

§ 60.3

to obtain information from the National Practitioner Data Bank or to dispute the accuracy of National Practitioner Data Bank information.

[59 FR 61555, Dec. 1, 1994]

§ 60.3 Definitions.

Act means the Health Care Quality Improvement Act of 1986, title IV of Pub. L. 99-660, as amended.

Adversely affecting means reducing, restricting, suspending, revoking, or denying clinical privileges or membership in a health care entity.

Board of Medical Examiners, or *Board*, means a body or subdivision of such body which is designated by a State for the purpose of licensing, monitoring and disciplining physicians or dentists. This term includes a Board of Osteopathic Examiners or its subdivision, a Board of Dentistry or its subdivision, or an equivalent body as determined by the State. Where the Secretary, pursuant to section 423(c)(2) of the Act, has designated an alternate entity to carry out the reporting activities of §60.9 due to a Board's failure to comply with §60.8, the term *Board of Medical Examiners* or *Board* refers to this alternate entity.

Clinical privileges means the authorization by a health care entity to a physician, dentist or other health care practitioner for the provision of health care services, including privileges and membership on the medical staff.

Dentist means a doctor of dental surgery, doctor of dental medicine, or the equivalent who is legally authorized to practice dentistry by a State (or who, without authority, holds himself or herself out to be so authorized).

Formal peer review process means the conduct of professional review activities through formally adopted written procedures which provide for adequate notice and an opportunity for a hearing.

Health care entity means:

- (a) A hospital;
- (b) An entity that provides health care services, and engages in professional review activity through a formal peer review process for the purpose of furthering quality health care, or a committee of that entity; or
- (c) A professional society or a committee or agent thereof, including

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those at the national, State, or local level, of physicians, dentists, or other health care practitioners that engages in professional review activity through a formal peer review process, for the purpose of furthering quality health care.

For purposes of paragraph (b) of this definition, an entity includes: a health maintenance organization which is licensed by a State or determined to be qualified as such by the Department of Health and Human Services; and any group or prepaid medical or dental practice which meets the criteria of paragraph (b).

Health care practitioner means an individual other than a physician or dentist, who is licensed or otherwise authorized by a State to provide health care services.

Hospital means an entity described in paragraphs (1) and (7) of section 1861(e) of the Social Security Act.

Medical malpractice action or claim means a written complaint or claim demanding payment based on a physician's, dentists or other health care practitioner's provision of or failure to provide health care services, and includes the filing of a cause of action based on the law of tort, brought in any State or Federal Court or other adjudicative body.

Physician means a doctor of medicine or osteopathy legally authorized to practice medicine or surgery by a State (or who, without authority, holds himself or herself out to be so authorized).

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

(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 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