

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

1. Purpose of form

The purpose of the Health Care Facility Inquiry Regarding Health Care Professional form is to implement the Health Care Professional Responsibility and Reporting Enhancement Act, P.L. 2005, c.83 (approved May 3, 2005) ("Act"), particularly § 15, codified at N.J.S.A. 26:2H-12.2c, and the implementing rules at N.J.A.C. 8:30 and N.J.A.C. 13:45E ("Rules").

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.
- **"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 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.26:2S-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 (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.

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- “**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[.]

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.