

California Medical Staff Reporting Update

New Penalties for Failure to Report Go Into Effect January 1, 2018

Governor Jerry Brown approved California Senate Bill 798 on October 13, 2017. One provision of this bill imposes penalties for failure to file required reports under Business and Professions Code Section 805.01. Beginning January 1, 2018, individuals and entities with reporting obligations under Section 805.01 are subject to fines of up to \$100,000 per violation for willful failures to file a Section 805.01 report, and fines of up to \$50,000 per violation for other failures to file a Section 805.01 report.

Just like Business and Professions Code Section 805, Section 805.01 imposes an obligation on the chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body, and on the chief executive officer or administrator of any licensed health care facility or clinic, to report certain adverse actions against a licentiate to the Medical Board of California or other applicable licensing body. While a Section 805 report is not required until the reportable event occurs, a report is required under Section 805.01 within 15 days of a peer review body making a final decision or *recommendation* for disciplinary action. This earlier notification allows the licensing board to expedite its investigation process.

Events reportable under Section 805.01 are those final decisions or recommendations for disciplinary action resulting in a final proposed action to be taken against a licentiate based on the peer review body's determination, following formal investigation of the licentiate, that certain acts by the licentiate may have occurred. The acts by a licentiate triggering a Section 805.01 report include: (1) incompetence, or gross or repeated deviation from the standard of care involving death or serious bodily injury to one or more patients, to the extent or in such a manner as to be dangerous or injurious to any person or to the public; (2) the use of, or prescribing for or administering to himself or herself, any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in such a manner as to be dangerous or injurious to the licentiate, any other person, or the public, or to the extent that such use impairs the licentiate's ability to practice safely; (3) repeated acts of excessive prescribing, furnishing, or administering of controlled substances or repeated acts or prescribing, dispensing, or furnishing of controlled substances without a good faith effort prior examination of the



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patient and medical reason therefor; and (4) sexual misconduct with a patient or patients during a course of treatment or an examination.

The new fines provide an additional impetus for those with reporting obligations under Section 805.01 to carefully evaluate any circumstances with the potential to trigger a report in order to ensure compliance with Section 805.01.

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