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Insights

The Online NPDB Insights Publication Provides Monthly Guidance on Reportable Actions

December 2, 2019

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The National Practitioner Data Base ("NPDB") is a confidential clearinghouse established by Federal laws[1] and regulations[2] in order to promote quality, to protect the public and to reduce healthcare fraud and abuse. The U.S. Department of Health and Human Services ("HHS") is responsible for administering the NPDB.

The NPDB publishes an online policy manual – the NPDB Guidebook[3] - which is an essential source for the healthcare community in regard to the NPDB query and reporting obligations that apply to hospitals and other covered entities.

The NPDB also publishes a monthly "NPDB Insights" which, among other things, provides a useful "Q and A" discussion on the issue of whether certain actions involving medical staff are reportable to the NPDB. As an overview, here are some of the recent reports:

- In the November 2019 issue, a "Q and A" scenario involved a summary suspension of a physician's clinical privileges for an outburst of anger and throwing of charts and instruments in the operating room. The NPDB ruled that this action was a reportable offense if the summary suspension was in effect for more than 30 days and that the action was conducted in accordance with applicable requirements to address imminent threats to patient safety.[4]
- In the October 2019 issue, the "Q and A" scenario questioned whether a practitioner's report that he pled "nolo contendere" to a fraud related claim related to his home owner's insurance was reportable. The NPDB ruled that the action was not reportable because it was not related to the delivery of a health care item or service.[5]
- In the August 2019 issue, the "Q and A" scenario questioned whether a hospital's request for a physician to voluntary relinquish certain clinical privileges because they were no longer performed was a reportable event. The NPDB reported that the physician was not under investigation when the privileges were voluntarily relinquished for which no reportable action had occurred.[6]
- In the June 2019 issue, the "Q and A" scenario questioned whether a physician's application for clinical privileges was denied or granted only for certain (but not all) of the privileges requested. The NPDB reported that if the action was related to the physician's professional competence or professional conduct, then the action must be reported. Alternatively, the NPDB noted that if the basis for the action was because the practitioner failed to meet the institution's established threshold criteria for the particular privilege, the action was not reportable because it did not relate to the practitioner's professional competence or professional conduct.[7]

Hospitals and other health care entities must report adverse clinical privileges actions to the NPDB that meet NPDB

reporting criteria - that is, any professional review action that adversely affects the clinical privileges of a physician or dentist for a period of more than 30 days *or* the acceptance of the surrender of clinical privileges, or any restriction of such privileges by a physician or dentist, (1) while the physician or dentist is under investigation by a health care entity relating to possible incompetence or improper professional conduct, or (2) in return for not conducting such an investigation or proceeding.[8] In order to fully comply with these reporting requirements, we recommend the NPDB Insights as a useful online source for compliance guidance.

Questions regarding these matters, please feel free to contact Sarah Stites Millspaugh or Susan E. Ziel for more information.

[1] Title IV of the Health Care Quality Improvement Act of 1986 (HCQIA), Public Law 99-660 (referred to as "Title IV"); Section 5 of the Medicare and Medicaid Patient and Program Protection Act of 1987, Public Law 100-93, codified as Section 1921 of the Social Security Act(referred to as "Section 1921"); and Section 221(a) of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, codified as Section 1128E of the Social Security Act (referred to as "Section 1128E").

[2] 45 CFR Part 60.

[3] https://www.npdb.hrsa.gov/resources/aboutGuidebooks.jsp.

[4] https://www.npdb.hrsa.gov/enews/Nov2019Insights.jsp

[5][5]https://www.npdb.hrsa.gov/enews/Oct2019Insights.jsp

[6] https://www.npdb.hrsa.gov/enews/Aug2019Insights.jsp

[7] https://www.npdb.hrsa.gov/enews/June2019Insights.jsp

[8] Title IV of the Health Care Quality Improvement Act of 1986 (HCQIA), Public Law 99-660 (referred to as "Title IV "); Section 5 of the Medicare and Medicaid Patient and Program Protection Act of 1987, Public Law 100-93, codified as Section 1921 of the Social Security Act(referred to as "Section 1921"); and Section 221(a) of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, codified as Section 1128E of the Social Security Act (referred to as "Section 1128E").