

§ 60.11

held liable for this reliance unless the hospital has knowledge that the information provided was false.

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§ 60.11 Requesting information from the National Practitioner Data Bank.

(a) *Who may request information and what information may be available.* Information in the Data Bank will be available, upon request, to the persons or entities, or their authorized agents, as described below:

(1) A hospital that requests information concerning a physician, dentist or other health care practitioner who is on its medical staff (courtesy or otherwise) or has clinical privileges at the hospital,

(2) A physician, dentist, or other health care practitioner who requests information concerning himself or herself,

(3) Boards of Medical Examiners or other State licensing boards,

(4) Health care entities which have entered or may be entering employment or affiliation relationships with a physician, dentist or other health care practitioner, or to which the physician, dentist or other health care practitioner has applied for clinical privileges or appointment to the medical staff,

(5) An attorney, or individual representing himself or herself, who has filed a medical malpractice action or claim in a State or Federal court or other adjudicative body against a hospital, and who requests information regarding a specific physician, dentist, or other health care practitioner who is also named in the action or claim. Provided, that this information will be disclosed only upon the submission of evidence that the hospital failed to request information from the Data Bank as required by § 60.10(a), and may be used solely with respect to litigation resulting from the action or claim against the hospital,¹¹(6) A health care entity with respect to professional review activity, and

(7) A person or entity who requests information in a form which does not permit the identification of any particular health care entity, physician,

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dentist, or other health care practitioner.

(b) *Procedures for obtaining National Practitioner Data Bank information.* Persons and entities may obtain information from the Data Bank by submitting a request in such form and manner as the Secretary may prescribe. These requests are subject to fees as described in § 60.12.

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

§ 60.12 Fees applicable to requests for information.

(a) *Policy on Fees.* The fees described in this section apply to all requests for information from the Data Bank. These fees are authorized by section 427(b)(4) of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11137). They reflect the costs of processing requests for disclosure and of providing such information. The actual fees will be announced by the Secretary in periodic notices in the FEDERAL REGISTER.

(b) *Criteria for determining the fee.* The amount of each fee will be determined based on the following criteria:

(1) Use of electronic data processing equipment to obtain information—the actual cost for the service, including computer search time, runs, printouts, and time of computer programmers and operators, or other employees,

(2) Photocopying or other forms of reproduction, such as magnetic tapes—actual cost of the operator's time, plus the cost of the machine time and the materials used,

(3) Postage—actual cost, and

(4) Sending information by special methods requested by the applicant, such as express mail or electronic transfer—the actual cost of the special service.

(c) *Assessing and collecting fees.* The Secretary will announce through notice in the FEDERAL REGISTER from time to time the methods of payment of Data Bank fees. In determining these methods, the Secretary will consider efficiency, effectiveness, and convenience for the Data Bank users and the Department. Methods may include:

credit card; electronic fund transfer; check; and money order.

[54 FR 42730, Oct. 17, 1989, as amended at 60 FR 27899, May 26, 1995; 64 FR 9922, Mar. 1, 1999]

§ 60.13 Confidentiality of National Practitioner Data Bank information.

(a) *Limitations on disclosure.* Information reported to the Data Bank is considered confidential and shall not be disclosed outside the Department of Health and Human Services, except as specified in § 60.10, § 60.11 and § 60.14. Persons and entities which receive information from the Data Bank either directly or from another party must use it solely with respect to the purpose for which it was provided. Nothing in this paragraph shall prevent the disclosure of information by a party which is authorized under applicable State law to make such disclosure.

(b) *Penalty for violations.* Any person who violates paragraph (a) shall be subject to a civil money penalty of up to \$10,000 for each violation. This penalty will be imposed pursuant to procedures at 42 CFR part 1003.

§ 60.14 How to dispute the accuracy of National Practitioner Data Bank information.

(a) *Who may dispute National Practitioner Data Bank information.* Any physician, dentist or other health care practitioner may dispute the accuracy of information in the Data Bank concerning himself or herself. The Secretary will routinely mail a copy of any report filed in the Data Bank to the subject individual.

(b) *Procedures for filing a dispute.* A physician, dentist or other health care practitioner has 60 days from the date on which the Secretary mails the report in question to him or her in which to dispute the accuracy of the report. The procedures for disputing a report are:

(1) Informing the Secretary and the reporting entity, in writing, of the disagreement, and the basis for it,

(2) Requesting simultaneously that the disputed information be entered into a “disputed” status and be reported to inquirers as being in a “disputed” status, and

(3) Attempting to enter into discussion with the reporting entity to resolve the dispute.

(c) *Procedures for revising disputed information.* (1) If the reporting entity revises the information originally submitted to the Data Bank, the Secretary will notify all entities to whom reports have been sent that the original information has been revised.

(2) If the reporting entity does not revise the reported information, the Secretary will, upon request, review the written information submitted by both parties (the physician, dentist or other health care practitioner), and the reporting entity. After review, the Secretary will either—

(i) If the Secretary concludes that the information is accurate, include a brief statement by the physician, dentist or other health care practitioner describing the disagreement concerning the information, and an explanation of the basis for the decision that it is accurate, or

(ii) If the Secretary concludes that the information was incorrect, send corrected information to previous inquirers.

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[54 FR 42730, Oct. 17, 1989, as amended at 54 FR 43890, Oct. 27, 1989]

PART 61—HEALTHCARE INTEGRITY AND PROTECTION DATA BANK FOR FINAL ADVERSE INFORMATION ON HEALTH CARE PROVIDERS, SUPPLIERS AND PRACTITIONERS

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