

National Practitioner Data Bank (NPDB)
Medicaid Fraud Control Unit (MFCU)
Reporting Requirements
September 19, 2013

U.S. Department of Health and Human Services
Health Resources and Services Administration
Bureau of Health Professions
Division of Practitioner Data Banks



Presentation Overview

- Organizational Background
- National Practitioner Data Bank (NPDB)
- Data Bank Merger
- Changes to Statutory Authorities
- Regulatory Modifications
- Operational Constraints
- MFCU Reporting
- MFCU Querying
- Examples of Reportable MFCU-related Actions

Organizational Background

Bureau of Health Professions Mission Statement

The Bureau of Health Professions increases the Nation's access to quality health care, especially for underserved people, by developing, distributing and retaining a diverse, culturally competent health workforce.

Organizational Background

Division of Practitioner Data Banks

The Division of Practitioner Data Banks (DPDB), part of the Bureau of Health Professions, is committed to the development and operation of cost-effective and efficient systems that offer accurate, reliable, and timely information on practitioners, providers, and suppliers to credentialing, privileging, and government authorities.

Organizational Background

DPDB Vision and Mission

Vision:

- To be a nationally recognized leader and partner in improving health care quality and patient safety

Mission:

- To collect and provide complete, accurate, timely, and reliable information on the nation's health care practitioners, providers, and suppliers to improve health care quality, promote patient safety, and deter fraud and abuse

Organizational Background

DPDB Organization

DPDB is arranged in several operating units:

- Compliance Branch
- Operations and Administration Branch
- Policy and Disputes Branch
- Research Branch
- Immediate Office of the Director

National Practitioner Data Bank

The Data Bank

Purpose

Created under three statutes to meet several needs:

- Serve as an alert or flagging system to facilitate comprehensive reviews of practitioners' professional credentials
- Protect beneficiaries in Social Security Act health care programs from unfit practitioners and providers
- Deter fraud and abuse in the health care system

The Data Bank

Background

Until May 2013, two data banks existed:

- The “original” NPDB, available since 1990
- The Healthcare Integrity and Protection Data Bank (HIPDB), available since 1999

The Data Bank

Types of Information Collected

- Medical malpractice judgments, settlements
- Adverse licensing, certification actions
- Clinical privileges actions
- Professional society membership actions
- Negative actions/findings from private accreditation organizations and peer review organizations
- Government administrative actions, e.g., exclusions from programs
- Civil, criminal health care-related judgments

The Data Bank

Enabling Legislation

The *Patient Protection and Affordable Care Act* (ACA) pulled together three statutes to create the “new” NPDB:

- The “old” NPDB was governed by:
 - Title IV of Public Law 99-660
 - Section 1921 of the Social Security Act
- The HIPDB was governed by:
 - Section 1128E of the Social Security Act

Final regulations are at 45 CFR Part 60

Why Did the Data Banks Merge?

Section 6403 of the ACA authorized the Secretary of the Department of Health and Human Services to cease the operation of the HIPDB and to consolidate the operation of the HIPDB with the NPDB

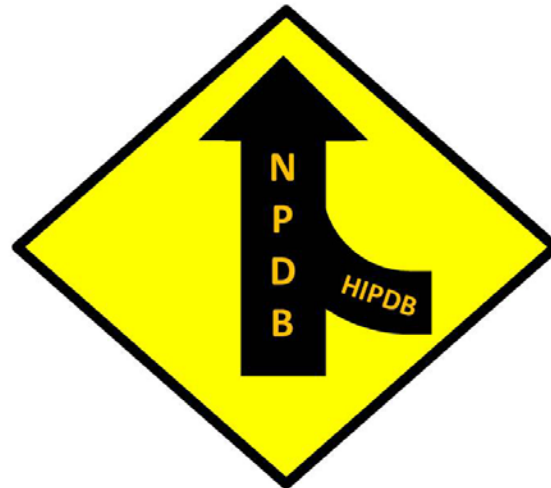
- Signed into law on March 23, 2010
- Final Rule published in the Federal Register on April 5, 2013
- Final Rule Effective Date: May 6, 2013

Why Did the Data Banks Merge?

Goal: Eliminate duplication between the NPDB and HIPDB

- The 3 statutes-- Title IV of Public Law 99-660, Section 1921 of the *Social Security Act*, and Section 1128E of the *Social Security Act* --remain in effect
- ONE Data Bank
- ONE set of regulations governing the Data Bank's operations

MERGE AHEAD!



Data Bank Merger Highlights

- Reports that were stored in both the NPDB and HIPDB will remain, but will reside in the NPDB only
- There was no need to re-register with the Data Bank; registration flagging systems were automatically re-aligned
- The authority for certain reportable actions has changed, but no user action is required
- If you queried both the NPDB and the HIPDB, now you will only query the NPDB
- The former Data Bank website URL (<http://www.npdb-hipdb.hrsa.gov>) is automatically redirected to an updated URL:

<http://www.npdb.hrsa.gov>

Changes to Statutory Authorities

Title IV of Public Law 99-660, the *Health Care Quality Improvement Act of 1986*

- No changes to Title IV

Section 1921 of the *Social Security Act*, as amended by the *Omnibus Budget Reconciliation Act of 1980* has been amended to include the following reportable actions, which had been reportable under Section 1128E:

- *Licensing or certification actions against providers and suppliers*
- *Health care-related civil judgments in State court*
- *Health care-related State criminal convictions*
- *Exclusions from State health care programs*
- *Other adjudicated actions or decisions*

Changes to Statutory Authorities

Section 1128E of the *Social Security Act* as added by Section 221(A) of the *Health Insurance Portability and Accountability Act of 1996* continues to cover the following reportable actions:

- *Federal licensing/certification actions*
- *Health care-related civil judgments in federal or state court*
- *Health care-related federal or state criminal convictions*
- *Exclusions from federal health care programs*
- *Other adjudicated actions or decisions against practitioners, providers, suppliers*

Regulatory Modifications

- The regulations now reflect the current practice of reporting clinical privileges actions and medical malpractice payments
 - Reporters of clinical privileges actions and medical malpractice payments submit their reports directly to the NPDB and provide a copy to the appropriate State licensing board either through electronic report forwarding or mail
- The regulations now require a consistent reporting timeframe. All reports must be submitted within 30 days of the date of action.
- The regulations now provide consistent immunity provisions for all reporters

Regulatory Modifications

Definition section (60.3) has been modified:

- Definitions from HIPDB have been incorporated into the NPDB
- Inconsistent definitions were modified

Operational Considerations

- Some queriers may see an increase in reports because they may now have access to reports that previously were in HIPDB and are now accessible under Section 1921
- HIPDB Continuous Query enrollments were converted to NPDB enrollments
- HIPDB credits were converted to NPDB credits
- Government Administrative Action (GAA) reports use new adverse action classification codes, which are necessary to ensure that the reports are flagged correctly for Section 1921
 - Data Bank web users now use a new screen to select the appropriate codes as they report a GAA
 - Software developers using the Data Banks' automated information exchanges should now be using the new codes

MFCU Reporting

- Why do Medicaid Fraud Control Units (MFCUs) have to report?
 - As a state law and fraud enforcement agency, MFCUs are legally required to report certain actions to the NPDB. Additionally, performance standard 8.G for MFCUs states that MFCUs will report “qualifying cases to the Healthcare Integrity & Protection Databank [HIPDB], the National Practitioner Data Bank [NPDB], or successor data bases.” Please see the Federal Register notice published on June 1, 2012 (77 FR 32648).
- MFCU reporting requirements have not changed since the merger of the HIPDB and NPDB.

MFCU Reporting

What types of actions have to be reported?

- MFCUs primarily report judgments and convictions taken against health care providers, suppliers, and practitioners related to the delivery of health care services. These actions are reportable regardless of whether the judgment or conviction is pending appeal.
- The regulations governing the NPDB require that the following types of judgments and convictions be reported:
 - 45 CFR §60.13: Reporting Federal or state criminal convictions related to the delivery of a health care item or service.
 - 45 CFR §60.14: Reporting civil judgments related to the delivery of a health care item or service.

MFCU Reporting

What other types of actions are reported?

- In addition to judgments and convictions, MFCUs also must report other adjudicated actions or decisions (45 CFR §60.16), which are defined in 45 CFR §60.3*. Other adjudicated actions are formal or official final actions that:
 - include the availability of a due process mechanism, and
 - are based on acts or omissions that affect or could affect the delivery of a health care item or service.
- Exclusions/Debarments are normally reported by a state Medicaid agency or the HHS OIG.

*There are certain types of actions outlined in 45 CFR §60.3 that meet (e.g., personnel-related) and do not meet (e.g., clinical privileging, overpayment, denial of claims) the definition of other adjudicated action. It is important to read this section carefully to understand what should and should not be reported under 45 CFR §60.16.

MFCU Reporting

- A Revision-to-Action relates to a previously submitted report; it is a second and separate action. Examples of when a revision-to-action report is submitted program participation reinstatement.
- Corrections are changes to existing reports due to an error or omission to a previously submitted report. Corrections are not separate actions and replace the original report. They are uniquely different from revisions.
 - Example: A report was submitted with the wrong action date. A correction is submitted correcting the action date.
- A Notice-of-Appeal is submitted when the report subject has formally appealed an action that was previously reported.
- Unless voided (due to very specific circumstances), all reports stay in the NPDB permanently.

MFCU Querying

- As a state law and fraud enforcement agency, MFCUs are able to query the NPDB in the same manner they were able to query the HIPDB before the merger.
- Querying assists agencies conduct law and fraud enforcement investigations.
- Not all Data Bank entities (e.g., private accreditation agencies) are able to query.
- Queriers must have a business reason to query.
- The public does not have access to the NPDB.

MFCU Querying

- Law and fraud enforcement agencies have a Privacy Act exception that allows their querying activity to not be disclosed to subjects performing a self-query
- Law and fraud enforcement agencies must register their Federal Bureau of Investigation Originating Agency Identification (ORI) number with the Data Bank (via registration screens) in order to ensure their querying activity is kept private
- By law, the Data Bank must recover the full cost of operations. It does so by collecting fees for each query. Current fees are:
 - Traditional query: \$4.75 per query
 - Continuous query: \$3.25 per enrollee per year
 - Self-query: \$8.00 per query

Examples of Reportable MFCU-related Actions

- A licensed physician is convicted of the false submission of health care-related claims and is sentenced to 4 years in prison.
- A Durable Medical Equipment (DME) company is sentenced as a result of pleading guilty to receiving an illegal kickback of \$489,000. The court ordered that the company pay a fine of \$293,400 and that the defendant corporation be placed on probation for 2 years.
- A practitioner pleads *nolo contendere* to health care fraud.
- A judgment against a nursing home imposes a \$50,000 fine for neglect and for failure to adequately clean the patients' rooms.
- A judgment against an ambulance transportation company results in a \$30,000 fine for filing false and fraudulent claims and receiving payment for ambulance transportation to destinations not permitted by law, not medically necessary, and for patients whose ambulatory state did not require such transportation.
- A Medicaid civil false claims action against a pharmaceutical company goes to trial and the trial judge enters judgment for the government. (On the other hand, civil fraud settlements in which there is neither a finding of liability nor an admission of liability should not be reported).

Resources

Web Site – www.npdb.hrsa.gov

- HIPDB Guidebook (Post-merger NPDB Guidebook is expected in the next several months).
- Interactive Training (MFCU Reporting Video coming soon).
- FAQs, Brochures, and Fact Sheets (MFCU Fact sheet available and will be updated soon).

Customer Service Center –

800-767-6732 or help@npdb.hrsa.gov

Contact Information

David Loewenstein

Compliance Branch Chief

Division of Practitioner Data Banks

Bureau of Health Professions

Health Resources and Services Administration

U.S. Department of Health and Human Services

Telephone: 301-443-8263

Email: DLoewenstein@hrsa.gov