



RUTGERS POLICY

Section: 60.9.50

Section Title: Legacy UMDNJ Employees

Policy Name: Compliance with Healthcare Professional Responsibility and Reporting Enhancement Act

Formerly Book: 00-01-30-15:05

Approval Authority: Senior Vice President for Administration

Responsible Executive: Senior Vice President for Administration

Responsible Office: University Human Resources

Originally Issued: 1/31/06

Revisions: 1/20/2010; 7/1/2013; 10/10/2013 (Updated title)

Errors or changes? Contact: policies@hr.rutgers.edu

1. **Policy Statement**

This policy ensures that the University is compliance with the State of New Jersey Healthcare Professional Responsibility and Reporting Enhancement Act.

2. **Reason for the Policy**

To facilitate compliance with the State of New Jersey Healthcare Professional Responsibility and Reporting Enhancement Act, also known as Chapter 83.

3. **Who Should Read This Policy**

All Rutgers employees.

4. **Related Documents**

N/A

5. **Contacts**

University Human Resources: 848-932-3020

6. **The Policy**

60.9.50 COMPLIANCE WITH HEALTHCARE PROFESSIONAL RESPONSIBILITY AND REPORTING ENHANCEMENT ACT

This policy shall apply to those units that employ Healthcare Professionals or retain Healthcare Professionals through a healthcare services firm or staffing registry; and all Healthcare Professionals, paid or volunteer.

I. Definitions

- A. **Healthcare Entity:** A healthcare facility licensed pursuant to P.L.1971, c.136 (C.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.

1073, 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 I of P.L.1947, c.262 (C.45:11-23). The following University healthcare units meet the definition of "healthcare entity:"

- University Behavioral HealthCare
- Eric B. Chandler Health Center

- B. Healthcare Professionals: Individuals, whether paid or unpaid, licensed or authorized pursuant to Title 45 or Title 52 of the Revised Statutes to practice a healthcare profession regulated by the Division of Consumer Affairs and other professional and occupational licensing boards including physicians, podiatrists, nurses, pharmacists, physical, occupational and respiratory therapists, nurses aides and personal assistants, psychologists, psychoanalysts, social workers, professional counselors, drug and alcohol counselors, speech and language pathologists, optometrists, opticians, dentists, orthotics and prosthetic providers, marriage and family therapists, veterinarians and chiropractors, ophthalmic dispensers and ophthalmic technicians, audiologists, and acupuncturists. "Healthcare Professional" also includes nurse aides and personal care assistants certified by the Department of Health and homemaker home-health aides certified by the Board of Nursing.
- C. Job performance: Suitability of the employee for re-employment at a healthcare entity as well as the employee's skills and abilities related to future employment at a healthcare entity.
- D. Incompetence, professional misconduct and unprofessional conduct: In determining whether a University healthcare entity must notify the Division of Consumer Affairs, these terms shall not include personal conduct, such as tardiness, insubordination or other similar behavior, which does not relate to patient care or safety.

II. REFERENCES

- A. Licensures, **Registration and Certifications** Policy 60.9.37
- B. Excluded Individuals and Entities ("covered persons") Policy 100.2.2
- C. State of New Jersey, P.L. 2005, c.083, S-1804 1R
- D. NJSA 26: 2H-12.2a-12d
- E. NJSA 45: 1-28 through NJSA 45: 1-41
- F. NJSA 45: 9-19.9 through NJSA 45: 9-19.11

III. Policy Overview

Those University Units that employ Healthcare Professionals or retain Healthcare Professionals through a healthcare services firm or staffing registry, shall implement procedures, including designating those individuals responsible for receiving the notifications and providing information to others as required by this policy, to ensure compliance with the provisions of the State of New Jersey Healthcare Professional Responsibility and Reporting Enhancement Act.

A. **Notification Requirements**

1. Healthcare Entities

- a. The healthcare entities of the University shall notify the Division of Consumer Affairs (DCA) in writing if a Healthcare Professional who is either employed by, under contract to render professional services to, or has clinical privileges granted by the healthcare entity, or who provides such services pursuant to an agreement with a healthcare services firm or staffing registry, and for reasons relating to impairment, incompetency, or professional misconduct, which relates adversely to patient care or safety, has one of the following events occur:
- Has full or partial privileges or his or her practice summarily or temporarily revoked or suspended, or permanently reduced, suspended or revoked;
 - Has been removed from the list of eligible employees of a health services firm or staffing registry;
 - Has been discharged from the staff of the Healthcare Entity;
 - Has had a contract to render professional services terminated or rescinded;
 - Has conditions or limitations placed on the exercise of clinical privileges or practice within the healthcare entity to include, 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;
 - Voluntarily resigns from staff if the healthcare entity is reviewing the Healthcare Professional's conduct or the healthcare entity, through any member of the medical or administrative staff, has expressed an intention to do such a review (whether or not the review is known to the Healthcare Professional), which initiation of investigation shall be reflected contemporaneously in the records of the Healthcare Entity;
 - Voluntarily relinquishes any partial clinical privilege or authorization to perform a specific procedure; or the healthcare entity, through any member of the medical or administrative staff, has expressed an intention to do such a review, which initiation of investigation shall be reflected contemporaneously in the records of the Healthcare Entity;
 - While under, or subsequent to, a review by the healthcare entity of the Healthcare Professional's patient care or professional conduct, is granted a leave of absence relating to a physical, mental or emotional condition or drug or alcohol use which impairs the Healthcare 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 Healthcare Professional has sought assistance from a professional assistance or intervention program approved or designated by the DCA or a board to provide confidential oversight of the Healthcare Professional, and is following the treatment regimen or monitoring as that program requires.
- b. Healthcare entities of the University shall notify the DCA in writing about all malpractice lawsuits resolved by settlement, judgment or arbitration award in which both the Healthcare Professional and the University are parties. Such notification shall be coordinated with the University's Department of Risk Management.
- c. Healthcare entities of the University shall notify the DCA in writing if it is in possession of information that indicates that a Healthcare Professional has failed to comply with a request to seek assistance from a professional assistance or intervention program approved or designated by the DCA or a licensing board to provide confidential oversight of the

Healthcare Professional, or has failed to follow the treatment regimen or monitoring program required by that program.

- d. Healthcare entities of the University shall notify the DCA in writing if any Healthcare Professional who has been the subject of a report to the DCA has had conditions or limitations on the exercise of clinical privileges or practice within the healthcare entity altered, or privileges restored, or has resumed exercising clinical privileges that had been voluntarily relinquished.
- e. Health care entities of the University shall file an additional report if the entity's due process review or the passage of time results in the Healthcare 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 Healthcare Professional from performing the full scope of his or her duties.
- f. Health care entities of the University shall file a report with the DCA if the action taken by the Healthcare Entity is to require the Healthcare Professional to undergo remedial education or training.
- g. Healthcare entities of the University, pursuant to an agreement with a healthcare services firm or staffing registry regarding a Healthcare Professional, shall provide a copy of the notice to the healthcare services firm or staffing agency, when the notice is submitted to the DCA.
- h. Healthcare entities of the University shall provide the Healthcare Professional who is the subject of a notice to the DCA a copy of the notice provided to the DCA, when the notice is submitted to the DCA.
- i. Healthcare entities of the University shall make notifications to the DCA within seven calendar days of the date of the reportable action, settlement, judgment or arbitration award, or the entry of a final order to dismiss; or order on a motion in a medical malpractice lawsuit to which the Healthcare Entity and Healthcare Professional are both parties or the date the Healthcare Professional voluntarily resigns under the conditions provided in N.J.A.C. 13:45E-3.1(a)(3) or voluntarily relinquishes any partial privilege or authorization to perform a specific procedure under the conditions provided in N.J.A.C. 13:45E-(a)(4), including such information as may be required by the DCA.

2. Healthcare Professionals

- a. University Healthcare Professionals from any unit of the University shall promptly notify DCA if they have information that another professional has demonstrated impairment, gross incompetence or unprofessional conduct, which would present an imminent danger to an individual patient, the public health, safety or welfare. The Healthcare Professional shall file the such notification if he or she has personal knowledge of the information required to be reported. No notification is required if knowledge of the other Healthcare Professional's impairment or incompetence was obtained from treating the professional.
- b. University Healthcare Professionals, who would otherwise be required to file a report, may discharge his or her duty by joining with the entity in filing a report with the DCA, evidenced by his or her signature on the report or by receiving written assurance from the Healthcare Entity notified that it has fulfilled its reporting requirement. The Healthcare Professional's duty to file a report is satisfied once he or she signs the

joint report and receives acknowledgement from the Healthcare Entity which has the responsibility to provide notice and a copy of the filed report to the reporting Healthcare Professional within seven calendar days that the Healthcare Entity has notified the DCA. The Healthcare Professional shall retain a copy of the acknowledgement for a period of seven years.

- c. University Healthcare Professionals from any unit of the University shall inform the University, through the designated official of the unit in which the subject of the notification practices, if they have information that another professional has demonstrated impairment, gross incompetence or unprofessional conduct which would present an imminent danger to an individual patient, the public health, safety or welfare. The obligation to report this information to the University is in addition to the requirement to report this information to the DCA.

B. Exchange of Information between Healthcare Entities

1. Upon inquiry and receipt of a written certification from the inquiring Healthcare Entity that the inquiry is made for the purpose of evaluating a Healthcare Professional for hiring, continued employment, or continued privileges, healthcare entities of the University shall inform other healthcare entities if they have submitted any notices to DCA, medical practitioner review panel, or professional or occupational licensing board within the prior seven years preceding the inquiry about a Healthcare Professional. The healthcare entities of the University will provide the other entity with a copy of the notification and any supporting documentation that was submitted to DCA, Medical Practitioner Review Panel, or professional or occupational licensing board. A Healthcare Entity of the University that has submitted a report to the DCA that has not been accepted or rejected shall advise the inquiring entity that it has submitted a report that is pending.
2. Upon inquiry and receipt of a written certification from the inquiring Healthcare Entity that the inquiry is made for the purpose of evaluating a Healthcare Professional for hiring, continued employment, or continued privileges, the healthcare entities of the University shall provide information about a current or former employee's job performance as it relates to patient care and the reasons for the former employee's separation. The job performance information shared shall relate to the suitability of the employee for re-employment at a healthcare entity, and the employee's skills and abilities as they relate to suitability for future employment at a healthcare entity. The job performance information will be based on the employee's performance evaluation and provided to another healthcare entity only under the following conditions:
 - a. The evaluation has been signed by the evaluator and shared with the employee;
 - b. The employee has had the opportunity to respond; and
 - c. The employee's response has been taken into consideration when providing information to another healthcare entity.

C. Exchange of Information between Healthcare Entities and the DCA

1. A Healthcare Entity that makes an inquiry to the Clearing House Coordinator of the DCA about a Healthcare Professional shall furnish to the Clearing House Coordinator a written certification that the inquiry is made for the purpose of evaluating a Healthcare Professional for hiring, continued employment, or continued privileges and written authorization from the Healthcare Professional to

release information on the status of or final disposition of any matter that was the subject of a report regarding that Healthcare Professional.

2. Upon receipt of the certification and authorization, the Clearing House Coordinator shall give the inquiring Healthcare Entity information on the status of or final disposition of any matter that was the subject of a report regarding that Healthcare Professional.
3. The Clearing House Coordinator shall notify: (i) a Healthcare Entity, or Healthcare Professional, that filed a report of the disposition of any investigation of a Healthcare Professional that was the subject of a report; (ii) the Healthcare Entity, who filed a joint report with a Healthcare Professional, of the disposition of any investigation of the Healthcare Professional who was the subject of a report and the Healthcare Entity shall notify the Healthcare Professional who filed the joint report; and (iii) a Healthcare Professional who was the subject of a report of the disposition of any investigation of that Healthcare Professional.
4. If the action or conduct reported to the Clearing House Coordinator 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 Healthcare Professional that the report has been accepted.
5. 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 Healthcare Professional named in the submission and the reporting entity or the reporting Healthcare Professional that the action or conduct reported is not required to be reported, and that the filing entity or Healthcare Professional shall not consider its submission to the Clearing House Coordinator to be a report.
 - a. A submission rejected by the Clearing House Coordinator shall not be disclosed to an inquiring Healthcare Entity under N.J.A.C. 13:45E-6.1.

D. Maintenance of Records

1. The University shall maintain for a period of seven (7) years all records of all disciplinary proceedings or actions involving affiliated or employed Healthcare Professionals and also retain all documented complaints of patient care-related incidents.
2. The healthcare entities of the University shall maintain for a period of four (4) years all records and source data relating to mortality, morbidity, complication, infection and readmission.
3. Upon request, the healthcare entities of the University shall make such information available to DCA, the professional's licensing board or otherwise authorizes the Healthcare Professional, the Medical Practitioner Review Panel and the Department of Health (DH).
4. If either of the record retention periods noted in 1 and 2 above are less than the record retention period defined in the University's policy, the retention period in the University's policy shall apply.

E. Responsibilities:

1. The Deans of the schools, the President/CEOs of the healthcare entities, and Vice Presidents of healthcare entities shall each designate a single individual responsible for notifying the Division of Consumer Affairs or licensing boards as required by this policy and the Healthcare Professional Responsibility and

Reporting Enhancement Act and to receive reports from University Healthcare Professionals pursuant to section III. B.1 and 2 of this policy.

2. Exchange of information between healthcare entities (reference checks) shall be as follows:
 - a. Staff: University Human Resources shall be responsible for responding to reference checks in accordance with POLICY section III., A and B of this policy. University Human Resources shall collaborate with the Office of General Counsel, Academic Affairs and healthcare entities in providing such reference checks.
 - b. Faculty and Healthcare Housestaff: The Deans of the RBHS schools shall either
 - i. designate a single individual to be responsible for responding to reference checks in accordance with POLICY section III., A and B of this policy, or
 - ii. permit the Schools' Department Chairs, Program Directors, GME/GDE Deans or Directors and other supervisors of faculty and healthcare housestaff to respond to reference checks in accordance with POLICY section III., A and B of this policy.
 - iii. Permit the Vice Presidents, Program Directors, and other supervisors of staff working in a healthcare capacity to respond to reference checks in accordance with POLICY section III., A and B of this policy.

F. Criminal History Background Checks

The HCPREA additionally provides for professional boards to require criminal history background checks as a condition of initial licensure and prior to renewal of licenses. All such professionals MUST have submitted to a background check no later than four (4) years from the effective date of the Act, or by October 2009 in accordance with the process mandated by the New Jersey Division of Consumer Affairs. If a licensed professional fails to affect the background check, his/her license shall not be renewed. Please refer to the Division of Consumer Affairs at <http://www.njconsumeraffairs.gov/chbcfaq.htm> for information on the background checks. See also the Human Resources Licensures, Registration and Certifications policy 60.9.37 of the policy library.

IV. PROCEDURES

- A. The HCPREA Event Reporting Form, found on the University Human Resources site:
 1. All schools/units/healthcare entity designees and Healthcare Professionals responsible for notifying DCA and/or licensing boards in order to be in compliance with this policy and the Healthcare Professional Responsibility and Reporting Enhancement Act.
 2. The Department of Human Resources in responding to reference checks in accordance with this policy and the Healthcare Professional Responsibility and Reporting Enhancement Act.
 3. Reports to DCA shall not be considered government records under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

- B. Distribution of the report shall be in accordance with the instructions noted on the HCPRREA Event Reporting Instruction page.

V. SANCTIONS

- A. Failure to comply with the provisions of the Healthcare Professional Responsibility and Reporting Enhancement Act may subject the University and its Healthcare Professionals to possible disciplinary action and civil penalties and cause the University to be subject to penalties as determined by the DH or DCA pursuant to §13 and §14 of P.L. 1971, c.136 (C.26:2H-13 and 26:2H-14) and §16 of P.L. 1997, c.192 (C:2S-16), or the director shall determine pursuant to P.L. 1989, c.331 (C.34:8-43 et seq.), as applicable.
- B. Any individual who violates any provision of this policy may be subject to discipline up to and including termination.

Rutgers University
Health Care Professional Responsibility & Reporting Enhancement Act (HCPRREA)
Event Reporting Instructions

Use the attached form to: (1) to report HCPRREA events to the Division of Consumer Affairs (DCA) and (2) to respond to HCPRREA requests from outside entities.

Applicability

Healthcare facilities licensed pursuant to N.J.S.A. § 26:2H-1. Rutgers University facilities: University Behavioral HealthCare (UBHC), Eric B. Chandler Health Center and Rutgers Health Care Professionals, either paid or volunteer.

Applicable Professions

Individuals, whether paid or unpaid, licensed or authorized pursuant to Title 45 or Title 52 of the Revised Statutes to practice a healthcare profession regulated by the Division of Consumer Affairs and other professional and occupational licensing boards including physicians, podiatrists, nurses, pharmacists, physical, occupational and respiratory therapists, nurses aides and personal assistants, psychologists, psychoanalysts, social workers, professional counselors, drug and alcohol counselors, speech and language pathologists, optometrists, opticians, dentists, orthotics and prosthetic providers, marriage and family therapists, veterinarians and chiropractors, ophthalmic dispensers and ophthalmic technicians, audiologists, and acupuncturists. "Healthcare Professional" also includes nurse aides and personal care assistants certified by the Department of Health and homemaker home-health aides certified by the Board of Nursing.

Reportable Events Under HCPRREA

For reasons relating to a health care professional's impairment, incompetency or professional misconduct which relates adversely to patient care or safety:

1. Has full or partial privileges summarily or temporarily revoked or suspended, or permanently reduced, suspended or revoked;
2. Has been discharged from staff;
3. Has been terminated or had a contract rescinded;
4. Has been removed from a list of eligible employees of a health service firm or staffing registry;
5. Has conditions or limitations imposed on clinical privileges;
6. Voluntarily relinquishes any partial privilege/authorization to perform a specific procedure if under review by the healthcare entity or if the entity has expressed an intention to do so;
7. Voluntarily resigns because the healthcare entity is reviewing his/her patient care because it believes that the conduct is unprofessional or demonstrates impairment or incompetence or if the entity has indicated an intention to conduct such a review.
8. Has been granted a leave of absence due to a physical, mental or emotional condition or drug or alcohol use that impaired his/her ability to practice, unless the professional sought assistance from a professional assistance or intervention program and is following the required treatment program.
9. Has malpractice lawsuits resolved by settlement, judgment or arbitration in which both the professional and healthcare entity are parties.

Distribution

- Original to DCA or requesting entity
- Copy to Licensed Professional
- Copy to Human Resources (for staff employees only; do not send reports on Volunteers to HR)
- Copy to Faculty Affairs (for faculty, paid or unpaid)

Rutgers University
Health Care Professional Responsibility & Reporting Enhancement Act (HCPRREA)
Event Reporting Form

| For use by Schools/Departments/Healthcare Entities/Healthcare Professionals |
|--|
| Employee Name: |
| Employee ID: |
| Licensed Profession: |
| License Number (if available): |
| School/Department/Healthcare Entity Assigned: |
| Action to Report: |
| |
| |
| |
| |
| Date of Occurrence: |
| Other Related Information: |
| |
| |
| |
| |
| |
| |

| Reference For Employees (Labor Relations/HR/Academic Affairs) | |
|--|---|
| Suspended Pending Investigation: | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Suspension was: | <input type="checkbox"/> With pay <input type="checkbox"/> Without pay |
| Separation was: | <input type="checkbox"/> Voluntary <input type="checkbox"/> Involuntary |

| Information Provided By |
|--|
| Name: |
| Title: |
| Date: |
| |
| Signature: |
| |
| If more information is required, contact person above: |
| Telephone Number: |