



Physician's Guide to the NPDB

UNDERSTANDING THE NPDB: TOP 10 TIPS

- 1 WHAT IS THE NATIONAL PRACTITIONER'S DATA BANK?** – The NPDB is a national clearinghouse that discloses information on the professional competence/conduct of physicians, dentists, and other health care professionals.
- 2 WHAT IS THE PURPOSE OF THE NPDB?** – It is used to inform health care organizations (such as hospitals, health plans, state licensing boards, and other health care regulatory entities) of a "reportable event." NPDB reports are used, along with other source data, when a practitioner is considered for clinical privileges, employment, affiliation, or licensure. For a practitioner, a report is a RED FLAG to be avoided.
- 3 IS THE NPDB PUBLICLY AVAILABLE?** – No, but important entities have access. Hospitals must query the NPDB at the time a practitioner applies for clinical privileges or medical staff membership and biennially on existing medical staff. Other health care entities (health plans, professional societies, health care employers) engaging in peer review may query. State boards may query at any time, and typically do upon initial and re-licensing. Plaintiff's attorneys may make limited query. A practitioner may always perform a self-query.
- 4 REPORTABLE: MEDICAL MALPRACTICE PAYMENTS** – Payments resulting from a written claim or judgment must be reported within 30 days by payers; settlements can possibly be structured to avoid a report with the help of malpractice counsel.
- 5 REPORTABLE: STATE LICENSING DISCIPLINARY ACTIONS** – State licensing boards must report final disciplinary actions within 30 days if based on reasons related to the practitioner's professional competence or conduct.
- 6 REPORTABLE: CERTAIN PROFESSIONAL REVIEW ACTIONS** – Certain actions taken by health care entities lasting more than 30 days due to professional competence or conduct that curtail or affect clinical privileges must be reported to the NPDB and the state licensing board within 15 days.
- 7 REPORTABLE: RESIGNATIONS DURING OR TO AVOID INVESTIGATION** – Resignation or surrender of clinical privileges by a practitioner, if submitted during or to avoid an "investigation," must be reported to the NPDB within 15 days. A practitioner need not be notified of such "investigation" for a report to be triggered. CAUTION: Do not trigger a report unwittingly by resigning or failing to reapply!
- 8 REPORTABLE: ADVERSE ACTIONS BY PROFESSIONAL SOCIETIES** – Certain actions that adversely affect membership and are taken due to professional competence or conduct must be reported to the NPDB within 15 days.
- 9 REPORTABLE: EXCLUSIONS FROM MEDICAID/MEDICARE AND OTHER FEDERAL PROGRAMS** – HHS must report exclusions of a practitioner from such programs on a monthly basis.
- 10 A NPDB HIT WILL FOLLOW YOU** – NPDB reports are copied to appropriate state boards. You must disclose a NPDB report, along with an explanation of the underlying events, in your professional applications for the balance of your career. Depending on the seriousness of the report, some entities may deny initial status and even question current status.

AVOIDING A NPDB REPORT: TOP 10 TIPS

- 1 PERFORM A SELF QUERY** – A practitioner should receive notice of any reports filed, but you can check your status at any time by self-query at www.npdb-hipdb.hrsa.gov. See the NPDB guidebook (available at the same website) for simple, straightforward guidance.
- 2 DO NOT RESIGN CLINICAL PRIVILEGES** – If you are a focus of a health care entity investigation, before you resign clinical privileges or let them expire, resolve any such investigation and confirm that no affirmative report to the NPDB will be filed against you. Get assistance from a health law attorney before any such resignation takes place. **RULE OF THUMB:** Department-wide investigations may be okay, but beware if any inquiry focuses on you.
- 3 PURSUE DUE PROCESS** – Professional review actions taken by hospitals, health care entities, or professional societies that result in NPDB reports will typically allow some due process rights under the bylaws. A practitioner should access these rights to prevent a report in the first place.
- 4 REQUEST INPUT ON REPORT CODES AND LANGUAGE** – If a healthcare entity notifies you of a report before filing, request input so that the report reflects a reasonable, truthful, and (perhaps) a more benign version of the events.
- 5 IMMEDIATELY REBUT** – Once a report is filed, it can be accessed by certain health care entities, so a practitioner should submit an immediate rebuttal. The rebuttal (limited to 4,000 characters, including spaces) should concisely and objectively explain the reported event and relevant external factors.
- 6 ATTEMPT TO RESOLVE DISPUTE DIRECTLY** – Before a report can be formally disputed with the NPDB, a practitioner must attempt to resolve the dispute directly with the reporting entity. If the reporting entity agrees, it can voluntarily void, revise, or correct the report.
- 7 ELEVATE DISPUTE FOR NPDB SECRETARIAL REVIEW** – A practitioner can request administrative review by marking the report "disputed" when submitting a rebuttal through www.npdb-hipdb.hrsa.gov. By written submission process, the language of the report will be reviewed for factual accuracy as well as whether the report was required, but will not address the propriety of underlying action.
- 8 JUDICIAL REVIEW AVAILABLE BUT NOT INJUNCTIVE RELIEF** – A practitioner can file suit under the federal Administrative Procedure Act but a reviewing court cannot substitute its judgment for the NPDB's review, and will reverse only when the decision is shown to be arbitrary, capricious, and having no rational basis. Rarely do such lawsuits have any success. Courts usually reject injunctive relief.
- 9 IMMUNITY EXISTS EXCEPT FOR KNOWINGLY FALSE REPORTS** – Federal law provides legal immunity for reporting entities except when the report can be proven false and made with knowledge of the falsity. Wording of the reports by health care entity's counsel ("suspension was imposed due to concerns that . . .") will typically make a successful defamation suit impossible.
- 10 STAKES ARE HIGH SO GET LEGAL HELP IMMEDIATELY** – Help from an attorney versed in NPDB and other reporting requirements under state and federal law is crucial given that a NPDB report usually remains on record indefinitely. Attack a report early on instead of waiting for the effects of the report, which may include inquiries from state boards, hospitals, health care entities, and insurance providers, as well as possible adverse action.



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