

The National Practitioner Databank (NPDB) Explained

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Objectives

- Explain the NPDB.
 - What can be reported, Who can report, Who can access the NPDB, How to know if you've been reported.
- Describe the NPDB Dispute Process.
 - Disputed Status, Dispute Resolution, Reconsideration, Court Actions, Subject Statements.
- Discuss recommendations if reported to the NPDB or disputing a NPDB report.



What is the NPDB?

- A government repository that collects, stores, and discloses certain adverse information about health care practitioners.
- Unless corrected or voided, reports are permanent.
- Who can be reported?
 - Practitioners (physicians, dentists, nurses, physician assistants, chiropractors, pharmacists, etc.).
 - Health care entities, providers, and suppliers.
- Penalties for not reporting.



What is the NPDB?

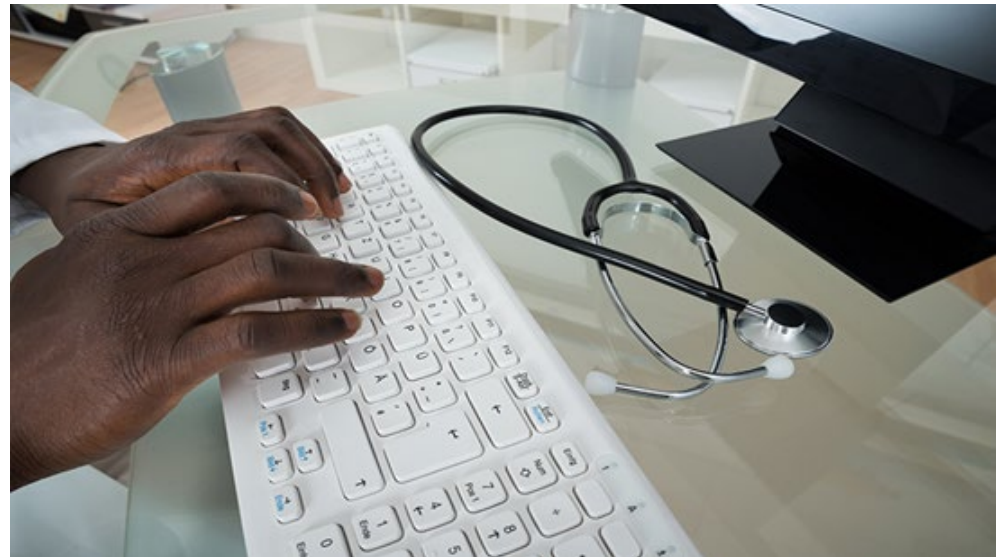
- Created by the Health Care Quality Improvement Act (HCQIA) and subsequent federal regulations
- Why was HCQIA enacted?
 - To improve quality of health care by:
 - Promoting effective peer review
 - Restricting ability of practitioners, with histories of malpractice, from moving between states
- Under HCQIA, Secretary of the Department of Health and Human Services (HHS) could designate an agency to receive reports:
 - The Health Resources and Services Administration's (HRSA) Bureau of Health Workforce

Who Submits to the NPDB?

- Medical malpractice payers
- Peer review organizations
- Certain professional membership societies
- Hospitals, health plans, and other health care entities
- Private accreditation organizations
- State licensing and certification authorities (State Boards)
- Federal and state agencies administering health care programs and law enforcement agencies
- Quality improvement organizations
- Federal and state prosecutors

What is in a NPDB Report?

- Narrative Description:
 - Sufficient detail to give a clear understanding of the event upon which the report is based.
- Medical Malpractice Reports:
 - Separate description of the judgment or settlement and any conditions including terms of payment.
 - What if terms are confidential?

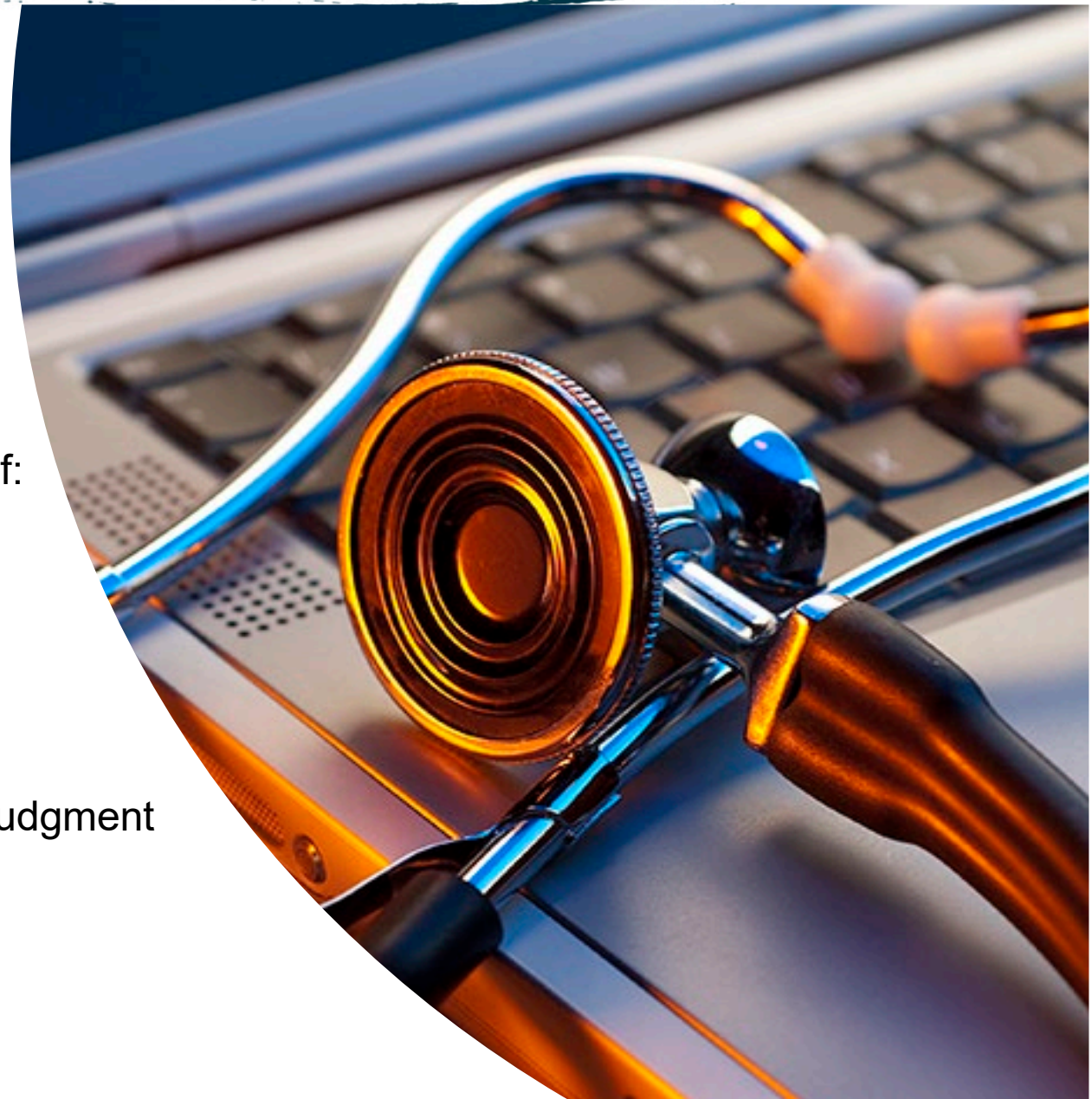


What Is Reportable to the NPDB?

- Medical Malpractice Payments
- Adverse Licensure, Clinical Privilege, and Professional Society Membership Actions
- Negative Peer Review and Private Accreditation Actions or Findings
- Exclusion from Participation in Federal or State Health Care Programs
- Criminal or Civil Judgments Related to the Delivery of a Health Care Service or Item

Medical Malpractice Payments

- A medical malpractice payment must be reported if:
 - A payment is made
 - By a third party
 - For the benefit of a health care practitioner
 - Against whom a medical malpractice claim or judgment was made.



Medical Malpractice Payments

- The NPDB defines a medical malpractice claim as a written claim or demand for payment based on a provider's furnishing or failure to furnish health care services.
- There is **NO** minimum amount of payment.
- Settlements **MUST BE** reported.



State Licensure Actions

- Any adverse action
 - Revocation, suspension, reprimand, censure, probation.
 - When a license, agreement, or contract is suspended, the length of the suspension must be reported also.
- As a result of formal proceeding, or
 - Formal hearing, settlement agreement, consent order, etc.
 - Does have to be publicly available to be reportable.
- A dismissal or closure of a formal proceeding because the practitioner left the jurisdiction or surrendered license.

Adverse Clinical Privilege Actions

- Adverse Clinical Privilege Actions
 - Any action that adversely affects clinical privileges
 - For longer than 30-day requirement
 - As a result of a **professional review action**
 - *Or* a **surrender** or voluntarily restriction of privileges **while under investigation**, relating to professional competence or conduct, or in return for forgoing such an investigation.

What is a professional review action?

- An action or recommendation of a professional review body which is taken or made in the conduct of a professional review activity, which is based on the competence or professional conduct of an individual physician and which affects or may affect adversely the clinical privileges or membership in a professional society of a physician.

42 U.S. Code § 11151



Investigations And Surrenders

- **What is an investigation?**

- Not defined in NPDB regulations or relevant statutes.
 - › NPDB interprets investigations broadly, retains final authority to determine whether an investigation exists.
- Investigation must be focused on the practitioner in question and concern professional conduct or competence.
- Practitioner does not need to be aware of investigation.
- Investigation is considered ongoing until a final action is taken or it is formally closed.

Investigations and Surrender

- **What is not an investigation?**
 - Routine/general review of cases
 - Routine review of a particular practitioner
- **What is a surrender?**
 - Failure to renew
 - Withdraw of an application
 - Leave of absence that restricts privileges



Who Can Access NPDB Reports?

- May be queried by hospitals, health plans, state licensure boards, and other health care entities.
- Hospitals are the only entity required to query by law:
 - When practitioners apply for clinical privileges.
 - When practitioners seek to expand existing privileges.
 - Every two years for practitioners on their medical staffs or who have been granted clinical privileges.



Who Can Access NPDB Reports?

- Practitioners may perform a self query at any time (there is a fee).
- Reports are not accessible by the general public.



How is a NPDB Report Processed?

1. Reporting entity submits report.
 - Often through an authorized agent.
2. NPDB processes it.
3. NPDB sends notice of report to the subject practitioner.
 - Includes instructions on how to obtain full official report

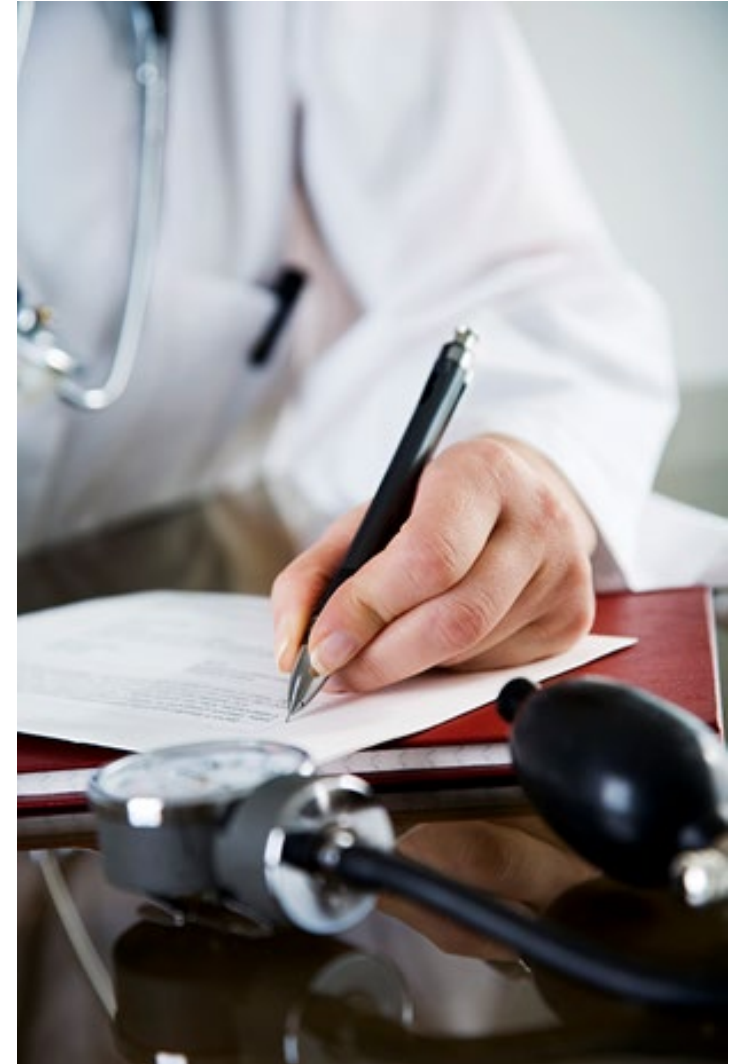
Adding a Subject Statement

- Can be added at any time.
- Remains with report unless removed or edited by the author.
- Accessible to all querying entities.



Adding a Subject Statement

- With a subject statement, a practitioner can:
 - ✓ Clarify their involvement.
 - ✓ Give perspective.
 - ✓ Explain conduct.
 - ✓ Provide additional information.
- Subject statements cannot include any identifying information.
- NPDB reserves right to redact personal identifying information and offensive language.



The Dispute Process - Background

- If subject practitioner disagrees with factual accuracy of report or questions whether a report was properly submitted, they may dispute.
- Reporting entities are responsible for accuracy.
- Only reporting entities can revise, correct, or modify reports.
- To successfully appeal NPDB information, the Dispute Process must be strictly adhered to.

The Dispute Process

1. Entering report into 'Dispute Status'
2. Elevating dispute to Dispute Resolution



Dispute Status

- Subject must enter report into dispute status.
 - Notation that the report is under dispute will be visible to all querying entities.
- Subject must contact the reporting entity and attempt to resolve dispute.
- Reporting entity has 60 days to respond.
 - If reporting entity does not respond within 60 days or subject disagrees with the response received, subject may elevate to 'Dispute Resolution.'

Dispute Resolution

- NPDB will ONLY:
 - ✓ Review the report for factual accuracy, or
 - ✓ Determine whether report was submitted within NPDB guidelines.
- NPDB will offer no opinion on malpractice payments, due process, or allegations of misconduct.



Dispute Resolution

- **To elevate the dispute to dispute resolution, subject practitioner must:**
 - Submit proof of unsuccessful attempt to resolve dispute with reporting entity.
 - Describe points of dispute.
 - Submit documentation demonstrating that report is factually inaccurate or was not submitted in accordance with NPDB reporting requirements.

Dispute Resolution

- **A Dispute Resolution Manager will conclude one of the following:**
 - Report is accurate as submitted; will remain as is.
 - Report is inaccurate as submitted; will direct reporting entity to revise.
 - Report was not submitted in accordance with reporting requirements; will void report.
 - Disputed information is outside scope of departmental review; report will remain as is.

Reconsideration of Dispute Resolution

- **Practitioner may request reconsideration of a dispute resolution decision.**
 - Resubmit dispute to Dispute Resolution.
 - Include any new information previously unavailable.
 - Explain issue(s) that practitioner believes were inappropriately reviewed during initial review.
- **Dispute Resolution Manager will either:**
 - Affirm previous decision, or
 - Issue a revised final decision.

Court Appeals and Other Remedies

- **Administrative Procedure Act (APA)**
 - Allows judicial review of an agency decision, if individual suffers a legal wrong.
 - Wronged party must demonstrate that the agency action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.
 - Must be brought in federal court.
- **Injunctions**
 - Actions to prohibit an entity from reporting to the NPDB or void a submitted NPDB report.



Recommendations to Avoid Reporting

- **Win a malpractice suit**
 - Settlements and adverse judgments necessitate NPDB reporting
- **Avoid a malpractice suit**
 - Resolve before a written demand
- **Understand when an investigation is ongoing**
 - Do not resign privileges while under investigation

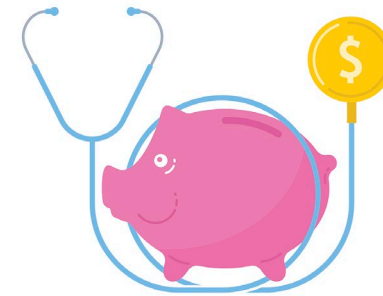


Recommendations to Avoid Reporting

Continued

- **Malpractice payments**

- Consider making payment from personal funds
- If dismissed, ensure that your name is not associated with any later settlement or judgment
- Understand when payment will be submitted to the NPDB and when it will not



Recommendations If Reported

- Add a subject statement.
- Understand that the NPDB Dispute Process is limited in scope.
 - NPDB will only review a dispute for:
 - Factual accuracy, or
 - Noncompliance with reporting requirements.
- If disputing a NPDB report, obtain experienced legal counsel to assist you.

Resources

- **Statutes & Regulations**

- Health Care Quality Improvement Act: [42 U.S. Code Chapter 117](#)

- NPDB Regulations: [45 CFR §§ 60.1-60.22](#)

- **PAMED Resources**

- [The ABCs of the NPDB: What Physicians Should Know](#)

- [The ABCs of the NPDB: Disputing a Report](#)

- [PAMED's Guide to the NPDB](#)

- **HRSA Resources**

- [The NPDB Guidebook](#)

- [NPDB Website](#)

PAMED's Knowledge Center

855-PAMED4U (855-726-3348)

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