



The National Practitioner Data Bank

Here's what you need to know about this database.

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Congress, in 1986, passed a law that created the National Practitioner Data Bank (NPDB). The NPDB is national in scope. Individual states may have their own data bases with their own rules. Its purposes included reducing healthcare fraud, increasing the quality of care, and protecting the public. Over the years, Congress has passed additional laws expanding the scope of the NPDB. Podiatrists are included in the NPDB.

What Is Reportable to the NPDB

The list of reportable actions has expanded over the years. Malprac-

tice payments are reportable. Please note that these payments are reportable whether there was an actual trial with a jury verdict or if there was a settlement of the lawsuit before or during a trial. Also note that if an insurance company was involved, it is obligated to report the money disbursement to the NPDB. If the podiatrist had no professional liability insurance, the po-

diatrist must report the settlement or award to the NPDB, even if it was one dollar. As in most required reporting, it must be reported to the NPDB within 30 days of the settlement or award.

Most adverse events in a hospital or surgery center that result in an impact of privileges for more than 30 days must be reported. The same would apply to a voluntary reduction

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of clinical privileges while a physician is under investigation by a hospital. However, and this is a big however, hospitals and other healthcare entities with a formal peer review process MAY report a podiatrist if there is an adverse action against a podiatrist for clinical privileges more than 30 days! This is a little-known wrinkle in the law that allows experienced health law attorneys some leverage in negotiating settlements prior to any reports to the NPDB.

The hospital or surgical center is not obligated to report such adverse actions taken against podiatrists; it is required when taken against an MD, DO, DDS or DMD. In other words, the NPDB differentiates between MDs, DOs, dentists, and other healthcare professionals. Once the report is made to the NPDB, the process is the same for the MD, DO, dentist, or podiatrist.

If you supervise or teach un-

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censed podiatry students, and they do something reportable, the report becomes part of your file in the NPDB. This is something to consider when taking on such responsibility. Another area often overlooked is when an application for clinical privileges is denied due to clinical ineptitude; that is reportable. It is not reportable if you voluntarily terminated your participation in a Medicare or Medicaid program provided you were not attempting to avoid an investigation. It is not reportable if a private accreditation organization has preliminarily denied you accreditation for an insurance company. It is reportable when the denial is final. It is not reportable if you violated a law, such as being issued a parking ticket. It is reportable if you have drafted and filed a medical report or made an application that was demonstrably false.

It is not reportable if you applied for a state's podiatry license and withdrew it when you realized you failed to meet the requirements. It is not reportable if your entire suspension/probation was stayed. It is not reportable if a health agency fines you for a

care-related civil awards are reportable whether in state or Federal court. Healthcare-related criminal convictions are reportable both in the state or Federal arenas. The DEA must report any action that impacts on a podiatrist's ability to prescribe a controlled substance.

Let us dive a little deeper. What

The entity reporting you is responsible for the report's accuracy and keeping it current. While the NPDB normally will permanently store the report, they may be corrected or voided by either the reporting entity or by the NPDB, using its Dispute Resolution process.

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if a California licensed podiatrist gets brought up on charges for practicing podiatry without a license in Texas? The NPDB covers any person, with or without a license, who "holds himself or herself out to be so licensed or authorized." So, the NPDB covers counterfeit healthcare providers, including unlicensed podiatrists.

Entities under the umbrella of the NPDB also include healthcare suppliers. Therefore, a supplier of podiatric supplies or DME could be reported to the NPDB under the proper circumstances. Reports must even be made upon deceased practitioners!

The NPDB receives the Initial Report from a reporting entity, such as a State Board, hospital, or malpractice insurance company. The NPDB then notifies the subject of the report. Both the reporting entity and the subject of the report should carefully review its contents. Depending on the type of report, the State Board of Podiatry is also notified. If the podiatrist is licensed, or has an inactive license in multiple states, they are all notified. Note well that this can trigger a state investigation where you have not had an active license in decades. Do not ignore this! If that state's board finds against you, that in turn, is reportable to the NPDB and the state(s) where your podiatry license is current.

Upon review, if the reporting entity finds an error, it must submit a Correction Report as soon as it can and as often as the facts dictate. When this occurs, the NPDB affords a Report Verification Document to the reporting entity as well as a copy to the subject podiatrist and every entity that inquired about you for the last three years. Sometimes the change might be a change of spelling or address; other times, the change might materially change the report.

An examination of the initial report or subsequent events might result in the reporting entity sending the NPDB a Void Report. A report may be voided for only three reasons:

- 1) The report was submitted in error.
- 2) The action was not reportable because it did not meet NPDB reporting requirements or,
- 3) The action was overturned on appeal.

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late payment of a fee as long as it was not related to another adverse action related to the delivery of healthcare.

Peer Review

A formal peer review (with negative findings) by a recognized podiatric professional society is reportable. This must be due to either clinical competence or conduct. For example, improper use of a treatment code might not be reportable but use of codes that involve fraud or abuse are reportable. Disciplinary actions involving clinical competence or conduct by state licensing boards are reportable. Exclusions from Medicare, Medicare or any Federal healthcare program are reportable. Exclusions from state healthcare programs are reportable. Health-

The reports are retained by the NPDB for all time. They are not automatically deleted after a certain period. Additionally, short of knowingly filing a false report, reporting entities are given immunity from civil actions.

Content of Report Submitted to the NPDB

There are only three different types of report formats used by the NPDB. There is a Medical Malpractice Payment template for reporting any medical malpractice payments; a Judgment or Conviction Report, for reporting any healthcare-related criminal conviction or civil judgment by either a Federal or state court; and an Adverse Action Report, for reporting everything else reportable to the NPDB.

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When a Voided Report is filed, the NPDB provides that entity with a Report Void Confirmation. Copies of this are sent to the reported podiatrist as well as any entity that inquired about that podiatrist in the last three years.

Another type of subsequent report is known as a Revision to Action Report. It is a separate action that pertains to a previous action by the reporting entity. Both reports are part of your file with the NPDB. This occurs when the original period of discipline has ended, when society memberships or accreditation, or a professional license has been reinstated, when the length of an adverse action had been reduced or lengthened, or when additional adverse actions have been added for the original reported incident.

A Notice of Appeal must be provided to the NPDB by the hospital, Federal or State agency. It is provided

by the entity that originally reported their adverse finding. You are given a copy as well as any entity that inquired about you to the NPDB within the last three years.

Who Can Access Your NPDB File?

Hospitals, licensing boards, state and federal law enforcement agencies, Medicaid fraud units, health plans, professional societies, Quality Improvement Organizations, and you yourself, the podiatric practitioner, may request a copy of your reported file. You should request a copy of your NPDB file every year. You want to ascertain what is in it. Perhaps you missed an NPDB notice of a reportable incident. Perhaps there is a mistake.

The contents of your NPDB file are enormously important. It could affect your professional license, your ability to prescribe, your hospital privileges, and your insurance panel participation.

Do you remember when you were little, and your elementary

school teacher threatened to put your discipline on your “permanent report card”? The NPDB is your permanent professional report card. You should take any and every report on it very seriously. When possible, work with an experienced health law attorney to help you protect yourself. **PM**



Dr. Kobak is Senior Counsel in Frier Levitt’s Healthcare Department in the Uniondale, New York. Larry has extensive experience representing physicians in connection with licensure issues, as well as successfully defending physicians before Medical Boards, OPMC, OPD investigations, as well as Medicare Fraud, Fraud & Abuse, Hospital Actions, RAC Audits, Medicare Audits, OIG Fraud, Healthcare Fraud, Medical Audits, and Health Plan Billing Audits. As a licensed podiatrist prior to becoming an attorney, he served as the international president of the Academy of Ambulatory Foot and Ankle Surgery.