

# Getting to Know the National Practitioners Data Bank

## (and why you hope IT does not know you)

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Given that you are a member of the most regulated profession in this country, it should not surprise you to learn that there is an established databank assembled to compile the names and profiles of providers who have been charged with, convicted or subject to punishment for “unprofessional behavior”. Specifically, the National Practitioners Data Bank (“NPDB”) was created under the Health Care Quality and Improvement Act to “identify and discipline those who engage in unprofessional behavior; and to restrict the ability of incompetent physicians, dentists, and other health care practitioners to move from State to State without disclosure or discovery of previous medical malpractice payment and adverse action history.”<sup>1</sup> To that end, the NPDB requires health care entities to report various adverse actions taken in response to a physician’s care and treatment of patients. Once a physician is reported to the NPDB, any current or future employer or state licensing board can be granted access to the report, and may utilize the report in its decision-making process of whether to work with the physician, grant the physician privileges, or provide the physician with a license to practice medicine within the state.

Unfortunately, physicians may be reported not necessarily because the actions they committed were improper, but that the reporting entity deemed the action improper. For example, a physician whose privileges have been suspended by a hospital may object to the suspension because the hospital’s reason for the suspension is inaccurate or faulty, and may file an appeal of the suspension. Regardless of the appeal, the hospital is obligated to nonetheless report the physician’s alleged actions to the NPDB. Due to the NPDB’s potential impact on a physician’s career, it is necessary to understand the

NPDB and its process of reporting. Similarly, reports are often filed where physicians are found responsible, if not culpable. An example of the aforementioned came to our attention recently when a client discovered a report made as a result of a charge against her for “aiding and abetting the unauthorized practice of medicine” where a nurse in her employ had presented fake credentials and was discovered by the Office of Professional Discipline while under her employ. In this instance, our client had in fact called references, demanded a copy of this individual’s license, and still, our client was defrauded and charged, resulting in a report to the NPDB.

There are several reasons that a health care entity must report a physician to the NPDB, and they are as follows:

- ❖ **Medical Malpractice.** Any payment resulting from a written claim or judgment against a physician as a result of medical malpractice must be submitted to the NPDB by the appropriate licensing board within thirty days of payment.
- ❖ **Licensure Actions.** Any disciplinary action taken by a State Licensing Board, including revocation, reprimand, censure, suspension and probation, relating to a physician’s professional competence or conduct must be submitted by the Board to the NPDB within thirty days of the action.
- ❖ **Clinical Privilege Actions.** A professional review action conducted by a hospital or other health care entity that is related to the physician’s professional conduct or competence which adversely affects the physicians clinical privileges for a period longer than thirty days must be reported by the hospital or health

1. *NPDB Guidebook: National Practitioner Data Bank*, U.S. Department of Health and Human Svcs., Health Resources and Service Administration. September, 2001. databanks.hrsa.gov.

care entity. Notably, even when the physician decides to voluntarily suspend or restrict their privileges while under, or to avoid, an investigation, the hospital or health care entity must still report the action to the NPDB.

- ❖ **Professional Society Review Action.** When a professional society conducts a review of a physician, and takes action based upon the physician's professional competence or conduct, and takes action adversely affecting the physician's membership, the society must report the action to the NPDB within fifteen days of the action.
- ❖ **Medicare and Medicaid exclusion reports.** When a physician is declared ineligible for Medicare and Medicaid payments, the Secretary of Health and Human Services will report the decision to the NPDB.

Each entry in the NPDB is individual to the professional which has been reported. Once the NPDB receives a report on a physician, the information is processed by the NPDB exactly as submitted by the entity. Therefore it is the reporting entities, not the NPDB, that are responsible for the accuracy of the information found in any report. After processing, the NPDB will send a "Notification of a Report in the NPDB" to the physician. It is important that the physician at this point review the report for accuracy. A physician may find that inaccuracies in the report ranging from improper spelling to an inaccurate description of the events leading to the requirement for the NPDB report. However, if the report contains any inaccuracies, the physician must contact the reporting entity and request that they file a correction to the report. The reporting entity may determine that the physician's reported inaccuracies are valid, and may thereafter file a correction with the NPDB or have the report voided by the NPDB.

In the event that the entity is unwilling to correct a report, the physician may add a statement to the report, initiate a dispute of the report, or both. A statement may contain the physician's version of events which resulted in the NPDB report, and in fact may go a long way in explaining the circumstances surrounding the report should a report be viewed by a potential employer or

third party. Oftentimes third parties relay it is the physician's statement that sways a determination one way or another. Without a statement on file, the information available for viewing will be that which has been reported by the reporting entity, which will be permanently maintained by the NPDB unless it is corrected or voided from the system, which are only submitted by the reporting entity or directed by the Secretary of Health and Human Services.

For those concerned and looking towards the NPDB website for a self-query as a result of reading this article, please be advised that the NPDB is not accessible to the general public. Instead only hospitals, health care entities, and state licensing boards have access to information contained in the NPDB. Further, hospitals and health care entities are only entitled to information regarding those whom they have on their medical staff or have

granted medical privileges. Importantly, patients do not have access to the NPDB. However, being reported to the NPDB may cause serious ramifications for the physician's career, and a physician should attempt to do anything in their power to lessen the negative effects of a NPDB report. Once reported

other than being searchable by potential employers and authorized other third parties, you will also be responsible for indicating in the affirmative on any practice related questionnaire that requests such information that you have, indeed, been reported to the NPDB, which is a scarlet letter in the medical community.

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