

§ 60.4

Professional review action means an action or recommendation of a health care entity:

(a) Taken in the course of professional review activity;

(b) Based on the professional competence or professional conduct of an individual physician, dentist or other health care practitioner which affects or could affect adversely the health or welfare of a patient or patients; and

(c) Which adversely affects or may adversely affect the clinical privileges or membership in a professional society of the physician, dentist or other health care practitioner.

(d) This term excludes actions which are primarily based on:

(1) The physician's, dentist's or other health care practitioner's association, or lack of association, with a professional society or association;

(2) The physician's, dentist's or other health care practitioner's fees or the physician's, dentist's or other health care practitioner's advertising or engaging in other competitive acts intended to solicit or retain business;

(3) The physician's, dentist's or other health care practitioner's participation in prepaid group health plans, salaried employment, or any other manner of delivering health services whether on a fee-for-service or other basis;

(4) A physician's, dentist's or other health care practitioner's association with, supervision of, delegation of authority to, support for, training of, or participation in a private group practice with, a member or members of a particular class of health care practitioner or professional; or

(5) Any other matter that does not relate to the competence or professional conduct of a physician, dentist or other health care practitioner.

Professional review activity means an activity of a health care entity with respect to an individual physician, dentist or other health care practitioner:

(a) To determine whether the physician, dentist or other health care practitioner may have clinical privileges with respect to, or membership in, the entity;

(b) To determine the scope or conditions of such privileges or membership; or

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(c) To change or modify such privileges or membership.

Secretary means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

State means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

[54 FR 42730, Oct. 17, 1989; 54 FR 43890, Oct. 27, 1989]

Subpart B—Reporting of Information

§ 60.4 How information must be reported.

Information must be reported to the Data Bank or to a Board of Medical Examiners as required under §§ 60.7, 60.8, and 60.9 in such form and manner as the Secretary may prescribe.

§ 60.5 When information must be reported.

Information required under §§ 60.7, 60.8, and 60.9 must be submitted to the Data Bank within 30 days following the action to be reported, beginning with actions occurring on or after September 1, 1990, as follows:

(a) *Malpractice Payments (§ 60.7)*. Persons or entities must submit information to the Data Bank within 30 days from the date that a payment, as described in § 60.7, is made. If required under § 60.7, this information must be submitted simultaneously to the appropriate State licensing board.

(b) *Licensure Actions (§ 60.8)*. The Board must submit information within 30 days from the date the licensure action was taken.

(c) *Adverse Actions (§ 60.9)*. A health care entity must report an adverse action to the Board within 15 days from the date the adverse action was taken. The Board must submit the information received from a health care entity within 15 days from the date on which it received this information. If required under § 60.9, this information must be submitted by the Board simultaneously to the appropriate State licensing board in the State in which the health

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care entity is located, if the Board is not such licensing Board.

[54 FR 42730, Oct. 17, 1989, as amended at 55 FR 50003, Dec. 4, 1990]

§ 60.6 Reporting errors, omissions, and revisions.

(a) Persons and entities are responsible for the accuracy of information which they report to the Data Bank. If errors or omissions are found after information has been reported, the person or entity which reported it must send an addition or correction to the Data Bank or, in the case of reports made under § 60.9, to the Board of Medical Examiners, as soon as possible.

(b) An individual or entity which reports information on licensure or clinical privileges under §§ 60.8 or 60.9 must also report any revision of the action originally reported. Revisions include reversal of a professional review action or reinstatement of a license. Revisions are subject to the same time constraints and procedures of §§ 60.5, 60.8, and 60.9, as applicable to the original action which was reported.

Approved by the Office of Management and Budget under control number 0915-0126)

[54 FR 42730, Oct. 17, 1989, as amended at 55 FR 50004, Dec. 4, 1990]

§ 60.7 Reporting medical malpractice payments.

(a) *Who must report.* Each entity, including an insurance company, which makes a payment under an insurance policy, self-insurance, or otherwise, for the benefit of a physician, dentist or other health care practitioner in settlement of or in satisfaction in whole or in part of a claim or a judgment against such physician, dentist, or other health care practitioner for medical malpractice, must report information as set forth in paragraph (b) to the Data Bank and to the appropriate State licensing board(s) in the State in which the act or omission upon which the medical malpractice claim was based. For purposes of this section, the waiver of an outstanding debt is not construed as a "payment" and is not required to be reported.

(b) *What information must be reported.* Entities described in paragraph (a) must report the following information:

(1) With respect to the physician, dentist or other health care practitioner for whose benefit the payment is made—

- (i) Name,
- (ii) Work address,
- (iii) Home address, if known,
- (iv) Social Security number, if known, and if obtained in accordance with section 7 of the Privacy Act of 1974,
- (v) Date of birth,
- (vi) Name of each professional school attended and year of graduation,
- (vii) For each professional license: the license number, the field of licensure, and the name of the State or Territory in which the license is held,
- (viii) Drug Enforcement Administration registration number, if known,
- (ix) Name of each hospital with which he or she is affiliated, if known;

(2) With respect to the reporting entity—

- (i) Name and address of the entity making the payment,
- (ii) Name, title, and telephone number of the responsible official submitting the report on behalf of the entity, and
- (iii) Relationship of the reporting entity of the physician, dentists, or other health care practitioner for whose benefit the payment is made;

(3) With respect to the judgment or settlement resulting in the payment—

- (i) Where an action or claim has been filed with an adjudicative body, identification of the adjudicative body and the case number,
- (ii) Date or dates on which the act(s) or omission(s) which gave rise to the action or claim occurred,
- (iii) Date of judgment or settlement,
- (iv) Amount paid, date of payment, and whether payment is for a judgment or a settlement,
- (v) Description and amount of judgment or settlement and any conditions attached thereto, including terms of payment,
- (vi) A description of the acts or omissions and injuries or illnesses upon which the action or claim was based,
- (vii) Classification of the acts or omissions in accordance with a reporting code adopted by the Secretary, and
- (viii) Other information as required by the Secretary from time to time