health care professional if the health care professional's knowledge of the other health care professional's impairment or incompetence was obtained as a result of rendering treatment to that health care professional.

L.2005,c.83,s.12.

45:1-38. Notification to board relative to impairment, misconduct of health care professional.

a. Upon receipt of notice from a health care entity, or any employee thereof, pursuant to section 2 of P.L.2005,c.83 (C.26:2H-12.2b), notice from a health care professional pursuant to section 12 of P.L.2005, c.83 (C.45:1-37) or information concerning the conduct of a health care professional pursuant to section 10 of P.L.2005, c.83 (C.45:1-35), the division shall promptly notify the board that issued the license or other authorization to practice to the person to whom the notice relates.

The division or board, as applicable, shall initiate an investigation concerning the information received and obtain any additional information that may be necessary in order to determine if disciplinary charges should be pursued or if an application to temporarily suspend or otherwise limit the health care professional's license or other authorization to practice should be initiated.

b. The division or the board may seek the assistance of a consultant or other knowledgeable person in evaluating the information and may request the board or the Attorney General to exercise investigative powers pursuant to section 5 of P.L.1978, c.73 (C.45:1-18) in the conduct of its investigation.

c. If the Attorney General files charges based on information derived from the notice from a health care entity or if the board revokes or permanently or temporarily suspends or otherwise limits the license or other authorization to practice of a health care professional, the board shall notify each health care entity with which the health care professional is affiliated.

L.2005,c.83,s.13.

45:1-39. Fraud, misrepresentation, deception; disciplinary proceedings.

Any health care professional seeking to become employed by, enter into a contract to render professional services to, or obtain privileges at, a health care entity, or provide professional services pursuant to an agreement with a health care services firm or staffing registry, who engages in fraud, misrepresentation or deception in the application or credentialing process shall be subject to disciplinary proceedings, pursuant to section 8 of P.L.1978, c.73 (C.45:1-21).

L.2005,c.83,s.14.

26:2H-12.2c. Disclosure of information by health care entity.

a. A health care entity, upon the inquiry of another health care entity, shall truthfully:

(1) disclose whether, within the seven years preceding the inquiry, it provided any notice to the division pursuant to section 2 of P.L.2005, c.83 (C.26:2H-12.2b), or to the review panel, as required by section 3 of P.L.1989, c.300 (C.26:2H-12.2a), with respect to the health care professional about whom the inquiry has been made, providing a copy of the form of notification and any supporting documentation that was provided to the division, a professional or occupational licensing board in the Division of Consumer Affairs in the Department of Law and Public Safety, or the review panel; and

(2) provide information about a current or former employee's job performance as it relates to patient care, as provided in this section, and, in the case of a former employee, the reason for the employee's separation.

b. For the purposes of this section, "job performance" shall relate to the suitability of the employee for re-employment at a health care entity, and the employee's skills and abilities as they relate to suitability for future employment at a health care entity. Information about a current or former employee's job performance pursuant to this paragraph shall be based on the employee's performance evaluation, and provided to another health care entity only if: (1) the evaluation has been signed by the evaluator and shared with the employee; (2) the employee has had the opportunity to respond; and (3) the employee's response, if any, has been taken into consideration when providing the information to another health care entity.

Job performance as it relates to patient care shall not include the current or former employee's participation in labor activities pursuant to the "National Labor Relations Act," 29 U.S.C. s.151 et seq.

c. A health care entity, or any employee designated by the entity, which, pursuant to this section, provides information in good faith and without malice to another health care entity concerning a health care professional, including information about a current or former employee's job performance as it relates to patient care, is not liable for civil damages in any cause of action arising out of the provision or reporting of the information.

d. A health care entity which fails to truthfully disclose information to another health care entity making an inquiry pursuant to this section or fails to cooperate with such request for information by the other health care entity shall be subject to such penalties as the Department of Health may determine pursuant to sections 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14) and section 16 of P.L.1997, c.192 (C.26:2S-16), or the director shall determine pursuant to P.L.1989, c.331 (C.34:8-43 et seq.), as applicable.

L.2005, c.83, s.15; amended 2012, c.17, s.180.

26:2H-12.2d. Provision of information by health care professional, immunity from civil liability.

a. A health care professional employed by or practicing at a health care entity shall promptly notify the person at the entity, who is designated by that entity, if the health care professional is in possession of information which reasonably indicates that another health care professional who is employed by or practicing at the entity has demonstrated an impairment, gross incompetence or unprofessional conduct which would present an imminent danger to an individual patient or to the public health, safety or welfare.

b. A health care professional who provides information pursuant to this section, in good faith and without malice, shall not be liable for civil damages in any cause of action arising out of the provision of such information.

c. The reporting requirement in this section shall be in addition to the reporting requirement for health care professionals established in section 12 of P.L.2005, c.83 (C.45:1-37).

L.2005,c.83,s.16.

45:1-40. Health Care Professional Information Clearinghouse Coordinator.

a. The Division of Consumer Affairs in the Department of Law and Public Safety shall employ a full-time Health Care Professional Information Clearinghouse Coordinator to assist the Director of the Division of Consumer Affairs in compiling and disseminating to the appropriate licensing board or other applicable entity the information reported to the division by health care entities and professionals pursuant to this act and such other information as specified by the director.

b. The director shall provide that the professional and occupational licensing boards which license or otherwise authorize a health care professional to practice a health care profession with professional and administrative staff as may be needed to carry out the purposes of this act.

L.2005,c.83,s.17.

45:9-22.23. Information included in profile of physician, podiatrist, optometrist.

a. The following information shall be included for each profile of a physician, podiatrist or optometrist, as applicable:

- (1) Name of all medical or optometry schools attended and dates of graduation;
- (2) Graduate medical or optometry education, including all internships, residencies and fellowships;
- (3) Year first licensed;
- (4) Year first licensed in New Jersey;
- (5) Location of the physician's, podiatrist's or optometrist's office practice site or sites, as applicable;
- (6) A description of any criminal convictions for crimes of the first, second, third or fourth degree within the most recent 10 years. For the purposes of this paragraph, a person shall be deemed to be convicted of a crime if the individual pleaded guilty or was found or adjudged guilty by a court of competent jurisdiction. The description of criminal convictions shall not include any convictions that have been expunged. The following statement shall be included with the information about criminal convictions: "Information provided in this section may not be comprehensive. Courts in New Jersey are required by law to provide information about criminal convictions to the State Board of Medical Examiners (or the New Jersey State Board of Optometrists).";
- (7) A description of any final board disciplinary actions within the most recent 10 years, except that any such disciplinary action that is being appealed shall be identified;
- (8) A description of any final disciplinary actions by appropriate licensing boards in other states within the most recent 10 years, except that any such disciplinary action that is being appealed shall be identified. The following statement shall be included with the information about disciplinary actions in other states: "Information provided in this section may not be comprehensive. The State Board of Medical Examiners (or the New Jersey State Board of Optometrists) receives information about disciplinary actions in other states from physicians (or optometrists) themselves and outside sources.";
- (9) In the case of physicians and podiatrists, a description of: the revocation or involuntary restriction of privileges at a health care facility for reasons related to the practitioner's competence or misconduct or impairment taken by a health care facility's governing body or any other official of the health care facility after procedural due process has been afforded; the resignation from or nonrenewal of medical staff membership at the health care facility for reasons related to the practitioner's competence or misconduct or impairment; or the restriction of privileges at a health care facility taken in lieu of or in settlement of a pending disciplinary case related to the practitioner's competence or misconduct or impairment. Only those cases that have occurred within the most recent 10 years and that were reported by the health care facility pursuant to section 2 of P.L.2005, c.83 (C.26:2H-12.2b) shall be included in the profile; and

(10) All medical malpractice court judgments and all medical malpractice arbitration awards reported to the applicable board, in which a payment has been awarded to the complaining party during the most recent five years, and all settlements of medical malpractice claims reported to the board, in which a payment is made to the complaining party within the most recent five years, as follows:

- (a) Pending medical malpractice claims shall not be included in the profile and information on pending medical malpractice claims shall not be disclosed to the public;
 - (b) A medical malpractice judgment that is being appealed shall be so identified;
 - (c) The context in which the payment of a medical malpractice claim occurs shall be identified by categorizing the number of judgments, arbitration awards and settlements against the physician, podiatrist or optometrist into three graduated categories: average, above average and below average number of judgments, arbitration awards and settlements. These groupings shall be arrived at by comparing the number of an individual physician's, podiatrist's or optometrist's medical malpractice judgments, arbitration awards and settlements to the experience of other physicians, podiatrists or optometrists within the same specialty. In addition to any information provided by a physician, podiatrist or optometrist, an insurer or insurance association authorized to issue medical malpractice liability insurance in the State shall, at the request of the division, provide data and information necessary to effectuate this subparagraph; and
 - (d) The following statement shall be included with the information concerning medical malpractice judgments, arbitration awards and settlements: "Settlement of a claim and, in particular, the dollar amount of the settlement may occur for a variety of reasons, which do not necessarily reflect negatively on the professional competence or conduct of the physician (or podiatrist or optometrist). A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred."
- b. If requested by a physician, podiatrist or optometrist, the following information shall be included in a physician's, podiatrist's or optometrist's profile:
- (1) Names of the hospitals where the physician, podiatrist or optometrist has privileges;
 - (2) Appointments of the physician or podiatrist to medical school faculties, or the optometrist to optometry school faculties, within the most recent 10 years;
 - (3) Information regarding any board certification granted by a specialty board or other certifying entity recognized by the American Board of Medical Specialties, the American Osteopathic Association or the American Board of Podiatric Medicine or by any other national professional organization that has been demonstrated to have comparable standards;
 - (4) Information regarding any translating services that may be available at the physician's, podiatrist's or optometrist's office practice site or sites, as applicable, or languages other than English that are spoken by the physician, podiatrist or optometrist;
 - (5) Information regarding whether the physician, podiatrist or optometrist participates in the Medicaid program or accepts assignment under the Medicare program;

- (6) Information regarding the medical insurance plans in which the physician, podiatrist or optometrist is a participating provider;
- (7) Information concerning the hours during which the physician, podiatrist or optometrist conducts his practice; and
- (8) Information concerning accessibility of the practice site or sites, as applicable, to persons with disabilities.

The following disclaimer shall be included with the information supplied by the physician, podiatrist or optometrist pursuant to this subsection: "This information has been provided by the physician (or podiatrist or optometrist) but has not been independently verified by the State Board of Medical Examiners (or the New Jersey State Board of Optometrists) or the Division of Consumer Affairs."

If the physician, podiatrist or optometrist includes information regarding medical insurance plans in which the practitioner is a participating provider, the following disclaimer shall be included with that information: "This information may be subject to change. Contact your health benefits plan to verify if the physician (or podiatrist or optometrist) currently participates in the plan."

- c. Before a profile is made available to the public, each physician, podiatrist or optometrist shall be provided with a copy of his profile. The physician, podiatrist or optometrist shall be given 30 calendar days to correct a factual inaccuracy that may appear in the profile and so advise the Division of Consumer Affairs or its designated agent; however, upon receipt of a written request that the division or its designated agent deems reasonable, the physician, podiatrist or optometrist may be granted an extension of up to 15 calendar days to correct a factual inaccuracy and so advise the division or its designated agent.
- d. If new information or a change in existing information is received by the division concerning a physician, podiatrist or optometrist, the physician, podiatrist or optometrist shall be provided with a copy of the proposed revision and shall be given 30 calendar days to correct a factual inaccuracy and to return the corrected information to the division or its designated agent.
- e. The profile and any revisions thereto shall not be made available to the public until after the review period provided for in this section has lapsed.

L.2003,c.96,s.3; amended 2004, c.115, s.6; 2005, c.83, s.18.

45:1-41. Rules, regulations.

- a. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of this act.
- b. The Commissioner of Health and Senior Services shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of this act.

L.2005,c.83,s.19.

PLEASE READ

Rules and regulations of the Division of Consumer Affairs, the boards and committees in, and other units of, the Division are codified in Title 13 of the New Jersey Administrative Code, published by LexisNexis. Notices of proposal and notices of adoption are printed in the New Jersey Register, also published by LexisNexis.

The official text of the rules and regulations and their regulatory history and notices of rule proposals and adoptions can be found through the free LexisNexis Public Access Portal.

- **LexisNexis Public Access Portal:** www.lexisnexis.com/njoal

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NEW JERSEY ADMINISTRATIVE CODE
TITLE 13
LAW AND PUBLIC SAFETY
CHAPTER 45E
HEALTH CARE PROFESSIONAL REPORTING
RESPONSIBILITY

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. PURPOSE.....	3
13:45E-1.1 Purpose.....	3
SUBCHAPTER 2. DEFINITIONS.....	3
13:45E-2.1 Definitions.....	3
SUBCHAPTER 3. NOTIFICATION TO THE CLEARING HOUSE COORDINATOR.....	6
13:45E-3.1 Notification to the Clearing House Coordinator by a health care entity.....	6
13:45E-3.2 Notification to the Clearing House Coordinator by a health care professional	9
13:45E-3.3 Duty of health care entity to a health care professional subject to N.J.S.A. 45:1-37.....	10
SUBCHAPTER 4. NOTIFICATION TO THE HEALTH CARE PROFESSIONAL BY THE HEALTH CARE ENTITY	10
13:45E-4.1 Notification to the health care professional by the health care entity	10
SUBCHAPTER 5. REPORT TO CLEARING HOUSE COORDINATOR.....	11
13:45E-5.1 Form of report; report not “government record”	11
13:45E-5.2 Review of the report.....	11
SUBCHAPTER 6. DISCLOSURE OF INFORMATION TO A HEALTH CARE ENTITY	11
13:45E-6.1 Disclosure of information to an inquiring health care entity	11
13:45E-6.2 Disclosure of information by Clearing House Coordinator.....	12
SUBCHAPTER 7. CONFIDENTIALITY.....	12
13:45E-7.1 Confidentiality	12
SUBCHAPTER 8. RECORDS.....	13
13:45E-8.1 Records	13
APPENDIX.....	14

SUBCHAPTER 1. PURPOSE

13:45E-1.1 PURPOSE

The rules in this chapter provide for the interpretation and administration of the Health Care Professional Responsibility and Reporting Enhancement Act, P.L. 2005, c. 83.

SUBCHAPTER 2. DEFINITIONS

13:45E-2.1 DEFINITIONS

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Act” means the Health Care Professional Responsibility and Reporting Enhancement Act, P.L. 2005, c. 83.

“Board” means one of the boards listed under the definition of “health care professional.”

“Clearing House Coordinator” means the Division’s Health Care Professional Information Clearing House Coordinator referred to in N.J.S.A. 45:1-40.

“Clinical privileges or practice” means the job responsibilities, involving patient care, treatment or diagnosis, that a health care professional is authorized and expected to perform at a health care entity.

“Conduct relating adversely to patient care or safety” means conduct that a prudent health care professional reasonably would believe could put a patient in jeopardy of physical or emotional harm. Personal conduct such as tardiness, insubordination or other similar behavior that a prudent person reasonably would believe does not have the capacity to cause physical or emotional harm to a patient shall not be deemed to be conduct relating adversely to patient care or safety. Disruptive conduct that a prudent health care professional reasonably would believe is likely to adversely affect the ability of another health care professional to safely render patient

care for which he or she is responsible shall be deemed to be conduct relating adversely to patient care or safety.

“Deputy Director” means the Deputy Director of the Division of Consumer Affairs to whom the Clearing House Coordinator reports.

“Disposition” means a determination by a board, reflected in its records, to initiate formal action, to resolve a matter by consent with discipline or remedial measures, to take other measures not constituting formal action, to administratively close the matter or, to find that there is no cause for action.

“Division” means the Division of Consumer Affairs within the Department of Law and Public Safety.

“Health care entity” means a health care facility licensed pursuant to P.L. 1971, c. 136, N.J.S.A. 26:2H-1 et seq. (including, but not limited to, hospitals, ambulatory care facilities and long term care facilities); a health maintenance organization authorized to operate pursuant to P.L. 1973, c. 337, N.J.S.A. 26:2J-1 et seq.; a carrier which offers a managed care plan regulated pursuant to P.L. 1997, c. 192, N.J.S.A. 26:2S-1 et seq.; a State or county psychiatric hospital; a State developmental center; a staffing registry; and a home care services agency as defined in section 1 of P.L. 1947, c. 262, N.J.S.A. 45:11-23.

“Health care professional” means a person licensed or otherwise authorized pursuant to Title 45 or Title 52 of the Revised Statutes to practice a health care profession that is regulated by the Director of the Division of Consumer Affairs or by one of the following boards: the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Dentistry, the New Jersey State Board of Optometrists, the New Jersey State Board of Pharmacy, the State Board of Chiropractic Examiners, the Acupuncture Examining Board, the State Board of Physical Therapy, the State Board of Respiratory Care, the Orthotics and Prosthetics Board of Examiners, the State Board of Psychological Examiners, the State Board of Social Work Examiners, the State Board of Veterinary Medical Examiners, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology and Speech-Language Pathology Advisory Committee, the State Board of Marriage and Family Therapy Examiners, the Occupational Therapy Advisory Council, and the Certified Psychoanalysts Advisory Committee. “Health care professional” also includes a nurse aide and a personal care

assistant certified by the Department of Health and Senior Services and a homemaker home-health aide certified by the Board of Nursing.

“Imminent danger” means an unmistakable demonstration that harmful actions or outcomes may occur during the licensee’s continued unrestricted practice.

“Impairment” means 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, as a result of alcohol or chemical use, psychiatric or emotional disorder, senility or a disabling physical disorder.

“Intervention program” means a public or private organization, which may be part of a professional association or organized as professional service corporation, which contracts with a board or the Division to provide certain services, including the identification of impairments, interventions, referrals to treatment providers, monitoring, reporting and case management of those in rehabilitation, as well as assisting with recovery documentation, education, support and advocacy, to be performed in accordance with standards as established by a board or the Director.

“Remedial education or training” means education or training that a health care professional is required to take by a health care entity because he or she has exhibited a lack of knowledge or skills expected of a health care professional who has had the same level of education and training and the same degree of professional responsibility. “Remedial education and training” does not include a tailored educational plan for health care professionals in training programs, such as a reassignment that is part of a normal rotation within the health care entity, or additional education or training to correct a deficiency in the health care professional’s performance.

“Report” means the completed written notification form used by a health care entity or a health care professional to notify the Division’s Health Care Professional Information Clearing House Coordinator of the types of reportable conduct set forth in the Act. The report form is attached as the chapter Appendix and incorporated herein by reference.

SUBCHAPTER 3.

NOTIFICATION TO THE CLEARING HOUSE COORDINATOR

13:45E-3.1 NOTIFICATION TO THE CLEARING HOUSE COORDINATOR BY A HEALTH CARE ENTITY

- a) Except as provided in (c) below, a health care entity shall file a report with the Clearing House Coordinator concerning a health care professional who is employed by, under contract to render professional services to, or has clinical privileges granted by that health care entity, or who provides such services pursuant to an agreement with a health care services firm or staffing registry if:
- 1) For reasons relating to the health care professional's impairment, incompetency or professional misconduct, which incompetency or professional misconduct relates adversely to patient care or safety, the health care entity:
 - i) Summarily or temporarily revokes or suspends or permanently reduces, suspends or revokes the health care professional's full or partial clinical privileges or practice;
 - ii) Removes the health care professional from the list of eligible employees of a health services firm or staffing registry;
 - iii) Discharges the health care professional from the staff of the health care entity; or
 - iv) Terminates or rescinds a contract with the health care professional to render professional services;
 - 2) The health care entity places conditions or limitations on the health care professional's exercise of clinical privileges or practice within the health care entity for reasons relating to the health care professional's impairment, incompetency or professional misconduct, which incompetency or professional misconduct relates adversely to patient care or safety, including, but not limited to, 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 the completion of remedial education or training;
 - 3) The health care professional voluntarily resigns from the staff if:

- i) Whether or not known to the health care professional, the health care entity is undertaking an investigation or a review of:
 - (1) The quality of patient care rendered by the health care professional to determine if the care could have had adverse consequences to the patient;
 - (2) Conduct by the health care professional that demonstrates an impairment;
 - (3) Conduct by the health care professional that demonstrates incompetence that relates adversely to patient care or safety; or
 - (4) Unprofessional conduct by the health care professional that relates adversely to patient care or safety; or
 - ii) A body within the health care entity that has the authority to initiate an investigation that may lead to disciplinary action, has expressed an intention through any member of the medical or administrative staff, reflected in the records of the health care entity or expressed directly to the health care professional, to conduct such a review of the health care professional's patient care or conduct and the healthcare entity notifies the health care professional that the health care entity is conducting or intends to conduct the review or investigation.
- 4) The health care professional voluntarily relinquishes any partial clinical privilege or authorization to perform a specific procedure if:
- i) Whether or not known to the health care professional, the health care entity is undertaking an investigation or a review of:
 - (1) The quality of patient care rendered by the health care professional to determine if the care could have had adverse consequences to the patient;
 - (2) Conduct by the health care professional that demonstrates an impairment;
 - (3) Conduct by the health care professional that demonstrates incompetence that relates adversely to patient care or safety; or
 - (4) Unprofessional conduct by the health care professional that relates adversely to patient care or safety; or

- ii) A body within the health care entity that has the authority to initiate an investigation that may lead to disciplinary action has expressed an intention, through any member of the medical or administrative staff, reflected in the records of the health care entity or expressed directly to the health care professional, to conduct such a review of the health care professional's patient care or conduct and the healthcare entity notifies the health care professional that the health care entity is conducting or intends to conduct the review or investigation.
 - 5) The health care entity grants a leave of absence to the health care professional 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 the health care professional is under, or subsequent to, a review by the health care entity of the health care professional's patient care or professional conduct, except that no report is required for pregnancy-related leaves of absence; or
 - 6) The health care professional is a party to a medical malpractice liability suit, to which the health care entity is also a party, and in which there is a settlement, judgment or arbitration award.
- b) The initiation of an investigation under (a)3i or 4i above shall have been reflected contemporaneously in the records of the health care entity.
- c) A health care entity is not obligated to file a report under (a)5 above if the health care professional is participating, or agrees to participate, in an intervention program approved by the Division or the relevant licensing board and agrees to follow, and then does follow the treatment regimen or monitoring required by the program.
- 1) The health care entity shall confirm with the intervention program that the health care professional has agreed to participate and is participating in the program and has agreed to follow and continues to follow the treatment regimen or monitoring required by the program.
 - 2) The health care entity shall notify the health care professional that the health care entity would have filed a report under (a)5 above but for the health care professional's participation in, and compliance with the treatment regimen or monitoring required by, an approved intervention program.
 - 3) The health care entity shall file the report under (a)5 above within seven days after obtaining knowledge that the health care professional is not in compliance with the requirements of the program.

- d) When a health care entity is required to notify the Clearing House Coordinator under (a)1, 2 or 5 above about a health care professional who has exhibited conduct relating adversely to patient care or safety, the action to be reported to the Clearing House Coordinator is action taken by the health care entity that limits, curtails or prevents a health care professional from performing the full scope of his or her duties or places conditions on that performance.
- e) A health care entity shall file an additional report if the entity's due process review or the passage of time results in the health care entity taking other action that results in the full or partial restoration of the duties that had been limited, curtailed or prevented, or further limits, curtails or prevents a health care professional from performing the full scope of his or her duties.
- f) A health care entity shall file a report with the Clearing House Coordinator pursuant to this section if the action taken by the health care entity is to require the health care professional to undergo remedial education or training.
- g) A report required by this section shall be filed with the Clearing House Coordinator within seven calendar days of:
 - 1) The date action under (a)1, 2 or 5 or (e) above was taken by the health care entity;
 - 2) The entry of a final order or judgment on an arbitration award; settlement by the parties in a litigated matter either by stipulation of the parties or the entry of a final order to dismiss; or entry of a final judgment or order on a motion under (a)6 above; or
 - 3) The date the health care professional voluntarily resigns under the conditions provided in (a)3 above or voluntarily relinquishes any partial privilege or authorization to perform a specific procedure under the conditions provided in (a)4 above.

13:45E-3.2 NOTIFICATION TO THE CLEARING HOUSE COORDINATOR BY A HEALTH CARE PROFESSIONAL

- a) A health care professional shall file a report with the Clearing House Coordinator if that health care professional is in possession of information which reasonably indicates that another health care professional has demonstrated an impairment, gross incompetence or unprofessional conduct which would present an imminent danger to an individual patient or to the public health, safety or welfare.
- b) The health care professional shall file the report required under (a) above if he or she has personal knowledge of the information required to be reported, unless the health care professional is only aware of that information as a result of participation in a review or other proceeding conducted by or for a health care entity.

- c) A health care professional, who would otherwise be required to file a report under (a) above, may discharge his or her duty by joining with the entity in filing a report with the Clearing House Coordinator, evidenced by his or her signature on the report or by receiving written assurance from the health care entity notified that it has fulfilled its reporting requirement.
- d) A health care professional who has signed a report to be filed jointly with the entity and received the acknowledgement and undertaking shall have satisfied his or her duty to file a report.
- e) A health care professional who signs a joint report shall retain a copy of the acknowledgement and undertaking for a period of seven years.

13:45E-3.3 DUTY OF HEALTH CARE ENTITY TO A HEALTH CARE PROFESSIONAL SUBJECT TO N.J.S.A. 45:1-37

- a) A health care entity shall execute and deliver to the health care professional signing the report an acknowledgment of such signing and an undertaking to file the joint report with the Clearing House Coordinator.
- b) A health care entity that is reporting the conduct of a health care professional on behalf of a health care professional who has reported the conduct to the health care entity as set forth in N.J.A.C. 13:45E-3.2(c), shall provide notice and a copy of the filed report to the reporting health care professional within seven calendar days that the health care entity has notified the Clearing House Coordinator.

SUBCHAPTER 4. NOTIFICATION TO THE HEALTH CARE PROFESSIONAL BY THE HEALTH CARE ENTITY

13:45E-4.1 NOTIFICATION TO THE HEALTH CARE PROFESSIONAL BY THE HEALTH CARE ENTITY

A health care entity shall provide the health care professional who is the subject of a report pursuant to N.J.A.C. 13:45E-3.1 with a copy of the report provided to the Clearing House Coordinator, when the health care entity submits the report to the Clearing House Coordinator.

SUBCHAPTER 5. REPORT TO CLEARING HOUSE COORDINATOR

13:45E-5.1 FORM OF REPORT; REPORT NOT “GOVERNMENT RECORD”

- a) Reports to the Clearing House Coordinator shall be on the form annexed to this chapter as the Appendix and incorporated herein by reference.
- b) Reports to or from the Clearing House Coordinator shall not be considered government records under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

13:45E-5.2 REVIEW OF THE REPORT

- a) The Clearing House Coordinator, together with the Deputy Director and counsel, if needed, shall review each report to determine if the action and conduct reported are required to be the subject of a report under N.J.A.C. 13:45E-3.1.
- b) If the action or conduct reported is required to be reported under N.J.A.C. 13:45E-3.1, the Clearing House Coordinator shall notify the reporting entity or the reporting health care professional that the report has been accepted.
- c) If the action or conduct reported does not constitute action or conduct that must be reported under N.J.A.C. 13:45E-3.1, the Clearing House Coordinator shall notify the health care professional named in the submission and the reporting entity or the reporting health care professional that the action or conduct reported is not required to be reported, and that the filing entity or health care professional shall not consider its submission to the Clearing House Coordinator to be a report within the meaning of this chapter.
- d) A submission rejected by the Clearing House Coordinator under this section shall not be disclosed to an inquiring health care entity under N.J.A.C. 13:45E-6.1

SUBCHAPTER 6. DISCLOSURE OF INFORMATION TO A HEALTH CARE ENTITY

13:45E-6.1 DISCLOSURE OF INFORMATION TO AN INQUIRING HEALTH CARE ENTITY

- a) A health care entity making an inquiry to another health care entity about a health care professional shall furnish to that entity a written certification that the inquiry is made for the purpose of evaluating a health care professional for hiring, continued employment, or continued privileges.

- b) Upon receipt of the certification provided under (a) above, a health care entity shall disclose to the health care entity making the inquiry about a health care professional:
 - 1) All reports it filed with the Clearing House Coordinator about that health care professional, including reports of restoration of privileges or the full or partial restoration of duties that had been limited, curtailed or prevented; and
 - 2) Any information that the health care entity has at the time of the inquiry about the disposition of any matter that was the subject of a report regarding that health care professional.
- c) A health care entity that has submitted a report that has not been accepted or rejected shall advise the inquiring entity that it has submitted a report that is pending.

13:45E-6.2 DISCLOSURE OF INFORMATION BY CLEARING HOUSE COORDINATOR

- a) A health care entity that makes an inquiry to the Clearing House Coordinator about a health care professional shall furnish to the Clearing House Coordinator a written certification that the inquiry is made for the purpose of evaluating a health care professional for hiring, continued employment, or continued privileges and written authorization from the health care professional to release information on the status of or final disposition of any matter that was the subject of a report regarding that health care professional.
- b) Upon receipt of the certification and authorization under (a) above, the Clearing House Coordinator shall give the inquiring health care entity information on the status of or final disposition of any matter that was the subject of a report regarding that health care professional.

SUBCHAPTER 7. CONFIDENTIALITY

13:45E-7.1 CONFIDENTIALITY

- a) The confidentiality afforded by the Act shall not apply to any mandatory information included in a health care professional's profile posted pursuant to N.J.S.A. 45:9-22.23.
- b) The Clearing House Coordinator shall notify a health care entity, or health care professional, that filed a report of the disposition of any investigation of a health care professional that was the subject of a report.

- c) In the case of a report that was filed jointly by a health care entity and a health care professional, the Clearing House Coordinator shall notify the health care entity of the disposition of any investigation of the health care professional who was the subject of a report. The health care entity shall make reasonable efforts to notify the health care professional who jointly filed the report of the disposition of any investigation of the health care professional who was the subject of the report.
- d) The Clearing House Coordinator shall notify a health care professional who was the subject of a report of the disposition of any investigation of that health care professional.

SUBCHAPTER 8. RECORDS

13:45E-8.1 RECORDS

A health care entity or a health care professional required to create a document or writing under this subchapter shall retain the document or writing for a period of seven years.

APPENDIX

APPENDIX

HEALTH CARE PROFESSIONAL RESPONSIBILITY AND REPORTING ENHANCEMENT ACT REPORTING FORM

HEALTH CARE ENTITY INFORMATION

☐ Initial Report

☐ Follow-up to a previously filed report

Health Care Entity Type:

- | | | |
|--|--|--|
| <input type="checkbox"/> Health Care Facility | <input type="checkbox"/> Insurance company offering managed care plans | <input type="checkbox"/> HMO |
| <input type="checkbox"/> State or county psychiatric hospital | <input type="checkbox"/> State developmental center | <input type="checkbox"/> Staffing registry |
| <input type="checkbox"/> Home care services agency | <input type="checkbox"/> Assisted living residence or program | |
| <input type="checkbox"/> Comprehensive personal care home | <input type="checkbox"/> Licensed alternate family care sponsor agency | |
| <input type="checkbox"/> Nonprofit homemaker home health aide agency | | |

Name of person submitting report: _____

Title or position of person submitting report: _____

Telephone number (include area code): _____ Fax number (include area code): _____

E-mail address: _____ DHSS facility ID# (if applicable) _____

Health care entity name: _____ Health care entity license number: _____

Health care entity street address: _____ City: _____ County: _____

Name and telephone number of those who have first-hand knowledge of the reportable event: _____

HEALTH CARE PROFESSIONAL INFORMATION

Last name: _____ First: _____ Middle: _____

Type of professional license or certificate held: _____ License or certificate number: _____

Relationship of the health care professional to the health care entity (select one):

- | | |
|---|--|
| <input type="checkbox"/> employed by | <input type="checkbox"/> has privileges granted by |
| <input type="checkbox"/> under contract to provide professional services to | <input type="checkbox"/> provides services via a health care service firm or via a staffing registry |

ADDITIONAL INFORMATION

A. The reportable action or event taken by the health care entity was related to the health care professional's:

- ☐ impairment
☐ incompetency which relates adversely to patient care or safety
☐ professional misconduct which relates adversely to patient care or safety

B. The reportable action or event taken by the health care entity was

- ☐ Full or partial privileges summarily or temporarily revoked or suspended, or permanently reduced, suspended or revoked

If checked, please provide details: _____

- ☐ Removed from the list of eligible employees of a health services firm or staffing registry
☐ Discharged from the staff
☐ Contract to render professional services terminated or rescinded
☐ Conditions or limitations placed on the exercise of clinical privileges or practice within the health care entity (including, but not limited to second opinion requirements, non-routine concurrent or retrospective review of admissions or care, non-routine supervision by one or more members of the staff, completion of remedial education or training)

or

- ☐ Voluntary resignation of health care professional from staff if:
- ☐ The health care entity is reviewing the health care professional's patient care or reviewing whether, based upon its reasonable belief, the health care professional's conduct demonstrates an impairment or incompetence or is unprofessional, which incompetence or unprofessional conduct relates adversely to patient safety.
 - ☐ The health care entity, through any member of the medical or administrative staff, has expressed an intention to do such a review.
- or
- ☐ Voluntary relinquishment by health care professional of any partial privileges or authorization to perform a specific procedure if:
- ☐ The health care entity is reviewing the health care professional's patient care or reviewing whether, based upon its reasonable belief, the health care professional's conduct demonstrates an impairment or incompetence or is unprofessional, which incompetence or unprofessional conduct relates adversely to patient safety.
 - ☐ The health care entity, through any member of the medical or administrative staff has expressed an intention to do such a review.
- or
- ☐ Leave of Absence granted to the health care professional, while under, or subsequent to a review of the health care professional's patient care or professional conduct, 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 except for pregnancy and related leaves or documented participation in an approved professional assistance or intervention program.
- or
- ☐ Medical malpractice liability suit resulting in a settlement, judgment or arbitration award, in which both the health care professional and health care entity are parties
- or
- ☐ Professional Assistance Program or Intervention Program
- ☐ Health care professional has failed to comply with a request to seek assistance from a professional assistance or intervention program
 - ☐ Health care professional has failed to follow the treatment or monitoring program required by a professional assistance or intervention program
- or
- ☐ Follow-up to a previously filed report
- Health care professional, who has been the subject of a previous report, has had conditions or limitations on the exercise of clinical privileges or practice within the health care entity altered, or privileges restored, or has resumed exercising clinical privileges that had been voluntarily relinquished

2. Date of the reportable action or event taken by the health care facility: _____

3. Date of the health care professional's conduct: _____

4. Details of the health care professional's conduct _____

Signature of person submitting report _____ Date of report: _____

Has a copy of this report has been provided to the health care professional who is the subject of this report?

☐ Yes ☐ No

Has a copy of this report has been provided to the health care service firm or staffing agency with which the health care professional is employed?

☐ Not Applicable ☐ Yes ☐ No

Reports are to be submitted within seven (7) days of reportable action or event via mail to:

New Jersey Division of Consumer Affairs
PO Box 46024
Newark, NJ 07102
973-504-6310

For Office Use Only

Case number: DCA _____

(To be assigned by the Division of Consumer Affairs)

HEALTH CARE PROFESSIONAL RESPONSIBILITY AND REPORTING ENHANCEMENT ACT REPORTING FORM

HEALTH CARE ENTITY INFORMATION

☐ Initial Report

☐ Follow-up to a previously filed report

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|--|--|--|
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| <input type="checkbox"/> Comprehensive personal care home | <input type="checkbox"/> Licensed alternate family care sponsor agency | |
| <input type="checkbox"/> Nonprofit homemaker home health aide agency | | |

Name of person submitting report: _____

Title or position of person submitting report: _____

Telephone number (include area code): _____ Fax number (include area code): _____

E-mail address: _____ DHSS facility ID# (if applicable): _____

Health care entity name: _____ Health care entity license number: _____

Health care entity street address: _____ City/ZIP code: _____ County: _____

Name and telephone number of those who have first-hand knowledge of the reportable event: _____

HEALTH CARE PROFESSIONAL INFORMATION

Last name: _____ First: _____ Middle: _____

Type of professional license or certificate held: _____ License or certificate number: _____

Relationship of the health care professional to the health care entity (select one):

- | | |
|---|--|
| <input type="checkbox"/> employed by | <input type="checkbox"/> has privileges granted by |
| <input type="checkbox"/> under contract to provide professional services to | <input type="checkbox"/> provides services via a health care service firm or via a staffing registry |

ADDITIONAL INFORMATION (Please complete A & B)

A. The reportable action or event taken by the health care entity was related to the health care professional's:

- ☐ impairment
- ☐ incompetency which relates adversely to patient care or safety
- ☐ professional misconduct which relates adversely to patient care or safety

B. The reportable action or event taken by the health care entity was:

- ☐ Full or partial privileges summarily or temporarily revoked or suspended, or permanently reduced, suspended or revoked.

If checked, please provide details:

- ☐ Removed from the list of eligible employees of a health services firm or staffing registry
- ☐ Discharged from the staff
- ☐ Contract to render professional services terminated or rescinded
- ☐ Conditions or limitations placed on the exercise of clinical privileges or practice within the health care entity (including, but not limited to second opinion requirements, non-routine concurrent or retrospective review of admissions or care, non-routine supervision by one or more members of the staff, completion of remedial education or training)

or

- ☐ Voluntary resignation of health care professional from staff if:
- ☐ The health care entity is reviewing the health care professional's patient care or reviewing whether, based upon its reasonable belief, the health care professional's conduct demonstrates an impairment or incompetence or is unprofessional, which incompetence or unprofessional conduct relates adversely to patient safety.
 - ☐ The health care entity, through any member of the medical or administrative staff, has expressed an intention to do such a review.

or

- ☐ Voluntary relinquishment by health care professional of any partial privileges or authorization to perform a specific procedure if:
- ☐ The health care entity is reviewing the health care professional's patient care or reviewing whether, based upon its reasonable belief, the health care professional's conduct demonstrates an impairment or incompetence or is unprofessional, which incompetence or unprofessional conduct relates adversely to patient safety.
 - ☐ The health care entity, through any member of the medical or administrative staff has expressed an intention to do such a review.

or

- ☐ Leave of Absence granted to the health care professional, while under, or subsequent to a review of the health care professional's patient care or professional conduct, 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 except for pregnancy and related leaves or documented participation in an approved professional assistance or intervention program.

or

- ☐ Medical malpractice liability suit resulting in a settlement, judgment or arbitration award, in which both the health care professional and health care entity are parties

or

- ☐ Professional Assistance Program or Intervention Program
- ☐ Health care professional has failed to comply with a request to seek assistance from a professional assistance or intervention program
 - ☐ Health care professional has failed to follow the treatment or monitoring program required by a professional assistance or intervention program

or

- ☐ Follow-up to a previously filed report
- Health care professional, who has been the subject of a previous report, has had conditions or limitations on the exercise of clinical privileges or practice within the health care entity altered, or privileges restored, or has resumed exercising clinical privileges that had been voluntarily relinquished

2. Date of the reportable action or event taken by the health care facility: _____

3. Date of the health care professional's conduct: _____

4. Details of the health care professional's conduct:

Signature of person submitting report: _____ Date of report: _____

Has a copy of this report has been provided to the health care professional who is the subject of this report?

☐ Yes ☐ No

Has a copy of this report has been provided to the health care service firm or staffing agency with which the health care professional is employed?

☐ Not Applicable ☐ Yes ☐ No

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**Francine Widrich
New Jersey Division of Consumer Affairs
PO Box 46024
Newark, NJ 07102**

To fax a report, please call 973-504-6310 for the fax number.

For Office Use Only

Case number: DCA _____
(To be assigned by the Division of Consumer Affairs)