Mandatory Reporting Requirements

Introduction

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Department of Health Professions
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The Virginian-Pilot June 23,2002

- Bariatric surgeon
- Dozens of Patients 1991 - 2001
- Resigned under investigation from one hospital and was granted surgical privileges in another in 1997
- Surrendered license in 2001 after a 12 hour hearing

From *The Pilot*

- *"His story exposes a medical system shrouded in secrecy and reluctant to root out the worst offenders "*
- *"Doctors, nurses and hospital administrators describe an anxious atmosphere. And they fear litigation from doctors if they report a colleague or discipline an employee. It is a system, critics say , designed to safeguard livelihoods, not lives."*

Liz Szabo, The Virginian-Pilot
June 23,2002

Reaction

- Received attention from various professional and industry associations
- Brought attention from various members of the General Assembly in the Tidewater Area
- Revived interest in the 1999 JLARC recommendations
- The Department of Health Professions was requested to draft legislation for inclusion in the Governor's 2003 legislative package
- Board of Medicine began to draft legislation

State of Commonwealth Address

Over the past year, we have heard too many stories of patients harmed by doctors who rejected their ancient charge, "First, do no harm." **To keep patients safe, I am proposing to give the Board of Medicine new tools to crack down on those doctors who fail to meet the highest standards.** Our goal is not to burden the great majority of physicians who deliver quality care, but to help weed out the few bad doctors who should not be practicing.

Honorable Mark R. Warner, Governor

January 8,2003

Three Bills

House Bill 1441
Delegate Sears

Senate Bill 871
Senator Deeds

Senate Bill 1334
Senator Bolling

House Bill 1441

1. Revised the hospital and health care institutions reporting requirements
2. Confidential Consent Agreements (CCA's)
3. 3 year minimum for revocation
4. Increased level of penalties for licensees from $1,000 to $5,000
5. Provides for summons to be issued for unlicensed practice
6. Share information with Attorney-General and Commonwealth Attorneys

House Bill 1441

7. Increased reporting requirements for health regulatory boards performance
8. Emergency fee increases (resources)
9. Grounds for action (Medicine)
10. Board of Medicine Executive Committee
11. Grounds for Action (Physical Therapy)

Change in Grounds for Action

§§ 54.1-2915 and 54.1-3480 of the *Code of Virginia*

Old

Gross ignorance or carelessness in his practice, or gross malpractice

New

Intentional *or* negligent conduct in the practice of any branch of the healing arts that causes or is likely to cause injury to a patient or patients

It's not just Docs !!!!!

- *Board of Audiology/Speech Language Pathology:* Audiologists; Speech-language pathologists
- *Board of Counseling:* Marriage and family therapists; Professional counselors; Licensed substance abuse treatment practitioners
- *Board of Dentistry:* Dentists; Oral and maxillofacial surgeons; Dental hygienists
- *Board of Medicine:* Doctors of medicine, including interns and residents; Doctors of osteopathic medicine; Chiropractors; Podiatrists; Physician assistants; Radiologic technologists; Radiologic technologists, limited; Respiratory care providers; Occupational therapists; Acupuncturists
- *Board of Nursing:* Registered nurses; Licensed practical nurses; Nurse practitioners; Clinical nurse specialists
- *Board of Nursing Home Administrators:* Nursing Home Administrators
- *Board of Optometry:* Optometrists
- *Board of Pharmacy:* Pharmacists
- *Board of Physical Therapy:* Physical therapists; Physical therapist assistants
- *Board of Psychology:* Applied psychologists; Clinical psychologists; School psychologists
- *Board of Social Work:* Clinical social workers; Social workers

A report *per se* may not result in any action against a licensee

Disciplinary action against any person licensed, registered or certified under this will be based upon the <u>underlying conduct</u> of the person and not upon the report ….

Failure to report is actionable

- Up to a $25,000 fine
- Loss of license for failure to pay fine
- Immunity when reporting
- Failure to report can be detected (Patients, practitioners, malpractice payers, family members and media)

What happens with a report ?

1. Evaluated
2. Investigated (preliminary and full)
3. Reported to a board for probable cause determination
4. If no probable cause exists = closed
5. Probable cause exists= CCA (Confidential)

or

6. **Informal Fact Finding** (Public)

What happens with a report ?

7. If results of Informal Fact Finding are agreed to = closed
8. **Formal Hearing** (Public) = closed

Summary Suspension

§ 54.1-2408.1. of the *Code of Virginia*

Any health regulatory board may suspend the license, certificate or registration of any person holding a license, certificate or registration issued by it **without a hearing** and simultaneously with the institution of proceedings for a hearing, if the relevant board finds that there **is a substantial danger to the public health** or safety which warrants this action.

Questions?

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