

M.D. NEWS

A BUSINESS AND LIFESTYLE MAGAZINE FOR PHYSICIANS

HAMPTON ROADS EDITION | NOVEMBER/DECEMBER 2003

VOL.6, NO.6

THE NATIONAL PRACTITIONER DATA BANK SOME SIMPLE ANSWERS

By: M. Todd Gerber

With litigation and insurance rates rising, the National Practitioner Data Bank is more frequently at the forefront of physician concerns. This article seeks to answer some very basic information.

1. WHO MAY REQUEST INFORMATION FROM THE DATA BANK?

Only eligible entities may query the Data Bank. Eligible entities are generally organizations providing healthcare services that perform peer review activities or organizations performing peer review activity in an effort to further quality healthcare, and may include hospitals, professional societies, health maintenance organizations and state licensing boards. These entities may, and in the case of hospitals, are required to query the Data bank when a physician's employment or privileges are being considered.

In addition to healthcare entities, a physician may query the Data Bank for his or her own information at any time. It should be noted that while insurance carriers may not query the Data Bank directly, they may, as part of their contract, require physicians to self-query the Data Bank and provide this information to the carrier.

2. WHAT INFORMATION MUST BE REPORTED TO THE DATA BANK?

Any disciplinary action taken by a state licensing board must be reported to the Data Bank. Similarly, any action taken by a hospital or health care entity that "adversely affects" a physician's clinical privileges for more than 30 days must also be reported. This requirement applies even if a physician has voluntarily surrendered privileges to avoid having his or her privileges investigated or while the privileges are being investigated.

More commonly and perhaps of greater concern to many physicians in today's litigious environment, any payment made to claimant in satisfaction of a judgment or a written demand must also be reported. Significantly, this includes a refund of the physician's charges by a healthcare entity if a demand from a plaintiff has been made in writing.

3. WHAT CAN A PHYSICIAN DO IF REPORTED TO THE DATA BANK?

A physician will be notified if a report is filed with the Data Bank. The notification will include information relative to the action underlying the report. If a physician disagrees with the factual assertions contained in a report, he or she may file a formal dispute. The Data Bank does not consider the appropriateness of outcome of the underlying action but considers only whether the facts have been accurately reported. Independent of the dispute process, any physician who is the subject of a Data Report may submit a statement to the Data Bank explaining his or her position on the entire matter. The physician's statement is then attached to the report whenever it is sent to a party making a query about that physician.

This article provides some very general information about the Data Bank. Because of the many requirements and exceptions to reporting information, it is recommended that any physician who is or believes they may be the subject of a report consult with an attorney.

Mr. Gerber is a partner with the firm of Huff Poole & Mahoney, P. C. He is co-chair of the firm's healthcare law practice.