

## Department of Health

### MANDATORY REPORTING

#### NEW SECTION

**WAC 246-16-200 Mandatory reporting -- Intent.** These mandatory reporting rules require certain reports about license holders and are intended to address patient safety. These rules are not intended to limit reports from any person who has a concern about a license holder's conduct or ability to practice safely.

#### NEW SECTION

**WAC 246-16-210 Mandatory reporting -- Definitions.** (1) "Approved impaired practitioner or voluntary substance abuse program" means a program authorized by [RCW 18.130.175](#) and approved by a disciplining authority listed in [RCW 18.130.040](#).

(2) "Conviction" means a court has decided a person is guilty of any gross misdemeanor or felony. It includes any guilty or no contest plea and all decisions with a deferred or suspended sentence.

(3) "Determination or finding" means a final decision by an entity required or requested to report under this chapter. This applies even if no adverse action or sanction has been imposed or if the license holder is appealing the decision.

(4) "License holder" means a person holding a credential in a profession regulated by a disciplining authority listed in [RCW 18.130.040](#)(2).

(5) "Unable to practice with reasonable skill and safety due to a mental or physical condition" means a license holder who:

(a) A court has declared to be incompetent or mentally ill; or

(b) Is not successfully managing a mental or physical condition and as a result poses a risk to patient safety.

(6) "Unprofessional conduct" means the acts, conduct, or conditions described in [RCW 18.130.180](#).

#### NEW SECTION

**WAC 246-16-220 Mandatory reporting -- How and when to report.** (1) Reports are submitted to the department of health. The department will give the report to the appropriate disciplining authority for review, possible investigation, and further action.

(a) When a patient has been harmed, a report to the department is required. A report to one of the approved impaired practitioner or voluntary substance abuse programs is not a substitute for reporting to the department.

(b) When there is no patient harm, reports of inability to practice with reasonable skill and safety due to a mental or physical condition may be submitted to one of the approved impaired practitioner or

voluntary substance abuse programs or to the department. Reports of unprofessional conduct are submitted to the department.

(c) Reports to a national practitioner data bank do not meet the requirement of this section.

(2) The report must include enough information to enable the disciplining authority to assess the report. If these details are known, the report should include:

(a) The name, address, and telephone number of the person making the report.

(b) The name, address, and telephone number(s) of the license holder being reported.

(c) Identification of any patient or client who was harmed or placed at risk.

(d) A brief description or summary of the facts that caused the report, including dates.

(e) If court action is involved, the name of the court, the date of filing, and the docket number.

(f) Any other information that helps explain the situation.

(3) Reports must be submitted no later than thirty calendar days after the reporting person has actual knowledge of the information that must be reported.

#### NEW SECTION

**WAC 246-16-230 Mandatory reporting -- License holder self reports.** Each license holder must self report:

(1) Any conviction, determination, or finding that he or she has committed unprofessional conduct; or

(2) Information that he or she is unable to practice with reasonable skill and safety due to a mental or physical condition; or

(3) Any disqualification from participation in the federal Medicare or Medicaid program.

#### NEW SECTION

**WAC 246-16-235 Mandatory reporting -- License holder reporting other license holders.** A license holder must report another license holder in some circumstances.

(1) The reporting license holder must submit a report when he or she has actual knowledge of:

(a) Any conviction, determination, or finding that another license holder has committed an act that constitutes unprofessional conduct; or

(b) That another license holder may not be able to practice his or her profession with reasonable skill and safety due to a mental or physical condition.

(2) The license holder does not have to report when he or she is:

(a) A member of a professional review organization as provided in [WAC 246-16-255](#);

(b) Providing health care to the other license holder and the other license holder does not pose a clear and present danger to patients or clients; or

(c) Part of a federally funded substance abuse program or approved impaired practitioner or voluntary substance abuse program and the other license holder is participating in treatment and does not pose a clear and present danger to patients or clients.

#### NEW SECTION

**WAC 246-16-240 Mandatory reporting -- Reports by professional liability insurance carriers.** Every institution, corporation or organization providing professional liability insurance to a license holder must report:

(1) Any malpractice settlement, award, or payment in excess of twenty thousand dollars that results from a claim or action for damages allegedly caused by a license holder's incompetence or negligence in the practice of the profession.

(2) Award, settlement, or payment of three or more claims during a twelve-month period that result from claims or actions for damages allegedly caused by the license holder's incompetence or negligence in the practice of the profession.

(3) Reports made according to [RCW 18.57.245](#) or 18.71.350 meet the requirement.

#### NEW SECTION

**WAC 246-16-245 Mandatory reporting -- Reports by health care institutions.** (1) This section applies to:

(a) Hospitals and specialty hospital defined in [chapter 70.41 RCW](#);

(b) Ambulatory surgery facilities defined in [chapter 70.230 RCW](#);

(c) Childbirth centers defined in [chapter 18.46 RCW](#);

(d) Nursing homes defined in [chapter 18.51 RCW](#);

(e) Chemical dependency treatment programs defined in [chapter 70.96A RCW](#);

(f) Drug treatment agencies defined in [chapter 69.54 RCW](#); and

(g) Public and private mental health treatment agencies defined in [RCW 71.05.020](#) and 71.24.025.

(2) The chief administrator or executive officer or designee of these institutions must report when:

(a) A license holder's services are terminated or restricted because a license holder has harmed or placed at unreasonable risk of harm a patient or client; or

(b) A license holder poses an unreasonable risk of harm to patients or clients due to a mental or physical condition.

(3) Reports made by a hospital according to [RCW 70.41.210](#) meet the requirement.

(4) Commencing July 1, 2009, reports made by an ambulatory surgical center according to [RCW 70.230.110](#) meet the requirement.

#### NEW SECTION

**WAC 246-16-250 Mandatory reporting -- Reports by health service contractors and disability insurers.** The executive officer of health care service contractors and disability insurers licensed under chapters 48.20, 48.21, 48.21A, and 48.44 RCW must report when the entity has made a determination or finding that a license holder has engaged in billing fraud.

#### NEW SECTION

**WAC 246-16-255 Mandatory reporting -- Reports by professional review organizations.** (1) This section applies to every peer review committee, quality improvement committee, or other similarly designated professional review organization operating in the state of Washington.

(2) Unless prohibited by state or federal law, the professional review organization must report:

(a) When it makes a determination or finding that a license holder has caused harm to a patient or placed a patient at unreasonable risk of harm; and

(b) When it has actual knowledge that the license holder poses an unreasonable risk of harm due to a mental or physical condition.

(3) Professional review organizations and individual license holders participating in a professional review organization do not need to report during the investigative phase of the professional review organization's operation if the organization completes the investigation in a timely manner.

#### NEW SECTION

**WAC 246-16-260 Mandatory reporting -- Reports by courts.** The department requests that the clerks of trial courts in Washington report professional malpractice judgments and all convictions against a license holder.

#### NEW SECTION

**WAC 246-16-265 Mandatory reporting -- Reports by state and federal agencies.** The department requests that any state or federal program employing a license holder in Washington reports:

(1) When it determines a license holder has harmed or placed at unreasonable risk of harm a patient or client; and

(2) When it has actual knowledge that the license holder poses an unreasonable risk of harm due to a mental or physical condition.