

## DQA REMINDS US: NO HOLIDAY FROM REPORTING REQUIREMENT

While the holidays are upon us and many are traveling over the valley and through the wood, the Wisconsin Department of Quality Assurance ("DQA") has issued a notice reminding health care providers that there is no time off from the reporting requirements under Wisconsin Statutes §457.25(1). This statute, and several like it, apply to any public or private health care agency, institution or facility, or any other person or entity that employs or contracts for services with a credential holder.

In a notice posted on Wednesday, December 7, 2016, DQA took the unusual step of calling out the obligation of providers to report unprofessional conduct and the ability of a licensing board to take action against a person's license or certificate if that board determines that the person has engaged in unprofessional conduct.

Specifically, Wis. Stats. §457.25(1) provides:

Any public or private mental health or health care agency, institution or facility, or any other person or entity that employs or contracts for services with a credential holder, that terminates, suspends, or restricts the employment or contract of the credential holder as a result of adverse or disciplinary action against the credential holder relating to his or her practice of social work, advanced practice social work, independent social work, clinical social work, marriage and family therapy, or professional counseling shall submit a written report of the action to the appropriate section of the examining board within 30 days after the date on which the action is taken or, if grounds for such an action exist and the credential holder terminates his or her employment before the action is taken, within 30 days after the date on which the credential holder terminates his or her employment.

In the notice, DQA seemed to highlight the fact that "all providers licensed or certified by DQA, as well as other employers of persons who are licensed or certified under Wis. Stat. § 457.25 (1)" need to comply with the reporting requirement. Although DQA did not discuss the impetus for the notice, a lack of reporting may have prompted the need to remind providers of the importance of this requirement. **Driving the point home, DQA specifically called out the need for providers to develop personnel policies and procedures that address the reporting requirements.**

### OTHER REPORTING OBLIGATIONS

In addition to the social workers, therapists and counselors mentioned above, physician conduct may be subject to mandatory reporting. Under Wis. Stat. §50.36(3)(b) and (c), a hospital must report:

If, as a result of peer investigation or written notice thereof, a hospital staff member who is licensed by the medical examining board or podiatry affiliated credentialing board, for any reasons that include the quality of or ability to practice, loses his or her hospital staff privileges, has his or her hospital staff privileges reduced or resigns from the hospital staff, the hospital shall so notify the medical examining board or podiatry affiliated credentialing board, whichever is applicable, within 30 days after the loss, reduction or resignation takes effect. Temporary suspension due to incomplete records need not be reported.

(If the conduct does not include quality or ability to practice, reporting is required only if hospital staff privileges for 30 days or more, has his or her hospital staff privileges reduced for 30 days or more or resigns from the hospital staff for 30 days or more.)

Moreover, Chapter 448 of the Wisconsin Statutes requires that physicians promptly submit a report to the Medical Examining Board when the person has reason to believe any of the following about another physician.

1. The other physician is engaged in acts that constitute a pattern of unprofessional conduct.
2. The other physician is engaged in an act that creates an immediate or continuing danger to one or more patients or to the public.
3. The other physician is or may be medically incompetent.
4. The other physician is or may be mentally or physically unable to engage in the practice of medicine or surgery.

The failure to report a peer's unprofessional conduct is, itself, unprofessional conduct by the non-reporting physician that should be reported. See Wisconsin Stat. § 448.015(4).

## AND STILL MORE CONSIDERATIONS

CMS, the Wisconsin Caregiver Act, the Wisconsin Board of Nursing, and others require reporting when a health care provider engages in unprofessional conduct. Some, such as the Caregiver requirements for Skilled Nursing Facilities, require immediate reporting.

Reporting does not exist in a vacuum however. So while employers and medical staff leaders should be evaluating reporting requirements with every disciplinary action, termination and corrective action, care must be taken to consider HIPAA, other state and federal confidentiality rules, and peer review implications as well.

We can help you satisfy your reporting obligations while mitigating risk to the organization. If you would like a copy of the email notice, need assistance with your policies and procedures or have any questions regarding reporting obligations, please contact:

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