Health Care Professional Responsibility and Reporting Enhancement Act

NJ DCA Health Care Professional Information Clearinghouse
The Story

1. Questionable Professional Conduct
   a) Caught in an act
   b) What to do?
       1) Protect the institution's reputation
          • Get rid of the employee
          • Don't say anything that the institution can be liable for
The Problem

There were at least 30 possibly more deaths that were tied to the employee

1. The employee, a licensee, was not known to the BON – (no reports or complaints had been made)
2. The employee moved between health care facilities within NJ state and PA
3. The employee agreed to leave, under suspicious circumstances, which were not shared with other institutions
   a) No red flags
   b) No discernible patterns
   c) Nobody singled out as being responsible
NJ State Legislature's Rapid Response

P.L. 2005, CHAPTER 83 (Health Care Professional Responsibility and Reporting Enhancement Act.-referred to as "The Cullen Law")

AN ACT concerning health care professionals and revising parts of statutory law:

NJSA 45:1-1 et seq. (Uniform Enforcement Act)
NJSA 45:9-19.9 et seq. (Board of Medical Examiners)
NJSA 26:2H-12.2b (Department of Health)
Requirements of the Law

Criminal history background checks of all health care licensees regulated by the Division of Consumer Affairs

Reporting by licensed health care entities of health care professionals

Reporting by health care professionals of other licensed health care professionals

Disclosure by health care entity of reports filed
Division of Consumer Affairs

1. Created the Health Care Professional Information Clearinghouse with a designated coordinator for healthcare professional reporting

2. Required Health Care Entities to report employees

3. Required Health Care Professionals to report colleagues
Reporting: HCP Conduct

The HCP’s conduct relates to an impairment, incompetency or professional misconduct, that adversely affects patient care or safety.
Reporting

Conditions:

1. If the HCP’s conduct (impairment, incompetency, unprofessional conduct)

2. Results in the HCE taking certain actions (suspension, termination, or limits, reduces or places conditions on full or partial privileges, etc.)

Conclusion: A report is required.
Reporting Requirements

1. Professionals who are:
   
   a) Engaged in Professional Misconduct
   
   b) Incompetent
   
   c) Impaired
Who is responsible for reporting?

Each institution/agency is required to have an appointed entity who is responsible for reporting.

1. Professionals are required to report
   a) Through collaboration with the appointed agency entity
   b) Directly to the Board if the agency does not have a designated entity
Reporting:

1. Resignations
2. Voluntary Relinquishes of Privileges or Authorization
3. Leaves of Absence
4. Medical Malpractice
Reporting: Resignations

A report is required if a HCP resigns from the staff while the HCE is undertaking an investigation or review of the HCP’s:

- Practice to determine if the care rendered could have had adverse consequences to the patient;
- Conduct that demonstrates an impairment;
- Conduct that demonstrates incompetence relating adversely to patient care or safety;
- Unprofessional conduct relating adversely to patient care or safety; or

(whether or not the HCP knows of the investigation)
Reporting Details

Reports are to be filed within 7 days of the HCE’s action.

A copy of the report must be given to the HCP when the report is filed.

HCE shall file an additional report if the HCE’s due process review or the passage of time results in the HCE taking other action that results in the full or partial restoration of the duties that had been limited.
Problems associated with the reporting process?

1. Not all agencies understand the reporting requirement

2. Legal counsel for human resource departments, concerned about institutional liability, may counsel not to report, despite being required to report

3. Reports may be made to a Board and not to the Coordinator.
Remedies:

1. Get the word out through presentations to stakeholder groups e.g.

   A. NJONE

   B. NJ Educators

   C. NJHCSF Associations

   D. Others as invited
Where are we today?

1. Number of reports for:

   A. 2007 - Present