



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.

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.

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.

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 or 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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