



A Legal Matter: Data Bank Expands to Include Nurse Disciplinary Action

Back in 1986, Congress established a national record of negative professional behavior in the healthcare industry. Called the National Practitioner Data Bank (NPDB), it was a measure to prevent healthcare providers who had incurred disciplinary action from moving around the country and continuing to practice.



BY MICHAEL V. FAVIA, ESQ.

At first only actions taken against physicians and dentists were included in the NPDB. Medical liability payments and certain other adverse actions such as incompetence or misconduct were reported.

But as of March 1, 2010, the data bank began recording licensure actions taken against all healthcare practitioners. This includes nurses, chiropractors, podiatrists, pharmacists, physician assistants, optometrists, physical therapists, respiratory therapists and social workers.

Additional information concerning negative findings and sanctions imposed by state licensing authorities, peer review organizations, and private accreditation organizations will also now be reported. Limited querying will be allowed by quality improvement organizations, federal and state health care programs, state Medicaid fraud control units and other law enforce-

ment agencies.

In essence, the pool of people who will be entered into the data bank has been expanded, as well as the rationale for inclusion.

The impact

Information provided in the NPDB does not go into the general public domain; it is considered confidential and is released only to eligible entities, such as hospitals, state licensure boards and some professional societies. In certain circumstances, it is released to health care entities. The information is also available to physicians and other health care practitioners who wish to conduct a self-query.

For nurses, this means information in the NPDB is accessible to both public and private sector hospitals, nursing homes and other healthcare organizations. It is available to human resources departments for pre-employment and background checks.

The reports are valuable to private-sector hospitals and healthcare organizations, which previously did not have access to licensure actions taken against all healthcare practitioners through the NPDB. They also provide important information to state licensing agencies when making licensure determinations about healthcare practitioners and entities.

The reports, however, can also be problematic. They can result in denial of credentialing, loss or limitation of hospital privileges, exclusion from participation in health plans, loss or limitation of licensure, and increases in professional liability insurance premiums or exclusion from liability coverage altogether.

And if the report is false, recovering from these judgments can be long, expensive and exhausting.

If you are the subject of a report

When a report is made to the NPDB, the subject of the report receives notification. At that time, the report should be reviewed for accuracy, a healthcare attorney should be consulted.

If any information is inaccurate, a request for a correction can be made to the entity filing the report. If a correction is not made, a statement or dispute of the report can be made through the Report Response Service on the NPDB website, www.npdb-hipdb.hrsa.gov/welcomerr.html.

There are three possible outcomes for a dispute:

- The reporting entity corrects the report to the satisfaction of the subject.
- The reporting entity voids the report.
- The reporting entity declines to change the report.

If the disputed report is not changed and no action is taken, the subject may request a review by the Secretary of Health and

Human Services (HHS).

There are three possible outcomes for Secretarial Review of a dispute: the Secretary concludes the report is:

- accurate
- inaccurate
- outside the scope of Secretarial Review

If the Secretary concludes the report is accurate, an explanation is sent to the subject, who can add a statement in his or her defense to the report.

If the report is found to be inaccurate, the Secretary directs the NPDB to correct it. The subject of the report, the reporting entity, and all queriers are sent a Report Revised, Voided, or Status Changed document informing them of the correction.

If the Secretary concludes that the report was submitted in error, it is voided from the data bank. Again, notification of the error is sent to all vested parties.

While expansion of the National Practitioners Data Bank is useful for protecting beneficiaries of health care, it is not a system without flaws. Any healthcare practitioner who receives notice of disciplinary action and reporting should review the allegations carefully, and take appropriate action.

For more information, visit www.il-licensing.com. Michael V. Favia, Esq., can be reached at (773) 631-4580 or favia@lawyer.com.

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