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Client Advisory Virginia Reporting Requirements

Below is a summary of state and federal reporting requirements. Recent amendments have changed the Virginia's code references; however, the details of each statute have not changed. Moreover, the state requirements address the federal mandates in the Medicare laws, which are also included. The following statutes may pertain to nursing facilities and their staff to make specific reports to one or more state agencies.

Generally, Virginia statutes require health care providers to disclose certain information to state agencies. Pursuant to the Virginia Privacy Protection Act and individual statutes such as Va. Code § 32.1-127.1:03, the state must maintain confidentiality of all personal information that it receives.

Statewide Cancer Registry (Va. Code § 32.1-70): Hospitals, clinics and independent pathology laboratories shall make available to the Commissioner of Health information on patients diagnosed with malignant tumors or cancers. A physician shall report information on patients having cancers unless he has determined that a hospital, clinic or in-state pathology laboratory has reported the information. This reporting requirement shall not apply to basal and squamous cell carcinoma of the skin. Each hospital, clinic, independent pathology laboratory, or physician shall provide available clinical information as by this statute defined and by the Board of Health.

Emergency Medical Services Patient Information (Va. Code § 32.1-116.3): Licensed health care facilities and physicians must report infectious medical condition of patients to EMS transport crew chief.

Adult Abuse (Va. Code § 63.2-1606 and 12 VAC 35-115-230): A person licensed to practice medicine or any of the healing arts, hospital resident or intern, nurse, person employed by the facility and working with adults, person providing care to adults, social worker, mental health professional, or law enforcement officer must report suspected abuse, neglect or exploitation of any adult to the locality where the adult resides and where the abuse occurred. The reporting of suspicions must be made within 24 hours to Adult Protective Services. The report must include injuries of unknown origins if there is a reasonable cause to believe or suspect that a nurse aid or other facility staff member inflicted the injury. The facility should document why it reports some injures and does not report others such as those that are unavoidable and not from abuse. This includes resident-to-resident altercations requiring physician intervention or hospitalization. It also includes reporting unusual occurrences such as serious medication errors, suicide, serious injury or death associated with restraints.

12 VAC 35-115-230 provides regulations governing provider reporting to the department. The section includes instructions for collecting, maintaining and reporting the information concerning abuse, neglect and exploitation; deaths and serious injuries; seclusion and restraint; and human rights activities.

Sexual Abuse of an Adult (Va. Code §§ 63.2-1605; 63.2-1606): Facilities must report sexual abuse to local law enforcement agencies where the adult resides or where the abuse occurred. Compliance with this reporting requirement results in immunity from civil or criminal liability unless the report was made in bad faith or with malicious intent. Failure to comply with the reporting requirements may result in a fine.

Reporting to the Department of Health Professionals (Va. Code § 54.1-2400.6): Hospitals and other health care institutions required to report disciplinary actions against and certain disorders of health professionals to the Director of the Department of Health Professionals. This includes all incidents of abuse or neglect by nurse aides, RNs, LPNs, physicians, or other persons licensed or certified by the Department.

Individual Practitioner Reporting Requirements (Va. Code § 54.1-2400.7): Practitioners treating other practitioners for certain disorders must report to the Director of the Department of Health Professionals whenever any health professional is treated for mental disorders, chemical dependency or alcoholism, unless the attending practitioner has determined that there is a reasonable probability that the person being treated is competent to continue in practice or would not constitute danger to himself or to the health and welfare of his patients or the public.

Abused, Neglected or Exploited Adults (Va. Code 63.2-1606): Any person licensed to practice medicine or any of the healing arts, any hospital resident or intern, any person employed in the nursing profession, any person employed by a public or private agency or facility and working with adults, who has reason to suspect that an adult is an abused, neglected or exploited adult, shall report the matter immediately to the local department of the county or city.

Diseases Infecting Human Bodies (Va. Code § 32.1-37.1): Any hospital nursing facility, assisted living facility or correctional facility must notify the person practicing funeral services or his agent of any infectious diseases transferable by exposure to blood or body fluids. Other Reportable Diseases (Va. Code §§ 32.1-35; 32.1-50; 12VAC5-90-90): Persons in charge of medical care facilities shall report to the local health department serving the jurisdiction where the facility is located of the occurrence in or admission to the facility of a patient with a reportable disease listed in 12VAC5-90-80, including tuberculosis, venereal disease, AIDS/HIV, etc. See attached list. In that section, the named diseases, toxic effects, and conditions to be reportable. Noted conditions require rapid communication to the local health department within 24 hours of suspicion or confirmation. Other conditions should be reported within three days of suspected or confirmed diagnosis.

Blind Registry (Va. Code §51.5-68): Any physician, optometrist or other person examining the eyes of a person must report a finding of blindness.

Reporting of Certain Wounds (Va. Code Section 54.1-2967): A physician must report, to the Sheriff or Chief of Police, any wounds inflicted by weapon specified in Section 18.2-308, which are not self-inflicted. The report shall include the person's name and address. Failure to comply with this reporting requirement is a Class 3 misdemeanor. Complying with this reporting requirement, however, results in immunity from civil liability unless such report was made in bad faith or with malicious intent.

Child Abuse (Va. Code § 63.2-1509): Any person providing care to a child at the Hospital who, in their professional or official capacity, has reason to suspect that a child is an abused or neglected child, shall report the matter immediately to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department of Social Services toll-free child abuse and neglect hotline. This includes any professional staff person employed by a private or state-operated hospital, institution or facility to which children have been committed or where children have been placed for care and treatment.

Child Venereal Disease (Va. Code §§ 32.1-36, 32.1-63): Physicians and laboratory directors doing business in this Commonwealth who diagnose a venereal disease in a child twelve years of age or under shall report the matter, in accordance with the provisions of § 63.2-1509, unless the physician reasonably believes that the infection was acquired congenitally or by a means other than sexual abuse. Physicians, nurses or midwives who diagnose ophthalmia neonatorum also must report.

Other Child Reports Application to Physicians, Public Health Nurses and/or Hospital Administrators (Va. Code § 32.1-64.1; 32.1-66; 32.1-69.1; 32.1-35.1):

- Hearing impairment of newborns.
- Positive results of infant screening for biotinase deficiency, phenylketonuria, hypothyroidism, homocystinuria, galactosemia, Maple Syrup Urine Disease, sickle cell anemia.
- Congenital abnormalities in children.
- Nosocomial infections in hospitals.

Federal Reporting Requirements

Medical Device Reporting (21 U.S.C. § 360i(b)): Federal law requires hospitals, nursing homes, ambulatory surgical facilities and other health care providers that use medical devices must report any device related deaths, serious injuries or serious illnesses to the FDA or the manufacturer. Physician's offices are exempt from this duty.

Federal Adult Abuse Law (Social Security Act §§ 1819(g)(1)(C); 1919(g)(1)(C); 42 U.S.C. §§ 1395i-3(g)(1)(C); 1396r(g)(1)(C); and 42 C.F.R. § 483.13(c)(2) thru (4)): Federal law requires allegations of mistreatment, neglect, abuse misappropriations of resident's property involving nursing facility staff to be immediately reported to the facility administrator and to state survey and certification agency. This also includes

injuries of unknown origin. Facility is further required to thoroughly investigate the allegations and report its results to VDH within 5 working days of the incident. It must also take appropriate corrective action.

Reports of Serious Occurrences (42 C.F.R. § 483.374): Staff must report any serious occurrence involving a resident to both the State Medicaid agency and the state-designated Protection and Advocacy system by no later than close of business the next business day after a serious occurrence. Where a minor is involved, the facility must notify the resident's parent(s) or legal guardian(s) as soon as possible, and in no case later than 24 hours after the serious occurrence. Staff must document in the resident's record that the serious occurrence was reported to both the State Medicaid agency and the state-designated Protection and Advocacy system, including the name of the person to whom the incident was reported. A copy of the report must be maintained in the resident's record, as well as in the incident and accident report logs kept by the facility.

Reports of Deaths (42 C.F.R. § 483.374(c)): In addition to the reporting requirements contained in paragraph (b) of this section, facilities must report the death of any resident to the Centers for Medicare & Medicaid Services (CMS) regional office. Staff must report the death of any resident to the CMS regional office by no later than close of business the next business day after the resident's death. Staff must document in the resident's record that the death was reported to the CMS regional office.