

VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

CHAPTER 456

An Act to amend and reenact § 54.1-2906 of the Code of Virginia, relating to reports of disciplinary actions to health regulatory boards.

[S 920]

Approved March 16, 2003

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2906 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2906. Hospitals and other health care institutions required to report disciplinary actions against and certain disorders of health professionals; immunity from liability.

A. The chief ~~administrative~~ executive officer and the chief of staff of every hospital or other health care institution in the Commonwealth shall report *within 30 days, except as provided in subsection B*, to the appropriate board the following information regarding any person licensed by a health regulatory board unless exempted under subsection ~~D~~ E:

1. Any information of which he may become aware in his official capacity indicating that such a health professional is in need of treatment or has been committed or admitted as a patient, either at his institution or at any other health care institution, for treatment of substance abuse or a psychiatric illness which may render the health professional a danger to himself, the public or his patients.

2. Any information of which he may become aware in his official capacity indicating, *after reasonable investigation and consultation as needed with the appropriate internal boards or committees authorized to impose disciplinary action on a health professional*, that ~~such~~ there is a reasonable probability that such health professional may ~~be guilty of~~ have engaged in unethical, fraudulent or unprofessional conduct as defined by the pertinent licensing statutes and regulations. *The report required under this section shall be submitted within 30 days of the date that the chief executive officer or chief of staff determines that a reasonable probability exists.*

3. Any disciplinary action, including but not limited to denial or termination of employment, denial or termination of privileges or restriction of privileges, while under investigation or during disciplinary proceedings, taken or begun by the institution as a result of conduct involving *intentional or negligent conduct that causes or is likely to cause injury to a patient or patients*, professional ethics, professional incompetence, moral turpitude, or substance abuse. *The report required under this section shall be submitted within 30 days of the date of written communication to the health professional notifying him of any disciplinary action.*

4. The voluntary resignation from the staff of the health care institution or voluntary restriction or expiration of privileges at the institution of any health professional while such health professional is under investigation or is the subject of disciplinary proceedings taken or begun by the institution or a committee thereof for any reason related to possible *intentional or negligent conduct that causes or is likely to cause injury to a patient or patients*, medical incompetence, unprofessional conduct, moral turpitude, mental or physical impairment, or substance abuse.

Any report required by this section shall be in writing directed to the ~~secretary of the appropriate board~~ Director of the Department of Health Professions, shall give the name and address of the person who is the subject of the report and shall fully describe the circumstances surrounding the facts required to be reported. ~~Any report required by this section concerning the commitment or admission of such health professional as a patient shall be made within five days of when the chief administrative officer learns of such commitment or admission.~~ *The report shall include the names and contact information of individuals with knowledge about the facts required to be reported and the names and contact information of individuals from whom the hospital or health care institution sought information to substantiate the facts required to be reported. All relevant medical records shall be attached to the report if patient care or the health professional's health status is at issue. The reporting hospital or health care institution shall also provide notice to the Board that it has submitted a report to the National Practitioner Data Bank under the Health Care Quality Improvement Act, 42 U.S.C. § 11101, et seq. The reporting hospital or health care institution shall give the health professional who is the subject of the report an opportunity to review the report. The health professional may submit a separate report if he disagrees with the substance of the report.*

This section shall not be construed to require the hospital or health care institution to submit any proceedings, minutes, records or reports that are privileged under § 8.01-581.17, except that the provisions of § 8.01-581.17 shall not bar (i) any ~~initial~~ report required by this section or (ii) any requested medical records which are necessary to investigate unprofessional conduct reported pursuant to this subtitle or unprofessional conduct that should have been reported pursuant to this subtitle. Under no circumstances shall compliance with this section be construed to waive or limit the privilege provided in

§ 8.01-581.17. No person or entity shall be obligated to report any matter to the Board if the person or entity has actual notice that the same matter has already been reported to the Board.

B. Any report required by this section concerning the commitment or admission of such health professional as a patient shall be made within five days of when the chief administrative officer learns of such commitment or admission.

C. The State Health Commissioner shall report to the appropriate board any information of which the Department of Health may become aware in the course of its duties indicating that such a health professional may be guilty of fraudulent, unethical or unprofessional conduct as defined by the pertinent licensing statutes and regulations.

€ D. Any person making a report required by this section, providing information pursuant to an investigation or testifying in a judicial or administrative proceeding as a result of such report shall be immune from any civil liability alleged to have resulted therefrom unless such person acted in bad faith or with malicious intent.

Ð E. Medical records or information learned or maintained in connection with an alcohol or drug prevention function which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall be exempt from the reporting requirements of this section to the extent that such reporting is in violation of 42 U.S.C. § 290dd-2 or regulations promulgated thereunder.

F. Any person who fails to make a report to the health regulatory board as required by this section shall be subject to a civil penalty not to exceed \$25,000 assessed by the Director. The Director shall report the assessment of such civil penalty to the Commissioner of the Department of Health. Any person assessed a civil penalty pursuant to this section shall not receive a license or certification or renewal of such unless such penalty has been paid pursuant to § 32.1-125.01. The Medical College of Virginia Hospitals and the University of Virginia Hospitals shall not receive certification pursuant to § 32.1-137 or Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 unless such penalty has been paid.