



Requirements Imposed on Hospitals, Other Health Care
Institutions and Organizations, and Assisted Living Facilities to
Report Disciplinary Actions Against, Allegations of Misconduct
by, and Impairment of Certain Health Care Practitioners to
The Virginia Department of Health Professions or
The Office of Licensure and Certification of
The Virginia Department of Health

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TABLE OF CONTENTS

I. Requirements of § 54.1-2400.6	2
A. General Requirements.....	2
B. 2024 Changes in Legislation Limiting Reporting	2
II. Who may be reported under § 54.1-2400.6.....	3
III. Exemption from Reporting	4
IV. Specific Guidance Concerning Required Reports	4
A. What is meant by “hospital, other health care institution, or assisted living facility”?	4
B. What constitutes a “home care organization” or “home health organization”?	5
C. What constitutes a “hospice organization”?	6
D. What specific information is required in reports?.....	6
E. When must reports be made?	6
F. To whom must reports be made?.....	7
G. What information should not or need not be reported or disclosed?	7

Requirements Imposed on Certain Healthcare Entities to Report Disciplinary Actions Against, Allegations of Misconduct by, and Impairment of Certain Health Care Practitioners to the Virginia Department of Health Professions or the Office of Licensure and Certification of the Virginia Department of Health

I. Requirements of § 54.1-2400.6

A. General Requirements.

[Virginia Code § 54.1-2400.6](#) details reporting requirements which impact certain healthcare facilities. For the most recent statutory version, please refer to the Legislative Information System at law.lis.virginia.gov or use the hyperlink in the statutory cite above.

B. 2024 Changes in Legislation Limiting Reporting

Previous statutory language required reporting of any information of which the reporter became aware in his official capacity indicating a reasonable belief that a health professional needs treatment or was voluntarily admitted as a patient for treatment of substance abuse or a psychiatric illness that may render the health professional a danger to himself, the public, or patients.

Changes in the 2024 General Assembly Session removed a portion of the previous requirement. Following those changes, reporting is required for “a reasonable belief that such a health professional has been involuntarily admitted as a patient . . . for treatment of substance abuse or a psychiatric illness.” *See* Va. Code § 54.1-2400.6(A)(1).

The current requirement for reporting voluntary admission is found in § 54.1-2400.6(A)(2) and **only applies if the psychiatric illness or substance abuse may continue for more than 30 days after admission.** Additionally, such a report is required to be made five days after the 30-day period concludes and is not required if the physician, physician assistant, or nurse practitioner treating the health professional provides written confirmation to the reporting entity that the health professional is no longer a danger to himself, the public, or patients.

II. Who may be reported under § 54.1-2400.6

Individuals (i) licensed, certified or registered by a health regulatory board, (ii) applying for such licensure, certification or registration, and (iii) holding a multistate license privilege to practice nursing are subject to reporting under § 54.1-2400.6 unless an exemption applies (see below). The list of practitioners under the jurisdiction of a regulatory board of DHP at the time of this revision include:

Board of Audiology/Speech Language Pathology: audiologists; speech-language pathologists

Board of Counseling: marriage and family therapists; professional counselors; substance abuse treatment practitioners; rehabilitation providers; substance abuse counselors; substance abuse counseling assistants; qualified mental health provider; peer recovery specialists; residents in counseling, marriage and family therapy or substance abuse treatment; art therapists; behavioral health technicians; behavioral health technician assistants.

Board of Dentistry: dentists; oral and maxillofacial surgeons; dental hygienists; dental assistants II.

Board of Funeral Directors and Embalmers: funeral service licensees; funeral directors; funeral embalmers; funeral trainees.

Board of Medicine: doctors of medicine, including interns and residents; doctors of osteopathic medicine; chiropractors; podiatrists; physician assistants; radiologic technologists; radiologic technologists, limited; radiologist assistants; respiratory therapists; occupational therapists; occupational therapy assistants; acupuncturists; athletic trainers; professional midwives; polysomnographers; behavioral analysts; assistant behavioral analysts; genetic counselors; surgical assistants; surgical technologists.

Board of Nursing: registered nurses; practical nurses; advanced practice registered nurses, including clinical nurse specialists, nurse practitioners, certified nurse midwives, and certified registered nurse anesthetists; massage therapists; certified nurse aides; advanced certified nurse aides; medication aides; advanced medication aides.

Board of Long-Term Care Administrators: nursing home administrators; assisted living facility administrators; administrators-in-training.

Board of Optometry: optometrists.

Board of Pharmacy: pharmacists; pharmacist interns; pharmacy technicians; pharmacy technician trainees.

Board of Physical Therapy: physical therapists; physical therapist assistants.

Board of Psychology: applied psychologists; clinical psychologists; school psychologists; school psychologist-limited; certified sex offender treatment providers; psychological practitioners.

Board of Social Work: clinical social workers; master's social workers; baccalaureate social workers; music therapists.

Board of Veterinary Medicine: veterinarians; veterinary technicians; equine dental technicians.

III. Exemption from Reporting

Records or information learned about by the reporting entity or person which are covered by federal confidentiality provisions concerning substance abuse treatment are exempt from reporting requirements of § 54.1-2400.6. [Va. Code § 54.1-2400.6\(D\)](#).

IV. Specific Guidance Concerning Required Reports

A. What is meant by “hospital, other health care institution, or assisted living facility”?

For the purpose of reporting requirements, “hospital, other health care institutions or assisted living facilities” includes:

1. General hospitals;
2. Outpatient surgical hospitals;
3. Mental or psychiatric hospitals, including, for the purposes of § 54.1-2400.6, every facility and training center operated by the Virginia Department of Behavioral Health and Developmental Services;
4. Hospitals operated by the University of Virginia and Virginia Commonwealth University;
5. Hospitals known by varying nomenclature or designation such as sanatoriums, sanitariums, acute, rehabilitation, chronic disease, short-term, long-term, and inpatient or outpatient maternity hospitals;
6. Nursing homes and certified nursing facilities; and

7. Assisted living facilities licensed by the Department of Social Services.

Physician offices and group medical practices are not included in the terms “hospital and other health care institutions.” This list, however, is not exclusive and other entities not included may be subject to the reporting requirement contained in § 54.1-2400.6.

B. What constitutes a “home care organization” or “home health organization”?

The definition of “home care organization” provided in [Virginia Code § 32.1-162.7](#) represents “home care organizations” and “home health organizations” for the purpose of reporting requirements under Virginia Code § 54.1-2400.6. Virginia Code § 32.1-162.7 defines “home care organization” as:

any public or private organization, whether operated for profit or not for profit, that provides, at the residence of a patient or individual in the Commonwealth of Virginia, one or more of the following services:

1. Home health services, including services provided by or under the direct supervision of any health care professional under a medical plan of care in a patient’s residence on a visit or hourly basis to patients who have or are at risk of injury, illness, or a disabling condition and require short-term or long-term interventions;
2. Personal care services, including assistance in personal care to include activities of daily living provided in an individual’s residence on a visit or hourly basis to individuals who have or are at risk of an illness, injury or disabling condition; or
3. Pharmaceutical services, including services provided in a patient’s residence, which include the dispensing and administration of a drug or drugs, and parenteral nutritional support, associated patient instruction, and such other services as identified by the Board of Health by regulation.

Va. Code § 32.1-162.7. Quotation of statutory language found above is accurate as of the revised date of this Guidance Document. Individuals should refer to § 32.1-162.7 provided by the Commonwealth of Virginia on the [Legislative Information System](#) for up to date statutory language which incorporates changes from legislative sessions.

C. What constitutes a “hospice organization”?

For the purpose of reporting requirements, “hospice organization” means an administrative group, individual or legal entity that has a distinct organizational structure, accountable to the governing authority directly or through a chief executive officer, that administers a coordinated program of home and inpatient care providing palliative and supportive medical and other health services to terminally ill patients and their families.

D. What specific information is required in reports?

Virginia Code § 54.1-2400.6(A) requires reports to be in writing. That provision also lists the information required to be contained in the written report as follows:

1. The name, address, and date of birth of the person who is the subject of the report;
2. A full description of the circumstances surrounding the facts required to be reported;
3. Names and contact information of individuals with knowledge about the facts required to be reported;
4. Names and contact information of individuals from whom the hospital or health care institution sought information to substantiate the facts required to be reported;
5. All relevant medical records if patient care or the health professional's health status is at issue; and
6. If relevant, notice to the Board that it has submitted a report to the National Practitioner Data Bank under the Health Care Quality Improvement Act, 42 U.S.C. § 11101, *et seq.*

Va. Code § 54.1-2400.6(A).

A report to the National Practitioner Data Bank alone is not sufficient to satisfy the requirements of Virginia Code § 54.1-2400.6 and DOES NOT constitute reporting to DHP or OLC or constitute “actual notice” of the reporting to DHP or OLC.

E. When must reports be made?

Pursuant to Virginia Code § 54.1-2400.6(A), reports must be made **within 5 calendar days** when any practitioner regulated by any health regulatory board has been **involuntarily admitted** as a patient for the treatment of substance abuse or a psychiatric illness.

Reports must be made **within 30 days** of any of these triggering events:

- The date a CEO, COS, administrator, or director becomes aware that a practitioner regulated by any health regulatory board has been voluntarily admitted as a patient for treatment of substance abuse or a psychiatric illness if the treatment may continue for more than 30 days after admission. Reporting is not required if the treating physician, physician assistant, or nurse practitioner confirms in writing that the health professional is no longer a danger to themselves, the public, or patients.
- The date a CEO, COS, or administrator, or director determines that there is a reasonable probability that a practitioner regulated by any health regulatory board may have engaged in unethical, fraudulent or unprofessional conduct, as defined in the relevant licensing statutes and regulations.
- The date of written communication to a practitioner notifying him of a disciplinary proceeding for reportable conduct.
- The date of written communication to a practitioner notifying him of a disciplinary action for reportable conduct.
- The date of a practitioner's resignation, restriction or expiration of privileges while under investigation or subject to disciplinary proceedings for reportable conduct.

F. To whom must reports be made?

Reports by hospital CEOs and COS and ALF administrators should be made to the Director of the Virginia Department of Health Professions, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233; FAX (804) 527-4434; email: director@dhp.virginia.gov.

Reports by home health and hospice organizations should be made to the Office of Licensure and Certification, Virginia Department of Health, 9960 Mayland Drive, Suite 401, Henrico, Virginia 23233; FAX (804) 527-4502; email: OLC-Complaints@vdh.virginia.gov.

G. What information should not or need not be reported or disclosed?

Medical records or information learned or maintained about a practitioner in connection with an alcohol or drug prevention function that is conducted, regulated, or directly or indirectly assisted by any federal department or agency should not be reported if reporting would violate 42 U.S.C. § 290dd-2 or related regulations. Va. Code § 54.1-2400.6(D).

Hospitals, other health care institutions and assisted living facilities are not required to submit any “proceedings, minutes, records, or reports” that are privileged under Va. Code § 8.01-581.17. Va. Code § 54.1-2400.6(A)(5).

When a required reporter has actual notice that the report has already been made, another such report is not required. Va. Code § 54.1-2400.6(A).

H. How does the Department of Health Professions investigate complaints of noncompliance of § 54.1-2400.6?

1. Personnel and medical records are reviewed from allegedly reportable incident. The investigator confirms that the individual was a licensee of the Department at the time of incident and that the facility documented that the individual was a health care provider.
2. The non-reporting facility is notified of the complaint, usually via letter sent to the individual responsible for reporting per the statute (e.g., CEO, Chief of Staff, Director of Home Health or Hospice, etc.).
3. By same letter to the facility/CEO, the facility is asked to respond to the failure to report allegation (i.e., rationale for decision not to report, awareness of conduct and related required reporting law). The response may be collected via letter, email, phone call or personal visit.
4. The facility is asked if it has an existing reporting policy, and if the policy was in place at the time of the event, and to produce the policy (or any reporting policies that were produced subsequent to the failure to report).
5. If relevant, witnesses to the failure to report and related circumstances are also interviewed.