§ 315. Professional malpractice or misconduct; reporting requirements. (a) Every organization or person authorized to issue professional liability insurance policies in this state shall report any disposition, whether by judgment or settlement, of any claim made against an individual licensed pursuant to the provisions of title eight of the education law where the claim was based upon fraud, incompetence or negligence except that reports for physicians, physician's assistants and specialist's assistants shall be reported pursuant to the provisions of subsection (b) hereof.

(b) (1) Each insurance company engaged in issuing professional medical malpractice insurance in this state the medical malpractice insurance association shall file with the superintendent and with the commissioner of health quarterly reports on all claims for medical malpractice made against any of its insureds and received by it during the preceding three month period, a report of any surcharge or merit-rating adjustment made on an insured's premium and the reason for the surcharge or merit-rating adjustment and a report of any cancellation, including voluntary cancellation by the insured and the reason for the cancellation, of its insureds professional medical liability insurance for reasons other than non-payment of premiums during the preceding three month period.

(2) Each hospital, as defined in article twenty-eight of the public health law, which, and each health care practitioner licensed, certified or registered pursuant to the provisions of title eight of the education law who, is self-insured for professional medical malpractice or is insured for professional medical malpractice with an insurance company not licensed to do business in this state shall also file quarterly reports with the superintendent and the commissioner of health on all claims for medical malpractice made against him, her, or it during the preceding three month period. For purposes of this section, a hospital which, or individual who, is self-insured for professional medical malpractice shall mean a hospital which, or individual who, is not insured for professional medical malpractice with either an insurance company engaged in issuing professional medical malpractice insurance in this state or the medical malpractice insurance association or an insurance company not licensed to do business in this state.

(c) Reports required by this section shall contain the following

information:

(1) the name and address of the professional licensee against whom such claim is made, including the name and address of the hospital, other person or institution if the report is made pursuant to subsection (b) hereof;

(2) the name, address and age of the claimant or plaintiff;

(3) the nature and substance of the claim;

(4) the date and place in which the claim arose;

(5) within three months after final disposition of the claim, the amounts paid, if any, and the date and manner of disposition (by judgment, settlement or otherwise);

(6) the reasons for the cancellation of professional liability insurance for reasons other than non-payment of premiums; and

(7) such additional information as the superintendent or the commissioner of education shall require for reports required by subsection (a) hereof and as the superintendent and commissioner of health shall require for reports required by subsection (b) hereof.

(d)(1) Reports required by subsection (a) hereof shall be in writing on a form prescribed by the superintendent and commissioner of education and shall be submitted to the department of education within sixty days of the date of any settlement or judgment.

(2) Reports required by subsection (b) hereof shall be in writing on a form prescribed by the superintendent and commissioner of health and shall be submitted to them not less than quarterly on dates jointly determined by them and shall contain information received during the preceding three month period concerning claims received, additional required data not previously reported and disposition of claims.

(e) Written reports and other documentation compiled pursuant to subsection (a) hereof shall be admissible in evidence in any administrative or judicial action or proceeding.

(f) Any report or information furnished or compiled pursuant to this section shall be deemed to be a confidential communication. Reports required by subsection (a) hereof shall not be subject to inspection or disclosure in any manner except upon written request by a duly authorized public agency or pursuant to a judicial subpoena issued in a pending action or proceeding. Reports required by subsection (b) hereof shall not be open for review or be subject to subpoena except by a

public agency or authority of this state.

(g) Malpractice insurance compliance reporting requirements. The failure to make any report required by this section shall constitute a misdemeanor. The department of health shall oversee the enforcement of this subdivision, and on or before June thirtieth of each calendar year provide a report to the governor and the legislature regarding industry compliance. Such report shall include a recommendation from the department regarding changes in the applicable penalties for noncompliance, which are necessary to ensure the integrity of the reporting system. The department shall further study the necessity of assessing penalties for false reporting by physicians, hospitals, or health care plans for purposes of collecting and disseminating data required to be disclosed pursuant to title one of article twenty-nine-d of the public health law.