

Risk Management News

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Part 1: Expanding The National Practitioner Data Bank, or How To Get Your Physicians To Love You In One Easy Lesson

Every hospital risk manager knows that having to report to the National Practitioner Data Bank (N.P.D.B.) on behalf of a medical staff member is about as much fun as a poke in the eye. Since 1986 and the passage of the Health Care Quality Improvement Act, and more exactly, since October 1989, when the actual N.P.D.B. reporting guidelines were established; those entities which make a payment in settlement of a medical professional liability action, on behalf of a practitioner, have been required to report to the N.P.D.B. By late 1998 as many as 147,000 such reports had been filed, according to the Data Bank.

Of course, what's even more fun, is that any report made to the N.P.D.B. has to be made at the same time to the state licensing board in the jurisdiction where the claim is reported.

While N.P.D.B. reports are not open to the public for general scrutiny, hospitals, underwriters, managed care organizations and others routinely review these records for credentialing and underwriting purposes. Failure to report a claim can result in a civil penalty of up to \$10,000 for each infraction -- a pretty stiff price to pay for non-compliance.

The folks at the Health Resources and Services Administration (HRSA), (part of the Department of Health and Human Services), have objected to what they consider to be a way which some hospitals use to by-pass the requirement that a report must be filed every time a practitioner is named in a claim or in a release. We've heard tell that hospitals sometimes volunteer to take the heat for practitioners when a plaintiff agrees to change the action (usually at the last minute), to refer to a hospital, or perhaps, a professional corporation (under the current guidelines, reports are not made involving claims against hospitals or professional corporations). Of course, some of our clients would never do this; as we said -- we've "just heard tell."

In order to eliminate this perceived reporting loophole and to generally update the reporting requirements, the N.P.D.B. has proposed that the reporting rules be changed. They now want the entity to report the practitioner to the data bank if the entity also believes that the practitioner was in any way responsible, even in part, for the mal-occurrence, even if the practitioner is not named in the claim or in the release. To add to the fun, the N.P.D.B. has also proposed that future reports include a list of all the healthcare providers with which the practitioner may be affiliated, such as HMO's, hospitals and state or national medical societies.

Since these proposed changes were introduced (on Christmas Eve 1998 - talk about the gift that keeps on giving!), there has been a predictable uproar from hospitals, professional liability underwriters and others about the enormous burden these changes will place on everyone, most notably hospital risk



How to Get Your Physicians to Love You

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managers.

The comment period on these changes is now closed and no one is certain about how HRSA will deal with the very audible complaints it has received about these changes. We predict that regardless of the noise level and the eventual outcome of these changes, risk managers will almost certainly have to deal with a greater and more onerous level of reporting responsibility.

If you'd like to know more about this issue, or if you have a question about N.P.D.B. reporting in general, please click "Talk to Us" below.

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