National Practitioner Data Bank: Partnering to Protect Patients

Medical Malpractice Payment Reporting Requirements

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Overview

► NPDB Medical Malpractice Payment Reporting Data
► Medical Malpractice Payment Reporting Requirements
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PLEASE NOTE

This presentation and discussion is intended only as a general overview of the NPDB Medical Malpractice Payment Report (MMPR) requirements. It does **NOT** address all possible situations in which an MMPR should, or should not, be submitted to the NPDB. We cannot provide any specific legal or medical advice or guidance in this area. If you have any questions or need clarification regarding specific situations within your agency, hospital, workplace, or other place of business, your best option is to contact our **Customer Service Center** via the Web or call 1-800-767-6732. You may also e-mail the **NPDB Policy Center**.
Medical Malpractice Payment
Selected Data And Trends
NPDB Statistics

NPDB Reports by Type  (N = 1.62 M)
As of December 31, 2020

- State Licensure: 55%
- Medical Malpractice Payment: 29%
- Exclusion/Debarment Action: 8%
- Judgment or Conviction: 2%
- Government Admin: 2%
- Clinical Privileges: 2%
- Health Plan: 1%
- DEA/Federal Licensure: 0.4%
- Professional Society: 0.1%
- Accreditation: 0.0022%
Medical Malpractice Payment Reports Data

Number of MMPRs by Payment Year, 1991 - 2020

- 19,054 reports in 1991
- 19,795 reports in 2001
- 8,496 reports in 2020

Payment Year: 1990 to 2020

Number of Reports: 0 to 22,000
Medical Malpractice Payment Reports Data

Patient Outcome in MMPRs, 1990 - 2020

- Death
- Minor Temporary Injury
- Significant Permanent Injury
- Minor Permanent Injury
- Major Temporary Injury
- Major Permanent Injury
- Quadriplegic, Brain Damage, Lifelong Care
- Insignificant Injury
- Emotional Injury Only
- Cannot Be Determined from Available Records

Number of Reports
Median Inflation Adjusted Payment by Outcome, 1990-2020

- Quadriplegic, Brain Damage, Lifelong Care
- Major Permanent Injury
- Significant Permanent Injury
- Death
- Major Temporary Injury
- Minor Permanent Injury
- Cannot Be Determined from Available Records
- Emotional Injury Only
- Minor Temporary Injury
- Insignificant Injury

$0  $175,000  $350,000  $525,000  $700,000

Median Inflation Adjusted Payment
NPDB Medical Malpractice Payment Reporting Requirements
Medical Malpractice Payment Reporting

The Law:

As stated in Section 60.7 of the NPDB regulations:

“Each entity, including an insurance company, which makes a payment under an insurance policy, self-insurance, or otherwise, for the benefit of a health care practitioner in settlement of or in satisfaction in whole or in part of a claim or a judgment against such health care practitioner for medical malpractice, must report information as set forth in paragraph (b) of this section to the NPDB 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.”
Medical Malpractice Payment Reporting

Queriers should note that, as stated in Section 427(d) of the Health Care Quality Improvement Act of 1986, as amended (Title IV of Public Law 99-660), and in 45 CFR §60.7(d) of the NPDB regulations, a “payment in settlement of a medical malpractice action or claim shall not be construed as creating a presumption that medical malpractice has occurred.”
Medical Malpractice Payment Reporting

To be reported to the NPDB, an MMPR MUST

1. Be the result of a written complaint or claim demanding monetary payment for damages. *(The written complaint or claim must be based on a practitioner's provision of or failure to provide health care services.)*

2. Document that the practitioner was named or identified in the complaint or claim demanding monetary payment and in the settlement release or final adjudication.

3. Document that a payment was made on behalf of the practitioner named in the settlement of a claim. *

*(Both settlements and judgments, no dollar threshold for reporting)*
Medical Malpractice Payment Reporting

Non-Reportable Payments

- Medical malpractice payments made solely for the benefit of a corporation such as a clinic, group practice, or hospital.

- A person, rather than a professional corporation or business entity, makes a payment out of personal funds.

- Defendant health care practitioner is dismissed from the lawsuit before settlement or judgment and not as a condition in the settlement or release.

Note: Confidential terms of a settlement do not excuse a reporting entity from submitting an MMPR Report to the NPBD.
Medical Malpractice Payment Reporting

Non-Reportable Payments – Continued

• Practitioners not named or described in a written demand or lawsuit.

• Waiver of debt.

• Unlicensed students.
Important to Note

- Standard of Care determinations are irrelevant for determining reporting requirements.
- Title IV and NPDB regulations recognize: A report does not mean that malpractice occurred, only that a payment was made.
- If a payment was made for multiple practitioners, the insurer must report, where possible, the actual amount paid for the benefit of each named practitioner.
High-Low Agreements

• Contractual agreement that defines the parameters of payments.
• Low-end payments reportable unless the defendant is not found liable.
• Settlement prior to trial with high-low agreement does not alter the requirement to report the settlement payment to the NPDB.
Medical Malpractice Payment Reporting

Loss Adjustment Expenses (LAEs)

- LAEs refer to expenses other than those in compensation of injuries, such as attorney fees, billable hours, copying costs, expert witness fees, and deposition and transcript costs.

- LAEs should be reported to the NPDB only if they are included in a medical malpractice payment.

- LAEs should be itemized in the narrative description section of the reporting format.
Claims in Alternate Settings

Claims raised in other adjudicative bodies, such as alternative dispute resolution or disclosure, apology, and offer models, are considered “claims” for the purposes of reporting, when they include a written demand from the patient for compensation.
Settlements in Other Adjudicated Actions

Actions that occur in conjunction with settlements in which no findings or admissions of liability have been made, but that meet other NPDB reporting requirements, must be reported.
Federal Agencies Memoranda of Understanding (MOU)

Several Federal Agency partners reporting of Medical Malpractice Payment Reports to the NPDB are governed by special MOUs with the DHHS. While the specific terms and conditions may vary, the reporting requirements of the respective MOUs supersede the federal regulations and Guidebook requirements governing NPDB reporting of MMPRs.

Currently, these Agency partners include:

1. Department of Veterans Affairs
2. Bureau of Prisons
3. Department of Defense
4. Public Health Service
Reportable/Not Reportable Examples
Reportable/Not Reportable?

1. A payment made for the benefit of an unlicensed medical resident
   – Not Reportable

2. A practitioner defendant released from a medical malpractice lawsuit as a condition of settlement.
   – Reportable

3. A malpractice settlement or court judgement that includes a stipulation that the terms are kept confidential.
   – Reportable

4. A practitioner’s fee refunded by an entity (including a solo incorporated practitioner) as a result of a written demand.
   – Reportable

5. A medical malpractice payment made for the benefit of a practitioner who settled out of court.
   – Reportable
Resources

- The NPDB Web Site
- Medical Malpractice Reporting Regulations
- NPDB Guidebook: Reporting Medical Malpractice Payments
- NPDB Guide to Reporting MMPR Infographic
- NPDB Help Center
- Policy Questions: NPDBPolicy@hrsa.gov
Contact Us

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npdbpolicy@hrsa.gov
Questions