

and physicians, suppliers and other individual providers eligible to participate in the Medicare program.

(h) *Medicare supplemental insurance plan.* A Medicare supplemental insurance plan is an insurance, medical service or health plan primarily for the purpose of supplementing an eligible person's benefit under Medicare. The term has the same meaning as "Medicare supplemental policy" in section 1882(g)(1) of the Social Security Act. In addition, consistent with 42 CFR 403.206(c), a Medicare supplemental insurance plan may consist of two policies issued in conjunction with one another, one by a nonprofit hospital association and the other by a medical association, in cases in which state law prohibits the inclusion of all benefits in a single policy.

(i) *No-fault insurance.* No-fault insurance means an insurance contract providing compensation for health and medical expenses relating to personal injury arising from the operation of a motor vehicle in which the compensation is not premised on who may have been responsible for causing such injury. No-fault insurance includes personal injury protection and medical payments benefits in cases involving personal injuries resulting from operation of a motor vehicle.

(j) *Third party payer.* A third party payer is an entity that provides an insurance, medical service or health plan by contract or agreement. It includes:

(1) State and local governments that provide such plans.

(2) Insurance underwriters and private employers (or employer groups) offering self-insured or partially self-insured and/or partially underwritten health insurance plans; and

(3) Automobile liability insurance and no-fault insurance carriers.

(k) *Third party payer plan.* A third party payer plan is any plan provided by a third party payer, but not an income supplemental plan or workers compensation plan.

(l) *Uniformed Services beneficiary.* For purposes of this part, a Uniformed Services beneficiary is any person who is covered by 10 U.S.C. 1074(b), 1076(a), or 1076(b). For purposes of § 220.11 (but not for other sections), a Uniformed Services beneficiary also includes ac-

tive duty members of the Uniformed Services.

[57 FR 41103, Sept. 9, 1992]

PART 221—DEPARTMENT OF DEFENSE PARTICIPATION IN THE NATIONAL PRACTITIONER DATA BANK (NPDB)

Sec.

- 221.1 Purpose.
- 221.2 Applicability and scope.
- 221.3 Definitions.
- 221.4 Policy.
- 221.5 Responsibilities.
- 221.6 Procedures.
- 221.7 Information requirements.

AUTHORITY: Public Law 99-660, title IV (44 U.S.C. 11131-11152).

SOURCE: 55 FR 50321, Dec. 6, 1990, unless otherwise noted.

§ 221.1 Purpose.

This part:

(a) Establishes DoD policy, assigns responsibilities, and prescribes procedure for implementing Public Law 99-660, title IV and the objectives of the Memorandum of Understanding (MOU) between the Department of Health and Human Services (DHHS) and the Department of Defense, September 21, 1987, which outlines the DoD's participation in the National Practitioner Data Bank (NPDB).

(b) Specifies the content of confidential reports to the NPDB established under part B of Public Law 99-660, and reporting responsibilities.

§ 221.2 Applicability and scope.

This part applies to:

(a) The Office of the Secretary of Defense (OSD) and the Military Departments (including their National Guard and Reserve components). The term, "Military Departments," as used herein, refers to the Army, the Navy, and the Air Force.

(b) Healthcare personnel who are in professions required to possess a license under DoD Directive 6025.6¹ and/or who are granted individual clinical privileges.

¹Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

§ 221.3

32 CFR Ch. I (7–1–99 Edition)

§ 221.3 Definitions.

(a) *Healthcare entity.* A hospital, ambulatory health clinic, or dental clinic with an independent healthcare practitioner staff that carries out professional staff review and provides healthcare to medical or dental patients; and applicable professional staff components of each Service, as designated by the respective Surgeon General, which also perform peer review as part of the quality assurance program.

(b) *Licensed healthcare practitioner.* Any healthcare practitioner of one of the professions required to possess a professional license, as prescribed in DoD Directive 6025.6.

(c) *The National Practitioner Data Bank (NPDB).* The organization developed according to Public Law 99-660 to receive and provide data on professional competence and conduct of physicians, dentists, and other licensed healthcare providers. In Public Law 99-660, it is referred to as the "National Data Bank." That name was changed after the MOU was signed.

§ 221.4 Policy.

It is DoD policy that:

(a) Professional review shall occur in every case of alleged malpractice.

(b) When a malpractice claim results in a monetary payment for the benefit of a physician, dentist, or other healthcare practitioner required to be licensed by DoD Directive 6025.6, it shall be reported to the NPDB.

(c) Practitioners shall have benefit of due process procedures for professional review activities under requirements of Public Law 99-660, Military Department regulations, and healthcare entity professional staff by-laws.

(d) Information on adverse privileging actions and other professional review actions shall be reported to the appropriate State agencies and the NPDB.

(1) The Department of Defense shall continue to provide State(s) of known licensure the information required by DoD Directive 6025.11.²

(2) Physicians and dentists shall be reported for both malpractice payment and privileging actions. All other personnel required to be licensed by DoD

Directive 6025.6 shall also be reported for malpractice payments.

(3) Other healthcare personnel shall be reported for privileging actions only after the Assistant Secretary of Defense (Health Affairs) (ASD(HA)) notifies the Military Departments to begin submitting reports on a specified category of personnel.

(e) The NPDB shall be queried during the accessioning process of a healthcare practitioner, and at least every 24 months, thereafter, as a part of the Military medical departments' recredentialing and reprivileging procedures. Inquiries on healthcare practitioners, on board at the time this part is implemented, should be performed at the time of their next recredentialing and reprivileging. If the granting of initial clinical privileges occurs more than 1 year after the query for accessioning, querying the data bank shall be required as a part of the initial privileging.

§ 221.5 Responsibilities.

(a) The Assistant Secretary of Defense (Health Affairs) (ASD(HA)) shall:

(1) Monitor implementation of this part and issue such DoD Instructions as may be necessary.

(2) Authorize exceptions to requirements of this part, if deemed necessary.

(b) The General Counsel of the Department of Defense (GC, DoD) shall provide legal advice on the interpretation and implementation of this part and any subsequent DoD Instructions.

(c) The Secretaries of the Military Departments shall implement the requirements of this part and the DoD Instructions issued under paragraph (a) of this section.

§ 221.6 Procedures.

(a) The ASD(HA) shall issue Instructions, in accordance with § 221.5(a).

(b) The Military Departments shall:

(1) Develop policy and procedures that comply with requirements of this Directive and any subsequent DoD Instructions.

(2) Ensure that their Office of the Surgeon General (OTSG) sends the appropriate information, in accordance with § 221.7, to the NPDB and the Office of the Deputy Assistant Secretary of

² See footnote 1 to § 221.2(b).

Office of the Secretary of Defense

§ 223.3

Defense (Professional Affairs and Quality Assurance) (ODASD(PA&QA)).

(3) Ensure that the NPDB is queried appropriately, in accordance with § 221.7.

§ 221.7 Information requirements.

(a) The method of reporting information to, and querying information from, the NPDB shall be by use of the Health Resources and Services Administration (HRSA) forms or, when possible, electronically.

(b) Reports to the ODASD(PA&QA) shall be submitted through electronic means, when available. Until then, DD Form 2499, "Health Care Provider Clinical Privileges Action Report," and DD Form 2526, "Case Abstract For Malpractice Claims," shall be used, as appropriate.

(c) The reporting requirements in this section have been assigned Report Control Symbols DD-HA(AR)1611 and DD-HA(AR)1782.

PART 223—DEPARTMENT OF DEFENSE UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION (DOD UCNI)

Sec.

223.1 Purpose.

223.2 Applicability and scope.

223.3 Definitions.

223.4 Policy.

223.5 Responsibilities.

223.6 Procedures.

223.7 Information requirements.

APPENDIX A TO PART 223—PROCEDURES FOR IDENTIFYING AND CONTROLLING DoD UCNI

APPENDIX B TO PART 223—GUIDELINES FOR THE DETERMINATION OF DoD UCNI

AUTHORITY: 10 U.S.C. 128 and 5 U.S.C. 552(b)(3).

SOURCE: 56 FR 64554, Dec. 11, 1991, unless otherwise noted.

§ 223.1 Purpose.

This part implements 10 U.S.C. 128 by establishing policy, assigning responsibilities, and prescribing procedures for identifying, controlling, and limiting the dissemination of unclassified information on the physical protection of DoD special nuclear material (SNM), equipment, and facilities. That information shall be referred to as "the Department of Defense Unclassified Con-

trolled Nuclear Information (DoD UCNI)," to distinguish it from a similar Department of Energy (DoE) program.

§ 223.2 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

(b) Implements 10 U.S.C. 128, which is the statutory basis for controlling the DoD UCNI in the Department of Defense. 10 U.S.C. 128 also constitutes the authority for invoking 32 CFR part 286 to prohibit mandatory disclosure of DoD UCNI under the "Freedom of Information Act (FOIA)" in 5 U.S.C. 552.

(c) Supplements the security classification guidance contained in CG-W-5¹ and CG-SS-1² and DoD Instruction 5210.67³ by establishing procedures for identifying, controlling, and limiting the dissemination of unclassified information on the physical protection of DoD SNM.

(d) Applies to all SNM, regardless of form, in reactor cores or to other items under the direct control of the DoD Components.

(e) Applies equally to DoE UCNI under DoD control, except the statute applicable to DoE UCNI (42 U.S.C. 2011 *et seq.*) must be used with the concurrence of the DoE as the basis for invoking FOIA (section 552 of 10 U.S.C.).

§ 223.3 Definitions.

(a) *Atomic Energy Defense Programs.* Activities, equipment, and facilities of the Department of Defense used or engaged in support of the following:

¹Controlled document. Not releasable to the public.

²Requests may be forwarded to U.S. Department of Energy (Forrestal Building), 100 Independence Avenue, SW., Attention: Distribution Office of DOE Publications, Washington, DC 20585.

³Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.