

§ 122C-31. Report required upon death of client.

(a) A facility shall notify the Secretary immediately upon the death of any client of the facility that occurs within seven days of physical restraint or seclusion of the client, and shall notify the Secretary within three days of the death of any client of the facility resulting from violence, accident, suicide, or homicide. The Secretary may assess a civil penalty of not less than five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000) against a facility that fails to notify the Secretary of a death and the circumstances surrounding the death known to the facility. Chapter 150B of the General Statutes governs the assessment of a penalty under this section. A civil penalty owed under this section may be recovered in a civil action brought by the Secretary or the Attorney General. The clear proceeds of the penalty shall be remitted to the State Treasurer for deposit in accordance with State law.

(b) Upon receipt of notification from a facility in accordance with subsection (a) of this section, the Secretary shall notify the State protection and advocacy agency designated under the Developmental Disabilities Assistance and Bill of Rights Act 2000, 42 U.S.C. § 15001, et seq., that a person with a disability has died. The Secretary shall provide the agency access to the information about each death reported pursuant to subsection (a) of this section, including information resulting from any investigation of the death by the Department and from reports received from the Chief Medical Examiner pursuant to G.S. 130A-385. The agency shall use the information in accordance with its powers and duties under applicable State and federal law and regulations.

(c) If the death of a client of a facility occurs within seven days of the use of physical restraint or seclusion, then the Secretary shall initiate immediately an investigation of the death.

(d) An inpatient psychiatric unit of a hospital licensed under Chapter 131E of the General Statutes shall comply with this section.

(e) Nothing in this section abrogates State or federal law or requirements pertaining to the confidentiality, privilege, or other prohibition against disclosure of information provided to the Secretary or the agency. In carrying out the requirements of this section, the Secretary and the agency shall adhere to State and federal requirements of confidentiality, privilege, and other prohibitions against disclosure and release applicable to the information received under this section. A facility or provider that makes available confidential information in accordance with this section and with State and federal law is not liable for the release of the information.

(f) The Secretary shall establish a standard reporting format for reporting deaths pursuant to this section and shall provide to facilities subject to this section a form for the facility's use in complying with this section.

(g) In addition to the reporting requirements specified in subsections (a) through (e) of this section, and pursuant to G.S. 130A-383, every State facility shall report, without redactions other than to protect confidential personnel information, the death of any client of the facility, and, if known, the death of any former client of a facility who dies within 14 days of release from the facility, regardless of the manner of death:

- (1) To the medical examiner of the county in which the body of the deceased is found; and
- (2) To the State protection and advocacy agency designated under the Developmental Disabilities Assistance and Bill of Rights Act 2000, 42 U.S.C. § 15001, et seq. The State protection and advocacy agency shall use the information in accordance with its powers and duties under applicable State or federal law and regulations.

(h) Notwithstanding G.S. 122C-52, and unless otherwise prohibited by State or federal law or requirements, in order to provide for greater transparency in connection with the reporting requirements specified in subsections (a) through (g) of this section, the following

information in reports made pursuant to this section shall be public records within the meaning of G.S. 132-1 when reported by a State facility:

- (1) The name, sex, age, and date of birth of the deceased.
- (2) The name of the facility providing the report.
- (3) The date, time, and location of the death.
- (4) A brief description of the circumstances of death, including the manner of death, if known.
- (5) A list of all entities to whom the event was reported.

(i) Notwithstanding G.S. 122C-22, all facilities, as defined in G.S. 122C-3(14), shall comply with this section. (2000-129, s. 3(a); 2007-323, ss. 19.1(e), (f); 2008-131, s. 1; 2009-299, ss. 1-4.)