



Reporting Scenarios

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Vision: Healthy Communities, Healthy People



Welcome

As a reminder:

- You can view or download a copy of this presentation and the reporting scenarios at:

https://www.npdb.hrsa.gov/community_n_education/webcasts/reportingScenariosWebcast.jsp

- During the presentation, you can submit questions in the Zoom Q&A pod
- CEUs



Agenda

- ▶ Introduction
- ▶ State Licensure Reporting Scenario
- ▶ Medical Malpractice Payment Reporting Scenario
- ▶ Adverse Clinical Privileges Reporting Scenario



Introduction – Purpose

Mission: *To improve health care quality, protect the public, and reduce health care fraud and abuse in the United States.*

- The National Practitioner Data Bank (NPDB) is a health workforce tool, created by Congress, to assist organizations in making well-informed credentialing, privileging, and licensing decisions.
- Contains information on medical malpractice payments and certain adverse actions related to health care practitioners, entities, providers, and suppliers.



State Licensure Reporting Scenario



Basic State Licensure Reporting Requirements

All actions must be the result of a Formal Proceeding

State Licensing Boards must report:

- Adverse actions, including revocation, suspension, reprimand, censure or probation.
- Any other loss of license or right to apply for/renew license by operation of law, voluntary surrender, or nonrenewal, etc. (excluding non-payment of fees, retirement, inactive status).
- A dismissal or closure of a formal proceeding because the practitioner surrendered license or left jurisdiction.
- Any publicly available negative action or finding (includes a health care-related administrative fine or citation).



State Licensure Reporting Scenario

Part 1

Dr. S, a board-certified dentist, owns and operates a small dental clinic in Florida. She also holds a dental license in Maine. Due to her busy schedule, Dr. S forgot to renew her Maine license, which was required to be renewed by March 2021. Once Dr. S' Maine license lapsed, the Maine Dental Board's licensing system automatically suspended the license without confirmation or approval from the state licensing board and placed the license in inactive status.

Is the suspension of Dr. S' Maine license reportable?

- A. Yes, the suspension meets the reporting requirements of an adverse action.
- B. No, the suspension was not the result of a formal proceeding.
- C. It depends



State Licensure Reporting Scenario

Response to Part 1

Is the suspension of Dr. S' Maine license reportable?

B. No, the suspension was not the result of a formal proceeding. (**Correct** – Pursuant to Section 1921, all state licensure actions must be the result of a formal proceeding. For reporting purposes, a formal proceeding is one that is conducted by a state licensing or certification authority that maintains defined rules, policies, or procedures for such a proceeding. In this case, the system automatically suspended the license without the state board's approval or involvement, which does not meet the definition of a formal proceeding).

State Licensure Reporting Scenario

Part 2

A few months later at her clinic in Florida, Dr. S was treating a senior citizen for an emergency tooth extraction, which required placing the patient under general anesthesia. The patient experienced severe complications and went into cardiac arrest. The patient sustained a chronic disability and required long-term hospitalization.

After a thorough investigation, the Florida State Licensing Board (the Board) informed Dr. S that she was facing discipline due to the Board's claim that her "...negligence resulted in the harm of a patient." On May 1, 2021, Dr. S signed an agreement with the Board to suspend her Florida license for a period of 20 days. At the end of 20 days, Dr. S could request to have her license reinstated.



State Licensure Reporting Scenario

Part 2

Is the suspension of Dr. S' Florida license reportable?

- A. Yes, the suspension meets the reporting requirements of an adverse action.
- B. No, the suspension was *not in effect* for greater than 30 days.
- C. No, since Dr. S can petition the Board in 20 days to reinstate her license, the Board must wait the 20 days before reporting Dr. S to the NPDB.

State Licensure Reporting Scenario

Response to Part 2

Is the suspension of Dr. S' Florida license reportable?

- A. Yes, the suspension meets the reporting requirements of an adverse action. **(Correct – the suspension meets the definition of an adverse action under 45 CFR 60.9(a)(1))**
- B. No, the suspension was *not in effect* for greater than 30 days. **(Incorrect)**
- C. No, since Dr. S can petition the Board in 20 days to reinstate her license, the Board must wait the 20 days before reporting Dr. S to the NPDB. **(Incorrect)**

State Licensure Reporting Scenario

Part 3

The Board reported the suspension to the NPDB as an initial action.

On May 21, 2021, Dr. S petitioned the Florida State Licensing Board to have her license reinstated. The Board granted Dr. S' request and issued a board order placing Dr. S on probation for two years. The Board also issued Dr. S a \$1,000 administrative fee to pay for the investigation and the Board's legal costs. Both the fee and probation can be found on the Board's website. The Board submitted an *initial report* to the NPDB for the probation and fee. Dr. S disputed the report with the NPDB stating that the fee is not reportable because it is non-disciplinary.



State Licensure Reporting Scenario

Part 3

Did the Board correctly report the probation to the NPDB as an Initial Action?

- A. Yes, the probation is a separate incident from the suspension, so the board should submit it as an initial action.
- B. No, the Board should have submitted it as a Revision-to-Action since the probation is a continuation of the initial incident - the suspension.
- C. No, the Board should have corrected the initial report about the suspension to include the probation.

Did the Board correctly report the administrative fee to the NPDB?

- A. Yes, the administrative fee meets the reporting requirements of a negative action or finding.
- B. It depends whether the Board considers the fee a negative action or finding.
- C. No, since the fee is non-disciplinary, the Board does not need to report it.



State Licensure Reporting Scenario

Response to Part 3

Did the Board correctly report the probation to the NPDB as an Initial Action?

A. Yes, the probation is a separate incident from the suspension, so the board should submit it as an initial action. **(Incorrect)**

B. No, the Board should have submitted it as a Revision-to-Action since the probation is a continuation of the initial incident - the suspension. (Correct - A Revision-to-Action Report is a report of an action that modifies an adverse action previously reported to the NPDB)

C. No, the Board should have corrected the initial report about the suspension to include the probation. **(Incorrect)**



State Licensure Reporting Scenario

Response to Part 3

Did the Board correctly report the administrative fee to the NPDB?

A. Yes, the administrative fee meets the reporting requirements of a negative action or finding. **(Correct)** –The definition of a negative action excludes administrative fines and citations unless they are (1) connected to the delivery of health care services, **or** (2) *taken in conjunction with other adverse licensure or certification actions such as revocation, suspension, censure, reprimand, probation, or surrender.* In this scenario, the fee is connected to an adverse action, so it is reportable.)

B. It depends whether the Board considers the fee a negative action or finding. **(Incorrect)**

C. No, since the fee is non-disciplinary, the Board does not need to report it. **(Incorrect)**



Medical Malpractice Payment Reporting Scenario



Basic Medical Malpractice Payment Requirements

Requirements

- Must be an exchange of money on behalf of a health care practitioner
- Must be the result of a written complaint or claim demanding monetary payment for damages (based on the practitioner's provision of or failure to provide health care services).
- The practitioner must be named or sufficiently described in both the complaint or claim, and the settlement release or final adjudication.

Medical Malpractice Payment Reporting Scenario

Part 1

Dr. L is an oncologist at the Eding Clinic, a clinic that provides a wide range of medical services and employs 30 other medical professionals. Dr. L and the Eding Clinic are insured by XYZ Liability Insurance Company. Dr. L was treating Patient A for abdominal pain. Although several tests were performed on Patient A, Dr. L failed to find a cause for the pain and simply prescribed an over-the-counter painkiller. One month later, Patient A returned to the Eding Clinic with complaints that the pain had gotten worse. Dr. L eventually diagnosed Patient A with colon cancer. Patient A suffered injury to his colon, which required a number of surgeries. The injury could have been avoided with more advance notice of the diagnosis and earlier treatment.



Medical Malpractice Payment Reporting Scenario

Part 1

Patient A hired an attorney. The attorney wrote to the Eding Clinic a notice of intent to sue and requested compensation. The notice stated:

Due to the delayed diagnosis and negligence of the Eding Clinic and the doctor who treated Patient A for abdominal pain at Eding, Patient A suffered serious injury. Patient A is seeking \$5,000 in damages for the injuries suffered.



Medical Malpractice Payment Reporting Scenario

Part 1

Is Patient A's notice of intent to sue sufficient to satisfy the NPDB requirement of a claim or complaint?

- A. No, a notice of intent is not a claim or complaint according to the NPDB regulations.
- B. No, it does not specifically name Dr. L, so it does not meet the NPDB requirement that the practitioner be named.
- C. Yes, it sufficiently describes Dr. L and meets the NPDB reporting requirement for a claim or complaint.

Medical Malpractice Payment Reporting Scenario

Response Part 1

Is Patient A's notice of intent to sue sufficient to satisfy the NPDB requirement of a claim or complaint?

- A. No, a notice of intent is not a claim or complaint according to the NPDB regulations. **(Incorrect)**
- B. No, it does not specifically name Dr. L, so it does not meet the NPDB requirement that the practitioner be named. **(Incorrect)**
- C. **Yes, it sufficiently describes Dr. L and meets the NPDB reporting requirement for a claim or complaint. (Correct** - The given name of the practitioner does not have to appear in the complaint, release, or final adjudication as long as the practitioner is sufficiently described as to be identifiable. In the scenario, Dr. L was the doctor treating patient A for abdominal pain at Eding Clinic, so she is sufficiently described for NPDB reporting purposes. Additionally, the notice of intent satisfies the other requirements of a claim or complaint – it is written and demands monetary payment for damages.



Medical Malpractice Payment Reporting Scenario

Part 2

Upon receiving the notice of intent to sue, Dr. L worried about the effect that the bad publicity from a lawsuit could have on her practice, so she decided to settle the claim out of her own pocket. Dr. L paid Patient A the \$5,000 in exchange for a written statement from Patient A releasing Dr. L of all legal liability related to the incident.

Does Dr. L have to report the \$5,000 payment to the NPDB?

- A. No, the NPDB only requires payments over \$10,000 to be reported to the NPDB.
- B. No, since Dr. L paid the money out of her own pocket, she does not have to report it.
- C. Yes, since there was a complaint that sufficiently identified Dr. L and there was a payment in response to that complaint, the payment must be reported to the NPDB.



Medical Malpractice Payment Reporting Scenario

Response Part 2

Does Dr. L have to report the \$5,000 payment to the NPDB?

- A. No, the NPDB only requires payments over \$10,000 to be reported to the NPDB. (**Incorrect** – there is no minimum threshold amount for reporting medical malpractice payments. All payments that meet the NPDB reporting requirements are reportable.)
- B. **No, since Dr. L paid the money out of her own pocket, she does not have to report it. (Correct** - Individuals are not required to report to the NPDB payments they make for their own benefit. Thus, if a practitioner or other individual makes a medical malpractice payment out of personal funds, the payment should not be reported.)
- C. Yes, since there was a complaint that sufficiently identified Dr. L and there was a payment in response to that complaint, the payment must be reported to the NPDB. (**Incorrect**)



Medical Malpractice Payment Reporting Scenario

Part 3

A week after Dr. L paid the \$5,000 to Patient A, she submitted a claim to XYZ Liability Insurance Company. XYZ Liability Insurance Company had a policy that reimbursed policy holders from out-of-pocket expenses up to \$5,000, and it sent Dr. L a \$5,000 check.

Does XYZ Liability Insurance Company need to report the \$5,000 payment to the NPDB?

- A. No, since the insurance company is reimbursing Dr. L, the reimbursement does not meet NPDB reporting requirements.
- B. No, there was no settlement between XYZ Liability Insurance Company and Patient A.
- C. Yes, since there was a written complaint and XYZ Liability Insurance Company is making a payment on Dr. L's behalf by reimbursing Dr. L.



Medical Malpractice Payment Reporting Scenario

Response to Part 3

Does XYZ Liability Insurance Company need to report the \$5,000 payment to the NPDB?

- A. No, since the insurance company is reimbursing Dr. L, the reimbursement does not meet NPDB reporting requirements. **(Incorrect)**
- B. No, there was no settlement between XYZ Liability Insurance Company and Patient A. **(Incorrect)**
- C. **Yes, since there was a written complaint and XYZ Liability Insurance Company is making a payment on Dr. L's behalf by reimbursing Dr. L. (Correct – Once XYZ reimburses Dr. L for the \$5,000, XYZ must report the payment because the requirements for a medical malpractice payment have been met:**
 - 1. There was an exchange of money
 - 2. There was a written complaint or claim demanding monetary payment for damages
 - 3. Dr. L was sufficiently described in both the complaint and the release)



Adverse Clinical Privileges Reporting Scenario



Basic Clinical Privileges Reporting Requirements

Requirements

- Professional review actions that adversely affects a physician's or dentist's clinical privileges for more than 30 days.
 - Examples: reducing, restricting, suspending, revoking or denying privileges. And, decisions not to renew privileges if based on professional competence or conduct.
 - Actions are reportable when they are made final by entity. But, summary suspensions exceeding 30 days are reportable even if not final.
- Acceptance of a physician's or dentist's surrender or restriction of clinical privileges while under investigation for possible professional incompetence or improper professional conduct, or in return for not conducting such an investigation or not taking a professional review action.



Clinical Privileges Reporting Scenario

Part 1

Dr. X is an obstetrician/gynecologist at Memorial Hospital. He became the subject of a medical staff peer review after complications arose during several of his laparoscopic surgeries. Memorial Hospital sent a sampling of his cases for external peer review to determine whether there was breach of standard of care in his cases. The external peer review outcomes indicated that 75% of his cases did not meet the standard of care. The Medical Executive Committee decided to implement a review of Dr. X's laparoscopic practice to include proctoring of his next 15 cases. While the proctor can make recommendations, the proctor had no authority to take over the cases or veto Dr. X's decisions in those cases.



Clinical Privileges Reporting Scenario

Part 1

For NPDB reporting purposes, had Memorial Hospital begun an investigation into Dr. X's situation?

- A. No, there is no specific reference to an “investigation” in Dr. X's situation thus far.
- B. Yes, an investigation began when Dr. X became the subject of an external peer review following complications from his laparoscopic surgeries.
- C. Yes, an investigation began when the Medical Executive Committee implemented a review of Dr. X's laparoscopic practice to include proctoring of his next 15 cases.

If yes, should Memorial Hospital submit an NPDB report indicating Dr. X was under investigation for laparoscopic surgical complications?

- A. Yes, investigations for professional competence or professional conduct are reportable to the NPDB.
- B. No, investigations should not be reported unless a physician or dentist surrenders or fails to renew clinical privileges, or if privileges are restricted while the practitioner is under investigation by a health care entity for possible incompetence or improper professional conduct, or in return for not conducting an investigation. In such cases, the surrender or restriction must be reported.



Clinical Privileges Reporting Scenario

Investigations

- Term “investigation” is defined very broadly
 - Runs from start of inquiry until a final decision reached or a decision to not pursue the matter
 - Not limited to gathering of facts or how it is defined in hospital’s bylaws
- Follows a targeted, formal process when competence or conduct issues arise relating to a “specific” practitioner. Excludes routine, formal review of certain competencies of all practitioners.



Clinical Privileges Reporting Scenario

Response to Part 1

For NPDB reporting purposes, had Memorial Hospital begun an investigation into Dr. X's situation?

- A. No, there is no specific reference in an “investigation” in Dr. X's situation thus far. **(Incorrect)**
- B. Yes, an investigation began when Dr. X became the subject of an external peer review following complications from his laparoscopic surgeries. **(Correct)**
- C. Yes, an investigation began when the Medical Executive Committee implemented a review of Dr. X's laparoscopic practice to include proctoring of his next 15 cases. **(Incorrect)**



Clinical Privileges Reporting Scenario

Response to Part 1

If yes, should Memorial Hospital submit an NPDB report indicating Dr. X was under investigation for laparoscopic surgeries?

- A. Yes, investigations for professional competence or professional conduct are reportable to the NPDB. **(Incorrect)**
- B. No, investigation should not be reported unless a physician or dentist surrenders or fails to renew clinical privileges, or if privileges are restricted while the practitioner is under investigation by a health care entity for possible incompetence or improper professional conduct, or in return for not conducting an investigation. In such cases, the surrender or restriction must be reported. **(Correct)**



Clinical Privileges Reporting Scenario

Part 2

Several months later, Memorial Hospital received a complaint from a staff member about Dr. X. The staff member was uncomfortable with Dr X's request that she change the documentation of certain details of a difficult delivery in the patient's medical records. Memorial Hospital began an investigation by interviewing staff and meeting with Dr. X about this specific incident of changing certain details in a patient's medical records. Shortly thereafter, Dr. X submitted his resignation from the medical staff at Memorial Hospital. At the time of his resignation, Dr. X had not yet completed his proctoring requirement.

Clinical Privileges Reporting Scenario

Part 2

How many reports should Memorial Hospital have submitted to the NPDB to fulfill their reporting obligations in this scenario?

- A. One report. Memorial Hospital was required to submit a report when Dr. X resigned from the medical staff following the investigation into complaints he asked a staff member to change certain details in a patient's medical records.
- B. Two reports. Memorial Hospital was required to submit an Initial report detailing Dr. X's proctoring requirement while performing laparoscopic surgeries. Later, Memorial Hospital was required to submit a Revision-to-Action report detailing Dr. X's resignation following investigation of the medical records tampering incident.

What if there had been no "medical record tampering incident." Instead, several months later, Dr. X resigned from the medical staff to take a more lucrative job elsewhere. At the time he resigned, he had completed only 10 of his 15 cases.

Did Memorial Hospital have a NPDB reporting obligation concerning Dr. X?

- A. No. If there was no medical records tampering incident, then there was no investigation concerning Dr. X.
- B. Yes. The Medical Executive Committee's focused review of Dr. X's laparoscopic practice to include proctoring was an investigation that had not concluded. Therefore, Dr. X is considered to have resigned while under investigation.



Clinical Privileges Reporting Scenario

Investigations

- **Definition of an investigation not controlled by entity's bylaws**
- **Routine review of a practitioner is not an investigation**
- **Focus must be on a particular practitioner**
- **Concerns professional competence and conduct**
- **Precursor to professional review action**
- **Ongoing until decision-making authority takes final action**



Clinical Privileges Reporting Scenario

Response to Part 2

How many reports should Memorial Hospital have submitted to the NPDB to fulfill their reporting obligations in this scenario?

- A. One report. Memorial Hospital was required to submit a report when Dr. X resigned from the medical staff following the investigation into complaints he asked a staff member to change certain details in a patient's medical records. **(Correct)**
- B. Two reports. Memorial Hospital was required to submit an Initial report detailing Dr. X's proctoring requirement while performing laparoscopic surgeries. Later, Memorial Hospital was required to submit a Revision-to-Action report detailing Dr. X's resignation following investigation of the medical records tampering incident. **(Incorrect)**



Clinical Privileges Reporting Scenario

Response to Part 2

What if there had been no “medical record tampering incident.” Instead, several months later, Dr. X resigned from the medical staff to take a more lucrative job elsewhere. At the time he resigned, he had completed only 10 of his 15 cases. Did Memorial Hospital have a NPDB reporting obligation concerning Dr. X?

- A. No. If there was no medical records tampering incident, then there was no investigation concerning Dr. X. **(Incorrect)**
- B. Yes. The Medical Executive Committee’s focused review of Dr. X’s laparoscopic practice to include proctoring was an investigation that had not concluded. Therefore, Dr. X is considered to have resigned while under investigation. **(Correct)**



Introduction – Information in the NPDB

Types of Information Collected

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

Visit www.NPDB.HRSA.gov to learn more about reporting requirements



Resources

Help When You Need It

- Website: www.npdb.hrsa.gov
- [Infographics](#)
- [NPDB Guidebook](#)
- [Recorded webinars](#)
- [Regulations](#)
- [Statistical data & Research tools](#)
- [Codes for reporting and querying](#)
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- The survey will close on Tuesday, November 23, 2021



Questions



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