New Jersey Department of Health
Title 8. Health

CHAPTER 30. Rules Implementing the Health Care Professional
Responsibility and Reporting Enhancement Act

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§ 8:30-1.1 Purpose and scope

(a) This chapter implements the Health Care Professional Responsibility and Reporting Enhancement Act, P.L. 2005, c. 83 (approved May 3, 2005), and is to apply consistent with N.J.A.C. 13:45E.

(b) This chapter applies to all health care entities.

§ 8:30-1.2 Definitions

(a) The following words and terms are defined in the Act at P.L. 2005, c. 83 at §§ 2 and/or 4 (N.J.S.A. 26:2H-12.2b and/or 45:1-28), and/or in the rules at N.J.A.C. 13:45E, and are used in this chapter as defined in the Act and/or N.J.A.C. 13:45E:

"Board";
"Division";
"Health care entity";
"Health care professional"; and
"Licensee."

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


"Clearing House Coordinator" means a "Health Care Professional Information Clearinghouse Coordinator" as N.J.S.A. 45:1-40 uses that term, and a "Clearing House Coordinator" as N.J.A.C. 13:45E defines that term.

"Employee" means a health care professional who:

1. Is employed by a health care entity;
2. Has an affiliation with a health care entity;
3. Is under contract to render professional services to a health care entity;
4. Has privileges granted by a health care entity; or
5. Provides health care professional services to a health care entity pursuant to an agreement with a health care services firm or staffing registry.

"Facility" means a health care facility licensed pursuant to N.J.S.A. 26:2H-1 et seq.
"Medical Practitioner Review Panel" or "review panel" means the Medical Practitioner Review Panel established pursuant to N.J.S.A. 45:9-19.8.

§ 8:30-1.3 Reporting requirements

(a) A health care entity shall comply with the requirements of N.J.A.C. 13:45E-3.1 for notification to the Clearing House Coordinator.

(b) A health care entity shall use the form of report required pursuant to N.J.A.C. 13:45E-5.1 when providing notification to the Clearing House Coordinator.

(c) A health care entity shall cooperate with a request for information by the Division, a board, or the Medical Practitioner Review Panel.

(d) A health care entity shall comply with N.J.A.C. 13:45E-3.3 by executing a joint report to the Clearing House Coordinator with a healthcare professional.

(e) A health care entity shall comply with N.J.A.C. 13:45E-4.1 by providing a copy of a report filed with the Clearing House Coordinator to the health care professional who is the subject of the report.

(f) A health care entity shall provide a copy of the notice submitted to the Clearing House Coordinator in accordance with (a) above to a staffing agency or healthcare services firm when the health care professional who is the subject of the notice is providing services to the health care entity pursuant to a contract with a staffing agency or health care services firm.

§ 8:30-1.4 Inquiry using, and response to, a Health Care Facility Inquiry Regarding Health Care Professional form; response time; response to non-form written requests

(a) A facility inquiring about a healthcare professional pursuant to N.J.S.A. 26:2H-12.2c and N.J.A.C. 13:45E-6:  

1. Shall use the Health Care Facility Inquiry Regarding Health Care Professional form, CN-9, incorporated herein by reference as N.J.A.C. 8:30 Appendix and available from the Department’s website at www.nj.gov/health/forms (inquiry form), in making an inquiry to another facility; and

2. May use the inquiry form in making inquiries to health care entities other than facilities.

(b) A health care entity may use the inquiry form in making inquiries to facilities and health care entities.

(c) A facility that receives a validly executed inquiry form from any health care entity shall complete and return the form and any other information required pursuant to N.J.S.A. 26:2H-12.2c and N.J.A.C. 13:45E-6.1 to the inquiring health care entity within eight business days of receipt of the inquiry form.

(d) A facility that receives a validly executed written request for information about a health care professional pursuant to N.J.S.A. 26:2H-12.2c and N.J.A.C. 13:45E-6.1 from a health care entity other than a facility by means of a writing made other than by use of the inquiry form shall respond to the request using the inquiry form in accordance with this section and attach the written request or a copy thereof to the inquiry form.
§ 8:30-1.5 Maintenance of records of complaints and disciplinary actions

(a) Unless another applicable law requires retention for a longer period, in which case (d) below shall apply, a health care entity shall maintain and retain, for seven years from the date of the occurrence that triggered the creation of the record, all records of all documented complaints of events related to patient care provided by, and disciplinary proceedings or actions against, a health care professional:

1. Whom the health care entity employs and/or has employed; and/or
2. With whom the health care entity has and/or has had an affiliation.

(b) A health care entity shall make available to the Department, the Division, the board that licenses or otherwise authorizes the health care professional to practice, and the Medical Practitioner Review Panel, as applicable, upon request, records maintained and retained pursuant to (a) above, including any information the health care entity has pertaining to records maintained on a health care professional created prior to January 12, 1990 (the effective date of the Professional Medical Conduct Reform Act of 1989, P.L. 1989, c. 300).

(c) Unless another applicable law requires retention for a longer period, in which case (d) below shall apply, a health care entity shall maintain and retain, for four years from the date of the occurrence that triggered the creation of the record, all records and source data relating to the entity’s mortality, morbidity, complication, infection, and readmission rates and shall make the records available to the Department, the Division, the board that licenses or otherwise authorizes the health care professional to practice, and the Medical Practitioner Review Panel, as applicable, upon request, provided:

1. A health care entity shall retain, in accordance with (a) above, records of the nature described in (c) above that relate to a specific health care professional.

(d) If another applicable law requires retention for a longer period than as provided in this section, that law shall control.

§ 8:30-1.6 Civil monetary penalties

(a) Pursuant to N.J.S.A. 26:2H-12.2b, health care entities are subject to the following penalties for failing to comply with this chapter:

1. $500.00 per violation, which the Department may assess for each day of noncompliance it finds, for failing to notify the Clearing House Coordinator or failing to comply with a request for information from the Division or the Medical Practitioner Review Panel, as required by N.J.A.C. 8:30-1.3(b);
2. $250.00 per violation for failing to comply with N.J.A.C. 8:30-1.3(c);
3. $1,000 per violation for failing to comply with N.J.A.C. 8:30-1.3(d);
4. $250.00 per violation, which the Department may assess for each day of noncompliance it finds, for failing to respond in a timely and/or truthful manner to an inquiry submitted pursuant to N.J.A.C. 8:30-1.4;
5. $500.00 per violation, which the Department may assess for each day of noncompliance it finds, for failing to comply with a request for records submitted pursuant to N.J.A.C. 8:30-1.5; and

6. Up to $1,000 per violation for failing to maintain the records as required by N.J.A.C. 8:30-1.5.
APPENDIX

INSTRUCTIONS FOR COMPLETING THE HEALTH CARE FACILITY INQUIRY REGARDING HEALTH CARE PROFESSIONAL FORM

1. Purpose of form


When a word or term used in these instructions appears in bold, it refers to a term for which a definition is provided in Section 2 below, and/or in the Act or the Rules.

The Health Care Facility Inquiry Regarding Health Care Professional form is to be used by a health care facility (inquiring facility) licensed by the Department of Health to make an inquiry to another health care facility licensed by the Department (responding facility) about a health care professional who is currently or was formerly employed by, and/or who holds or formerly held privileges at the responding facility pursuant to the Act and the Rules. A health care entity other than a facility may elect to use this form to inquire of a facility or a health care entity. Facilities that receive an inquiry from any health care entity shall respond using this form.

2. Definitions

Following are definitions of words and terms used in the form as defined in the Act and/or the Rules.

- "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.

- "Clearinghouse Coordinator" means a "Health Care Professional Information Clearinghouse Coordinator" as N.J.S.A. 45:1-40 uses that term, and a "Clearing House Coordinator" as N.J.A.C. 13:45E defines that term.

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

- "Facility" means a health care facility licensed pursuant to P.L.1971, c.136 (N.J.S.A. 26:2H-1 et seq.).

- "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.26:25-1 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.

- "Medical Practitioner Review Panel" or "review panel" means the Medical Practitioner Review Panel established pursuant to N.J.S.A. 45:9-19.8.

- "Report" means the completed written notification form used by a health care entity or a health care professional to notify the Clearinghouse Coordinator of the types of reportable conduct set forth in the Act.
INSTRUCTIONS FOR COMPLETING THE
HEALTH CARE FACILITY INQUIRY REGARDING HEALTH CARE PROFESSIONAL FORM
(Continued)

3. Obligations of inquiring and receiving facilities pursuant to the Act:

A. N.J.A.C. 8:30-1.4 requires a facility that receives, from another health care entity, a duly executed Health Care Facility inquiry Regarding Health Care Professional form to complete and return the form and any other documentation required pursuant to N.J.A.C. 13:45E-6.1 to the inquiring health care entity within eight business days of receipt of the form. A facility that fails to return the completed form and any other required documentation to the inquiring health care entity within eight business days of receipt of the form is subject to penalties pursuant to N.J.A.C. 8:30-1.6.

B. The Act at § 15 (N.J.S.A. 126.2H-12.2c) provides as follows:

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

15. 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.

CN-9 (instructions)
FEB 17

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HEALTH CARE FACILITY INQUIRY
REGARDING HEALTH CARE PROFESSIONAL

SECTION I – INQUIRY (TO BE COMPLETED BY INQUIRING HEALTH CARE FACILITY)

<table>
<thead>
<tr>
<th>INQUIRING HEALTH CARE FACILITY</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Name of Inquiring Health Care Facility</td>
<td>Date of Inquiry</td>
</tr>
<tr>
<td>Address of Inquiring Health Care Facility</td>
<td></td>
</tr>
<tr>
<td>Name and Title of Contact Person</td>
<td>Phone</td>
</tr>
<tr>
<td>Email Address</td>
<td>Fax Number</td>
</tr>
</tbody>
</table>

Certification pursuant to N.J.A.C. 13:45E-6.1(a):
I certify that the Health Care Facility has authorized me to make this inquiry, and that I am making it for the purpose of evaluating a health care professional for (check all that apply):
- Hiring
- Granting Privileges
- Continuing Employment
- Continuing Privileges

Signature | Date

SECTION II – RESPONSE (TO BE COMPLETED BY HEALTH CARE FACILITY RESPONDING TO THIS INQUIRY)

<table>
<thead>
<tr>
<th>HEALTH CARE FACILITY TO RECEIVE THIS INQUIRY</th>
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<tbody>
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<tr>
<td>Address of Health Care Facility</td>
<td></td>
</tr>
<tr>
<td>Name and Title of Contact Person (if known)</td>
<td>Phone</td>
</tr>
<tr>
<td>Email Address</td>
<td>Fax Number</td>
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<thead>
<tr>
<th>HEALTH CARE PROFESSIONAL ABOUT WHOM INQUIRY IS BEING MADE</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of Health Care Professional</td>
<td>Professional License/Certification Number</td>
</tr>
<tr>
<td>Maiden Name/Other Name(s) Used</td>
<td></td>
</tr>
<tr>
<td>Credential of Professional</td>
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<th>SECTION II – RESPONSE (TO BE COMPLETED BY HEALTH CARE FACILITY RESPONDING TO THIS INQUIRY)</th>
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</thead>
<tbody>
<tr>
<td>Date Inquiry Received</td>
<td>Date Response Sent</td>
</tr>
<tr>
<td>Name of Health Care Professional</td>
<td></td>
</tr>
<tr>
<td>Title(s) of Positions Held by Health Care Professional</td>
<td></td>
</tr>
</tbody>
</table>

Dates the Health Care Professional was Employed by Responding Facility
From: To:

Is the Health Care Professional’s employment ongoing with the Health Care Facility responding to this request?
- Yes
- No

Dates the Health Care Professional held Privileges at Responding Facility
From: To:

Does the Health Care Professional continue to hold privileges with the Health Care Facility responding to this request?
- Yes
- No