



# National Practitioner Data Bank: Partnering to Protect Patients

Clinical Privileges Reporting  
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# Clinical Privileges Reporting

## The Law

“Each entity which...

(A) takes a professional review action that adversely affects the clinical privileges of a physician for a period longer than 30 days:

(B) accepts the surrender of clinical privileges of a physician...while the physician is under investigation by the entity relating to possible incompetence or improper professional conduct, or...in return for not conducting such an investigation or proceeding...”

-- Title IV of Public Law 99-660



# Clinical Privileges Reporting

## The Law

The term “professional review action” means an action or recommendation of a professional review body which is taken or made in the conduct of professional review activity, which is based on the competence or professional conduct of an individual physician (which conduct affects or could affect adversely the health or welfare of a patient or patients), and which affects (or may affect) adversely the clinical privileges, or membership in a professional society, of the physician.

-- Title IV of Public Law 99-660



# Clinical Privileges Reporting

## The Law

The term “adversely affecting” includes reducing, restricting, suspending, revoking, denying, or failing to renew clinical privileges or membership in a health care entity.

-- Title IV of Public Law 99-660



# Clinical Privileges Reporting

## NPDB GUIDE TO REPORTING CLINICAL PRIVILEGES ACTIONS

### BEFORE SUBMITTING:

Are you a hospital or health care entity that took a professional review action against a physician or dentist? \*  
Report the professional review action if both **A** and **B** are met:

**A** Adversely affects clinical privileges (including privileges, medical staff or panel membership, network participation, affiliation, and other circumstances) for a period of more than 30 days, including:

- Reduction, restriction, suspension or revocation of privileges
- Denial of privileges based on professional review (excluding denials based on failure to meet specific threshold criteria or an initial application withdrawal before a final professional review decision)
- A practitioner's surrender of, or failure to renew, privileges while under or to avoid investigation
- Summary suspensions that are the result of a professional review (in effect for more than 30 days), regardless of whether the action is final

AND

**B** Is based on the practitioner's professional competence or professional conduct that adversely affects, or could adversely affect, the health or welfare of a patient.



Initial

Submit within 30 days of when the action was taken

You must forward a copy of the report to your state licensing board in the NPDB system (or by mail)

### SUBMIT AN INITIAL ADVERSE ACTION REPORT

### REPORT MODIFICATIONS (when needed):

The NPDB notifies the subject of the report when the report is submitted, and when any of these modifications are made.

 Did your organization take an action that modifies or relates to a previously reported action (including reinstatements)?

SUBMIT A REVISION-TO-ACTION REPORT



 Did your organization determine there is an error or omission in a previously submitted report?

SUBMIT A CORRECTION REPORT



 Did your organization determine that an action should not have been reported because:

- 1 The report was erroneously submitted?
- 2 The action is not reportable?
- 3 The action was reversed or overturned?

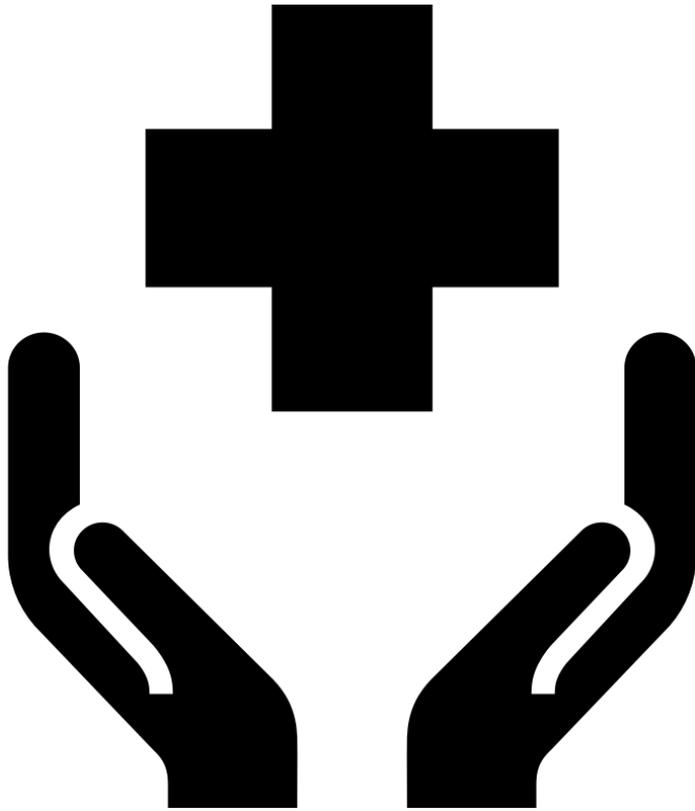
These are the only reasons for which a report may be voided.

VOID THE REPORT



\*Reporting of physicians and dentists is mandatory. Other health care practitioners may be reported.

# Clinical Privileges Reporting



## To Be Specific, Reportable Actions Include:

- Adverse clinical privileges actions >30 days related to professional competence or conduct
- Surrendering privileges while under investigation.

**Must report on:** Physicians and dentists

**May report on:** Other practitioners

# Surrendering While Under Investigation



# Clinical Privileges Reporting

## ► Investigations

1. Definition of term is not controlled by entity's bylaws
2. Routine review of a practitioner is *not* an investigation
3. Focus must be on a particular practitioner
4. Precursor to professional review action
5. Ongoing until decision-making authority takes final action



# Clinical Privileges Reporting

## Nonrenewals

- ▶ Ongoing investigation for possible professional incompetence or conduct
- ▶ Failure to renew privileges while under investigation
- ▶ Practitioner does not need to be aware of ongoing investigation

# Clinical Privileges Reporting

## Withdrawal of Applications

- ▶ Ongoing investigation for possible professional incompetence or conduct
- ▶ Practitioner applies for renewal of privileges and later voluntarily withdraws application
- ▶ Reportable regardless whether practitioner knew of ongoing investigation at time of withdrawal



# Question & Answer

## Question 1:

A hospital initiated an investigation related to the professional conduct of a physician who held time-limited, nonrenewable, temporary privileges at the hospital. During the investigation, the physician's temporary clinical privileges expired and the hospital took no further action. Should this be reported?



# Question & Answer

## Answer 1:

No. Generally, the NPDB makes no distinction between adverse actions taken with respect to temporary or permanent privileges. However, in this case, there was no resignation of privileges while under investigation because the temporary privileges expired and the physician could not renew them. This is unlike the typical situation where regular privileges that could be renewed expire during an investigation. In a situation such as that, an action to not renew permanent clinical privileges while under investigation for issues related to professional competence or conduct is considered a resignation while investigation and should be reported.



# Question & Answer

## Question 2:

An anesthesiologist is hired by the hospital's anesthesia group and receives temporary privileges while his application for clinical privileges is pending the formal review process. After the hospital receives several quality of care-related complaints about the anesthesiologist, the practitioner agrees to resign the temporary privileges and withdraw his application for full privileges in return for the hospital not investigating the complaints. Is this reportable?



# Question & Answer

## Answer 2:

Yes. The NPDB does not generally draw a distinction between adverse actions taken with respect to temporary or permanent privileges. Because the physician surrendered his temporary clinical privileges in return for the hospital not conducting an investigation into issues related to professional competence or conduct, the surrender must be reported.



# Question & Answer

## Question 3:

Is an agreement not to exercise privileges during an investigation, without actually surrendering the privileges, a resignation while under investigation that is reportable?



# Question & Answer

## Answer 3:

Yes, the agreement not to exercise privileges is reportable if other reportability conditions are met. NPDB regulations state that “acceptance of the surrender of clinical privileges or any restriction of such privileges...while under investigation” is reportable. An agreement not to exercise privileges is a restriction of privileges. Any restriction of privileges while under investigation, temporary or otherwise, is considered a resignation and must be reported.



# Question & Answer

## Question 4:

Is a leave of absence while under investigation considered to be a resignation of privileges that is reportable?



# Question & Answer

## Answer 4:

If a leave of absence while under investigation restricts privileges, it is reportable. NPDB's regulation states that "[a]cceptance of the surrender of clinical privileges or any restriction of such privileges" is reportable.

To the extent a leave of absence restricts a practitioner's ability to exercise privileges, it is considered a surrender that is reportable.

If a practitioner can take a leave of absence without affecting his or her privileges, and his or her privileges remain intact during the leave of absence, the leave of absence is not reportable to the NPDB.



# Question & Answer

## Question 5:

When does the review of an application for reappointment become an investigation if the physician resigns before final action is taken on the reappointment application?

For example, if a physician discloses on an application for reappointment that she has been a defendant in three malpractice cases during the last 2 years, and the credentials committee requests additional information about the cases, has an ongoing “routine review” become an “investigation?”



# Question & Answer

## Answer 5:

It depends. A routine or general review is not considered an investigation. For example, if all practitioners are automatically or routinely asked for additional information when they are defendants in a certain number of malpractice cases, this type of request probably would not be considered an investigation. Therefore, the resignation would not be reportable.

However, if officials at the reappointing hospital had specific concerns about this practitioner's competence based on the number or severity of the malpractice cases, then the inquiry appears to deviate from routine review, be focused on a particular practitioner, and concerns competence and conduct issues. In this situation, the activity may be seen as an investigation, and, if so, the resignation would be reportable.



# Question & Answer

## Question 6:

Is a resignation while subject to a “quality improvement plan” a resignation while under investigation? A quality improvement plan might include a limit on the number of patients a physician can have in a hospital at a time or a requirement that all surgical cases be discussed with the physician’s department chair in advance of surgery.

# Question & Answer

## Answer 6:

Imposition of a quality improvement plan raises two issues with respect to reportability.

First, a quality improvement plan may restrict a practitioner's clinical privileges. If so, and if the restriction is the result of a professional review action, concerns the practitioner's professional competence or conduct, and is in place longer than 30 days, the restriction may be reportable.

Second, if the quality improvement plan does not meet these requirements, it nonetheless may be considered an investigation so long as it meets the other requirements for an investigation. The reporting entity needs to determine whether the quality improvement plan is focused on one practitioner for competency concerns and whether such plans typically lead to a professional review action.

When making this determination, the entity should consider the language of the plan: Does it describe future disciplinary measures that may follow if the elements of the plan are not met? The entity also may consult its bylaws and policies, as well as standard practices, to decide whether the plan is the type of inquiry that leads to a professional review action. If the quality improvement plan meets the requirements of an investigation, then a resignation while under the plan would be reportable.

# Question & Answer

## Question 7:

Is a report required when clinical privileges lapse at the end of a 2-year appointment because there has been a recommendation by the Medical Executive Committee that the physician not be reappointed, but the physician's current 2-year appointment ends before a hearing can be held and final action taken by the hospital's governing body?



# Question & Answer

## Answer 7:

Yes. A non-renewal while under investigation is reportable to the NPDB. In this scenario, the investigation is ongoing at the time the renewal lapses; therefore, the non-renewal is reportable as a resignation of privileges while under investigation. The practitioner's awareness that an investigation is being conducted is not a requirement for filing a report with the NPDB.



# Adverse Actions Lasting Longer Than 30 Days



# Clinical Privileges Reporting

## Summary Suspensions

- ▶ In effect or imposed for more than 30 days
- ▶ Based on professional competence or conduct that adversely affects or could adversely affect health or welfare of patient
- ▶ Result of professional review action

# Question & Answer

## Question 8:

A hospital summarily suspended a physician's clinical privileges to allow sufficient time for allegations of gross negligence to be fully investigated. The day after the summary suspension was imposed, the physician requested an educational leave of absence. If the hospital grants the leave of absence, must the summary suspension be reported to the NPDB?

# Question & Answer

## Answer 8:

If the summary suspension is not lifted within 30 days, it must be reported to the NPDB, regardless of when the leave of absence begins or if it ever occurs.



# Clinical Privileges Reporting

## Denials and Restrictions

- ▶ Reportable if greater than 30 days and result of professional review action relating to professional competence or conduct
- ▶ Denials of initial applications for privileges reportable
- ▶ Restrictions that prevent practitioners from exercising independent judgment reportable



# Clinical Privileges Reporting

## Proctoring

- ▶ Proctor required in order to freely exercise privileges
- ▶ Imposed for more than 30 days
- ▶ Based on professional competence or conduct that adversely affects or could adversely affect health or welfare of patient
- ▶ Result of professional review action

# Question & Answer

## Question 9:

After conducting a professional review of a surgeon's competence, a hospital assigned a surgical proctor for 60 days. The surgeon could not perform surgery without being granted approval by the surgical proctor. Is the hospital required to report this action to the NPDB?



# Question & Answer

## Answer 9:

Yes. Since the surgeon cannot practice surgery without approval from the proctor, this restriction of clinical privileges, for more than 30 days, must be reported.



# Question & Answer

## Question 10:

Based on assessment of professional competence, a proctor is assigned to watch a physician's procedures for a period of more than 30 days, and the proctor needs to be present or grant approval before medical care is provided by the practitioner. Is this reportable to the NPDB?



# Question & Answer

## Answer 10:

Yes. If, for a period lasting more than 30 days, the physician cannot perform certain procedures without proctor approval or without the proctor being present and watching the physician, the action constitutes a restriction of clinical privileges and must be reported to the NPDB.

However, if the proctor is not required to be present for or approve the procedures (for example, the proctoring consists of the proctor reviewing the physician's records or procedures after they occur), the action is not considered a restriction of clinical privileges and should not be reported to the NPDB.



# Clinical Privileges Reporting

## Residents and Interns

- ▶ Adverse privileging actions outside scope of formal graduate educational program are reportable
- ▶ Example – moonlighting



# Clinical Privileges Reporting

## Temporary Privileges Not Reportable When...

- ▶ Awarded for fixed period of time
- ▶ No opportunities for renewal
- ▶ Practitioner and privileging party agree privileges are temporary
- ▶ Privileges expire while under investigation

# Question & Answer

## Question 11:

How should a hospital report to the NPDB when an adverse clinical privileges action it took against a practitioner is changed by court order?



# Question & Answer

## Answer 11:

Assuming all reporting prerequisites are met, the hospital should report the initial adverse action; the hospital should then report the judicial decision as either a revision or a void.

For example, if a hospital revoked clinical privileges and a judicial appeal resulted in the court modifying the discipline to suspension of clinical privileges for 6 months, the hospital would be required to report both its initial revocation (as an Initial Report) and the court-ordered revision to suspension (as a Revision-to-Action Report).

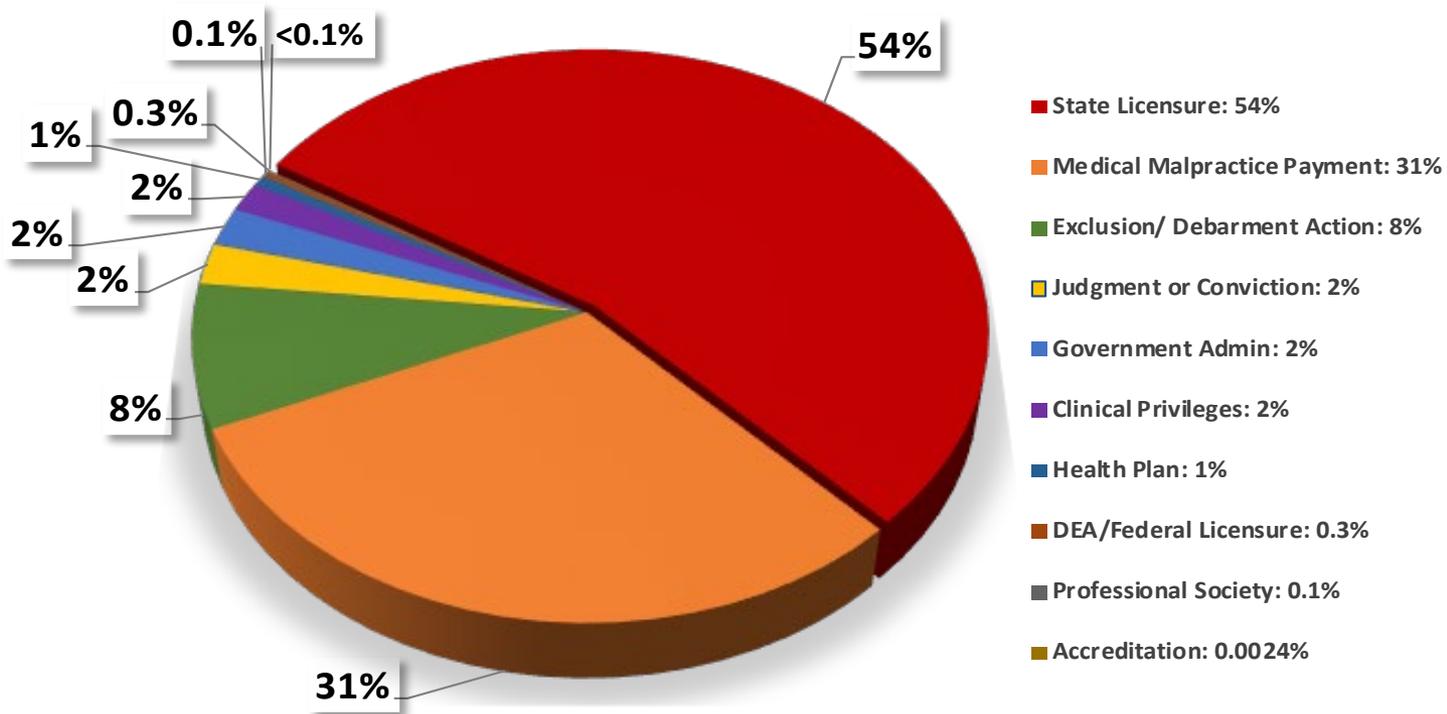
If the court overturned the hospital's decision, the hospital should void the Initial Report.



# NPDB Statistics

## NPDB Reports by Type (N = 1.4M)

As of December 31, 2018



# Questions



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