

PART 60—NATIONAL PRACTITIONER DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS AND OTHER HEALTH CARE PRACTITIONERS

Subpart A—General Provisions

Sec.

- 60.1 The National Practitioner Data Bank.
- 60.2 Applicability of these regulations.
- 60.3 Definitions.

Subpart B—Reporting of Information

- 60.4 How information must be reported.
- 60.5 When information must be reported.
- 60.6 Reporting errors, omissions, and revisions.
- 60.7 Reporting medical malpractice payments.
- 60.8 Reporting licensure actions taken by Boards of Medical Examiners.
- 60.9 Reporting adverse actions on clinical privileges.

Subpart C—Disclosure of Information by the National Practitioner Data Bank

- 60.10 Information which hospitals must request from the National Practitioner Data Bank.
- 60.11 Requesting information from the National Practitioner Data Bank.
- 60.12 Fees applicable to requests for information.
- 60.13 Confidentiality of National Practitioner Data Bank information.
- 60.14 How to dispute the accuracy of National Practitioner Data Bank information.

AUTHORITY: Secs. 401-432 of the Health Care Quality Improvement Act of 1986, Pub. L. 99-660, 100 Stat. 3784-3794, as amended by section 402 of Pub. L. 100-177, 101 Stat. 1007-1008 (42 U.S.C. 11101-11152).

SOURCE: : 54 FR 42730, Oct. 17, 1989, unless otherwise noted.

Subpart A—General Provisions

§ 60.1 The National Practitioner Data Bank.

The Health Care Quality Improvement Act of 1986 (the Act), title IV of Pub. L. 99-660, as amended, authorizes the Secretary to establish (either directly or by contract) a National Practitioner Data Bank to collect and release certain information relating to the professional competence and conduct of physicians, dentists and other health care practitioners. These regu-

lations set forth the reporting and disclosure requirements for the National Practitioner Data Bank.

§ 60.2 Applicability of these regulations.

The regulations in this part establish reporting requirements applicable to hospitals; health care entities; Boards of Medical Examiners; professional societies of physicians, dentists or other health care practitioners which take adverse licensure of professional review actions; and entities (including insurance companies) making payments as a result of medical malpractice actions or claims. They also establish procedures to enable individuals or entities to obtain information from the National Practitioner Data Bank or to dispute the accuracy of National Practitioner Data Bank information.

[59 FR 61555, Dec. 1, 1994]

§ 60.3 Definitions.

Act means the Health Care Quality Improvement Act of 1986, title IV of Pub. L. 99-660, as amended.

Adversely affecting means reducing, restricting, suspending, revoking, or denying clinical privileges or membership in a health care entity.

Board of Medical Examiners, or *Board*, means a body or subdivision of such body which is designated by a State for the purpose of licensing, monitoring and disciplining physicians or dentists. This term includes a Board of Osteopathic Examiners or its subdivision, a Board of Dentistry or its subdivision, or an equivalent body as determined by the State. Where the Secretary, pursuant to section 423(c)(2) of the Act, has designated an alternate entity to carry out the reporting activities of § 60.9 due to a Board's failure to comply with § 60.8, the term *Board of Medical Examiners* or *Board* refers to this alternate entity.

Clinical privileges means the authorization by a health care entity to a physician, dentist or other health care practitioner for the provision of health care services, including privileges and membership on the medical staff.

Dentist means a doctor of dental surgery, doctor of dental medicine, or the equivalent who is legally authorized to practice dentistry by a State (or who,

without authority, holds himself or herself out to be so authorized).

Formal peer review process means the conduct of professional review activities through formally adopted written procedures which provide for adequate notice and an opportunity for a hearing.

Health care entity means:

- (a) A hospital;
- (b) An entity that provides health care services, and engages in professional review activity through a formal peer review process for the purpose of furthering quality health care, or a committee of that entity; or
- (c) A professional society or a committee or agent thereof, including those at the national, State, or local level, of physicians, dentists, or other health care practitioners that engages in professional review activity through a formal peer review process, for the purpose of furthering quality health care.

For purposes of paragraph (b) of this definition, an entity includes: a health maintenance organization which is licensed by a State or determined to be qualified as such by the Department of Health and Human Services; and any group or prepaid medical or dental practice which meets the criteria of paragraph (b).

Health care practitioner means an individual other than a physician or dentist, who is licensed or otherwise authorized by a State to provide health care services.

Hospital means an entity described in paragraphs (1) and (7) of section 1861(e) of the Social Security Act.

Medical malpractice action or claim means a written complaint or claim demanding payment based on a physician's, dentists or other health care practitioner's provision of or failure to provide health care services, and includes the filing of a cause of action based on the law of tort, brought in any State or Federal Court or other adjudicative body.

Physician means a doctor of medicine or osteopathy legally authorized to practice medicine or surgery by a State (or who, without authority, holds himself or herself out to be so authorized).

Professional review action means an action or recommendation of a health care entity:

- (a) Taken in the course of professional review activity;
- (b) Based on the professional competence or professional conduct of an individual physician, dentist or other health care practitioner which affects or could affect adversely the health or welfare of a patient or patients; and
- (c) Which adversely affects or may adversely affect the clinical privileges or membership in a professional society of the physician, dentist or other health care practitioner.
- (d) This term excludes actions which are primarily based on:

- (1) The physician's, dentist's or other health care practitioner's association, or lack of association, with a professional society or association;
- (2) The physician's, dentist's or other health care practitioner's fees or the physician's, dentist's or other health care practitioner's advertising or engaging in other competitive acts intended to solicit or retain business;
- (3) The physician's, dentist's or other health care practitioner's participation in prepaid group health plans, salaried employment, or any other manner of delivering health services whether on a fee-for-service or other basis;
- (4) A physician's, dentist's or other health care practitioner's association with, supervision of, delegation of authority to, support for, training of, or participation in a private group practice with, a member or members of a particular class of health care practitioner or professional; or
- (5) Any other matter that does not relate to the competence or professional conduct of a physician, dentist or other health care practitioner.

Professional review activity means an activity of a health care entity with respect to an individual physician, dentist or other health care practitioner:

- (a) To determine whether the physician, dentist or other health care practitioner may have clinical privileges with respect to, or membership in, the entity;
- (b) To determine the scope or conditions of such privileges or membership; or

§ 60.4

(c) To change or modify such privileges or membership.

Secretary means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

State means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

[54 FR 42730, Oct. 17, 1989; 54 FR 43890, Oct. 27, 1989]

Subpart B—Reporting of Information

§ 60.4 How information must be reported.

Information must be reported to the Data Bank or to a Board of Medical Examiners as required under §§ 60.7, 60.8, and 60.9 in such form and manner as the Secretary may prescribe.

§ 60.5 When information must be reported.

Information required under §§ 60.7, 60.8, and 60.9 must be submitted to the Data Bank within 30 days following the action to be reported, beginning with actions occurring on or after September 1, 1990, as follows:

(a) *Malpractice Payments (§ 60.7)*. Persons or entities must submit information to the Data Bank within 30 days from the date that a payment, as described in § 60.7, is made. If required under § 60.7, this information must be submitted simultaneously to the appropriate State licensing board.

(b) *Licensure Actions (§ 60.8)*. The Board must submit information within 30 days from the date the licensure action was taken.

(c) *Adverse Actions (§ 60.9)*. A health care entity must report an adverse action to the Board within 15 days from the date the adverse action was taken. The Board must submit the information received from a health care entity within 15 days from the date on which it received this information. If required under § 60.9, this information must be submitted by the Board simultaneously to the appropriate State licensing board in the State in which the health

45 CFR Subtitle A (10–1–99 Edition)

care entity is located, if the Board is not such licensing Board.

[54 FR 42730, Oct. 17, 1989, as amended at 55 FR 50003, Dec. 4, 1990]

§ 60.6 Reporting errors, omissions, and revisions.

(a) Persons and entities are responsible for the accuracy of information which they report to the Data Bank. If errors or omissions are found after information has been reported, the person or entity which reported it must send an addition or correction to the Data Bank or, in the case of reports made under § 60.9, to the Board of Medical Examiners, as soon as possible.

(b) An individual or entity which reports information on licensure or clinical privileges under §§ 60.8 or 60.9 must also report any revision of the action originally reported. Revisions include reversal of a professional review action or reinstatement of a license. Revisions are subject to the same time constraints and procedures of §§ 60.5, 60.8, and 60.9, as applicable to the original action which was reported.

Approved by the Office of Management and Budget under control number 0915–0126)

[54 FR 42730, Oct. 17, 1989, as amended at 55 FR 50004, Dec. 4, 1990]

§ 60.7 Reporting medical malpractice payments.

(a) *Who must report*. Each entity, including an insurance company, which makes a payment under an insurance policy, self-insurance, or otherwise, for the benefit of a physician, dentist or other health care practitioner in settlement of or in satisfaction in whole or in part of a claim or a judgment against such physician, dentist, or other health care practitioner for medical malpractice, must report information as set forth in paragraph (b) to the Data Bank and to the appropriate State licensing board(s) in the State in which the act or omission upon which the medical malpractice claim was based. For purposes of this section, the waiver of an outstanding debt is not construed as a “payment” and is not required to be reported.

(b) *What information must be reported*. Entities described in paragraph (a) must report the following information: