



NPDB Update: Reporting Summary or Precautionary Suspensions; Increased Information Accessible in the NPDB

A. Reporting Precautionary Suspensions.

In the January 2010 issue of *Data Banks News*, the Health Resources and Services Administration cautioned that a summary suspension, *by any name*, may be reportable to the National Practitioner Data Bank ("NPDB"). Reportable suspensions include those actions that: 1) are "professional review actions," based on the competence or professional conduct of the health care practitioner that affects or could affect the health and welfare of any individual, 2) are temporary adverse actions which result in a restriction of clinical privileges, and 3) last more than thirty (30) days. There appears to be concern that hospitals have been imposing summary restrictions upon privileges but have not reported these actions because the actions taken are named something other than a "summary suspension." Possible other names for summary suspensions include but are not limited to immediate, emergency, or precautionary suspensions, or an abeyance.

As always, if a suspension is administrative in nature, and not the result of the professional review process, no report is necessary. Administrative suspensions may be longer than thirty days without becoming reportable.

This public statement on the reportability of suspensions is a good reason to review your organization's reporting policy. Suspensions generally should be considered only when the failure to take such action

may result in imminent danger to the health of any individual. Other equally effective alternatives should be carefully weighed prior to the imposition of a suspension and the entire process must be well documented in Health Care Quality Improvement Act (HCQIA) protected and peer review privileged documents. Reports to the NPDB should be carefully structured to accurately describe the reasons for all actions taken. If the health care entity determines after thorough investigation that practitioner's privileges should be impacted, but suspension is no longer required, the initial report can and should be revised or voided by the entity as appropriate.

B. Section 1921 Final Rule.

On January 28, 2010, the Department of Health and Human Resources' Health Resources and Services Administration published the final rule on Section 1921 of the Social Security Act (45 CFR Part 60). Section 1921 was enacted to protect beneficiaries participating in Social Security Act (SSA) healthcare programs from poor quality services and to improve anti-fraud provisions of SSA programs. The final rule is effective March 1, 2010.

The final rule increases the amount of information accessible to hospitals and other entities through the NPDB. The NPDB will be expanded to include adverse licensure actions taken against all licensed healthcare practitioners and any negative actions or findings by State licensing agencies, peer review organizations,



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and private accreditation organizations against all health care practitioners and entities. Private sector (non-Federal) hospitals will have access to adverse licensure actions taken against all licensed healthcare professionals such as nurses, podiatrists, chiropractors, and psychologists—not just physicians and dentists. Prior to the implementation of Section 1921, only Federal hospitals had access to this information.

Which entities must file reports?

Section 1921 expands the scope of the NPDB and requires each State to adopt a system of reporting to the Secretary certain adverse licensure actions taken against health care practitioners and health care entities by the State agency responsible for licensing healthcare practitioners or entities. Each State also is required to report to the NPDB any negative action or any final action by a State licensing authority, a peer review organization, or a private accreditation organization against a health care practitioner or entity. In addition, peer review organizations and private accreditation organizations are required to report adverse and negative actions against health care practitioners or entities.

What information is available?

Entities authorized to query the NPDB may access information about adverse licensure actions and negative actions or findings. Under Section 1921 an adverse licensure action includes:

- 1) Any revocation, reprimand, censure, suspension, or probation;
- 2) Any dismissal or closure of proceedings by reason of the practitioner or entity surrendering the license and leaving the State or jurisdiction; or
- 3) Any other loss of the license.

A negative action or finding includes:

- 1) A final determination of denial or

termination of an accreditation status from a private accreditation organization that indicates a safety risk to patients or quality of health care concerns;

- 2) Any recommendation by a peer review organization to sanction a health care practitioner, physician or dentist; or
- 3) Any negative action or finding that is publicly available under the State's law and is rendered by a licensing or certification authority, including, but not limited to, limitations on the scope of practice, liquidations, injunctions, forfeitures, and fines, citations, and corrective action plans that are connected to the delivery of health care services or taken in conjunction with other licensing or certification actions.

Who may query the NPDB information?

Under Section 1921, the following may query the NPDB:

- 1) Hospitals and other health care entities;
- 2) Professional societies with formal peer review;
- 3) State medical, dental and other health care practitioner/entity licensing boards;
- 4) Agencies administering the federal health care programs, or their contractors;
- 5) State agencies administering state health care programs;
- 6) Quality Improvement Organizations;
- 7) State Medicaid Fraud Control Units;
- 8) The U.S. Comptroller General;
- 9) The U.S. Attorney General and other law enforcement;
- 10) Health care practitioners and entities (self query); and
- 11) Researchers (statistical data only).



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Conclusion.

The Section 1921 Final Rule does not change hospital reporting requirements. However, it requires additional entities, such as State licensing boards, private accrediting organizations and peer review organizations, to report adverse actions to the NPDB. The amount of information available to hospitals through the NPDB, therefore, should increase. As before, information reported to the NPDB is considered confidential and may not be disclosed except as the regulations allow.

If you would like a copy of the *Data Bank News* article, "Summary Suspension or Precautionary Suspension: A Rose By Any Other Name..." or if you would like additional information about medical staff issues, please contact Kim Daniel (kdaniel@hdjn.com) or Matt Connors (mconnors@hdjn.com) at (804) 967-9604.

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