

(3) Operated under the authority of the Federal Employees Compensation Act or the Longshoremen's and Harbor Workers' Compensation Act.

[57 FR 41103, Sept. 9, 1992. Redesignated and amended at 65 FR 7729, 7731, Feb. 16, 2000; 67 FR 57742, Sept. 12, 2002]

PART 221—DEPARTMENT OF DEFENSE PARTICIPATION IN THE NATIONAL PRACTITIONER DATA BANK (NPDB)

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AUTHORITY: Public Law 99-660, title IV (44 U.S.C. 11131–11152).

SOURCE: 55 FR 50321, Dec. 6, 1990, unless otherwise noted.

§ 221.1 Purpose.

This part:

(a) Establishes DoD policy, assigns responsibilities, and prescribes procedure for implementing Public Law 99-660, title IV and the objectives of the Memorandum of Understanding (MOU) between the Department of Health and Human Services (DHHS) and the Department of Defense, September 21, 1987, which outlines the DoD's participation in the National Practitioner Data Bank (NPDB).

(b) Specifies the content of confidential reports to the NPDB established under part B of Public Law 99-660, and reporting responsibilities.

§ 221.2 Applicability and scope.

This part applies to:

(a) The Office of the Secretary of Defense (OSD) and the Military Departments (including their National Guard and Reserve components). The term, "Military Departments," as used herein, refers to the Army, the Navy, and the Air Force.

(b) Healthcare personnel who are in professions required to possess a li-

cense under DoD Directive 6025.6¹ and/or who are granted individual clinical privileges.

§ 221.3 Definitions.

(a) *Healthcare entity.* A hospital, ambulatory health clinic, or dental clinic with an independent healthcare practitioner staff that carries out professional staff review and provides healthcare to medical or dental patients; and applicable professional staff components of each Service, as designated by the respective Surgeon General, which also perform peer review as part of the quality assurance program.

(b) *Licensed healthcare practitioner.* Any healthcare practitioner of one of the professions required to possess a professional license, as prescribed in DoD Directive 6025.6.

(c) *The National Practitioner Data Bank (NPDB).* The organization developed according to Public Law 99-660 to receive and provide data on professional competence and conduct of physicians, dentists, and other licensed healthcare providers. In Public Law 99-660, it is referred to as the "National Data Bank." That name was changed after the MOU was signed.

§ 221.4 Policy.

It is DoD policy that:

(a) Professional review shall occur in every case of alleged malpractice.

(b) When a malpractice claim results in a monetary payment for the benefit of a physician, dentist, or other healthcare practitioner required to be licensed by DoD Directive 6025.6, it shall be reported to the NPDB.

(c) Practitioners shall have benefit of due process procedures for professional review activities under requirements of Public Law 99-660, Military Department regulations, and healthcare entity professional staff by-laws.

(d) Information on adverse privileging actions and other professional review actions shall be reported to the appropriate State agencies and the NPDB.

(1) The Department of Defense shall continue to provide State(s) of known

¹Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

licensure the information required by DoD Directive 6025.11.²

(2) Physicians and dentists shall be reported for both malpractice payment and privileging actions. All other personnel required to be licensed by DoD Directive 6025.6 shall also be reported for malpractice payments.

(3) Other healthcare personnel shall be reported for privileging actions only after the Assistant Secretary of Defense (Health Affairs) (ASD(HA)) notifies the Military Departments to begin submitting reports on a specified category of personnel.

(e) The NPDB shall be queried during the accessioning process of a healthcare practitioner, and at least every 24 months, thereafter, as a part of the Military medical departments' recertification and repriviling procedures. Inquiries on healthcare practitioners, on board at the time this part is implemented, should be performed at the time of their next recertification and repriviling. If the granting of initial clinical privileges occurs more than 1 year after the query for accessioning, querying the data bank shall be required as a part of the initial privileging.

§ 221.5 Responsibilities.

(a) The Assistant Secretary of Defense (Health Affairs) (ASD(HA)) shall:

(1) Monitor implementation of this part and issue such DoD Instructions as may be necessary.

(2) Authorize exceptions to requirements of this part, if deemed necessary.

(b) The General Counsel of the Department of Defense (GC, DoD) shall provide legal advice on the interpretation and implementation of this part and any subsequent DoD Instructions.

(c) The Secretaries of the Military Departments shall implement the requirements of this part and the DoD Instructions issued under paragraph (a) of this section.

§ 221.6 Procedures.

(a) The ASD(HA) shall issue Instructions, in accordance with § 221.5(a).

(b) The Military Departments shall:

(1) Develop policy and procedures that comply with requirements of this Directive and any subsequent DoD Instructions.

(2) Ensure that their Office of the Surgeon General (OTSG) sends the appropriate information, in accordance with § 221.7, to the NPDB and the Office of the Deputy Assistant Secretary of Defense (Professional Affairs and Quality Assurance) (ODASD(PA&QA)).

(3) Ensure that the NPDB is queried appropriately, in accordance with § 221.7.

§ 221.7 Information requirements.

(a) The method of reporting information to, and querying information from, the NPDB shall be by use of the Health Resources and Services Administration (HRSA) forms or, when possible, electronically.

(b) Reports to the ODASD(PA&QA) shall be submitted through electronic means, when available. Until then, DD Form 2499, "Health Care Provider Clinical Privileges Action Report," and DD Form 2526, "Case Abstract For Malpractice Claims," shall be used, as appropriate.

(c) The reporting requirements in this section have been assigned Report Control Symbols DD-HA(AR)1611 and DD-HA(AR)1782.

PART 223—DEPARTMENT OF DEFENSE UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION (DoD UCNI)

Sec.

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APPENDIX A TO PART 223—PROCEDURES FOR IDENTIFYING AND CONTROLLING DoD UCNI

APPENDIX B TO PART 223—GUIDELINES FOR THE DETERMINATION OF DoD UCNI

AUTHORITY: 10 U.S.C. 128 and 5 U.S.C. 552(b)(3).

SOURCE: 56 FR 64554, Dec. 11, 1991, unless otherwise noted.

² See footnote 1 to § 221.2(b).