

CHAPTER 45E**HEALTH CARE PROFESSIONAL REPORTING RESPONSIBILITY****Authority**

P.L. 2005, c. 83.

Source and Effective Date

R.2011 d.079, effective March 7, 2011.
See: 42 N.J.R. 2577(a), 43 N.J.R. 647(a).

Chapter Expiration Date

Chapter 45E, Health Care Professional Reporting Responsibility, expires on March 7, 2016.

Chapter Historical Note

Chapter 45E, Health Care Professional Reporting Responsibility, was adopted as new rules by R.2011 d.079, effective March 7, 2011. See: Source and Effective Date.

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APPENDIX**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,