

### § 60.13

### 45 CFR Subtitle A (10–1–10 Edition)

other health care practitioner as follows:

(1) At the time a physician, dentist or other health care practitioner applies for a position on its medical staff (courtesy or otherwise), or for clinical privileges at the hospital; and

(2) Every 2 years concerning any physician, dentist, or other health care practitioner who is on its medical staff (courtesy or otherwise), or has clinical privileges at the hospital.

(b) *Failure to request information.* Any hospital which does not request the information as required in paragraph (a) of this section is presumed to have knowledge of any information reported to the NPDB concerning this physician, dentist or other health care practitioner.

(c) *Reliance on the obtained information.* Each hospital may rely upon the information provided by the NPDB to the hospital. A hospital shall not be held liable for this reliance unless the hospital has knowledge that the information provided was false. (Approved by the Office of Management and Budget under control number 0915–0126)

#### **§ 60.13 Requesting information from the National Practitioner Data Bank.**

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

(1) Information reported under §§ 60.7, 60.8, and 60.11 is available to:

(i) 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;

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

(iii) A State Medical Board of Examiners or other State authority that licenses physicians, dentists, or other health care practitioners;

(iv) A health care entity which has entered or may be entering into an employment or affiliation relationship 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;

(v) 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. This information will be disclosed only upon the submission of evidence that the hospital failed to request information from the NPDB, as required by § 60.12(a), and may be used solely with respect to litigation resulting from the action or claim against the hospital;

(vi) A health care entity with respect to professional review activity; and

(vii) A person or entity requesting statistical information, in a form which does not permit the identification of any individual or entity.

(2) Information reported under §§ 60.9 and 60.10 is available to the agencies, authorities, and officials listed below that request information on licensure disciplinary actions and any other negative actions or findings concerning an individual health care practitioner, physician, dentist, or entity. These agencies, authorities, and officials may obtain data for the purposes of determining the fitness of individuals to provide health care services, protecting the health and safety of individuals receiving health care through programs administered by the requesting agency, and protecting the fiscal integrity of these programs.

(i) Agencies administering Federal health care programs, including private entities administering such programs under contract;

(ii) Authorities of States (or political subdivisions thereof) which are responsible for licensing health care practitioners, physicians, dentists, and entities;

(iii) State agencies administering or supervising the administration of State health care programs (as defined in 42 U.S.C. 1128(h));

(iv) State Medicaid Fraud Control Units (as defined in 42 U.S.C. 1903(q));

(v) Law enforcement officials and agencies such as:

- (A) United States Attorney General;
- (B) United States Chief Postal Inspector;
- (C) United States Inspectors General;
- (D) United States Attorneys;
- (E) United States Comptroller General;
- (F) United States Drug Enforcement Administration;
- (G) United States Nuclear Regulatory Commission;
- (H) Federal Bureau of Investigation; and
- (I) State law enforcement agencies, which include, but are not limited to, State Attorneys General.

(vi) Utilization and quality control peer review organizations described in part B of title XI and appropriate entities with contracts under section 1154(a)(4)(C) of the Social Security Act with respect to eligible organizations reviewed under the contracts;

(vii) Hospitals and other health care entities (as defined in section 431 of the HCQIA), with respect to physicians or other licensed health care practitioners who have entered (or may be entering) into employment or affiliation relationships with, or have applied for clinical privileges or appointments to the medical staff of, such hospitals or other health care entities;

(viii) A physician, dentist, or other health care practitioner who, and an entity which, requests information concerning himself, herself, or itself; and

(ix) A person or entity requesting statistical information, in a form which does not permit the identification of any individual or entity. (For example, researchers may use statistical information to identify the total number of nurses with adverse licensure actions in a specific State. Similarly, researchers may use statistical information to identify the total number of health care entities denied accreditation.)

(b) *Procedures for obtaining National Practitioner Data Bank information.* Persons and entities may obtain information from the NPDB by submitting a request in such form and manner as the Secretary may prescribe. These re-

quests are subject to fees as described in § 60.14.

**§ 60.14 Fees applicable to requests for information.**

(a) *Policy on fees.* The fees described in this section apply to all requests for information from the NPDB. The amount of such fees will be sufficient to cover the full costs of operating the NPDB. The actual fees will be announced by the Secretary in periodic notices in the FEDERAL REGISTER. However, for purposes of verification and dispute resolution at the time the report is accepted, the NPDB will provide a copy—at the time a report has been submitted, automatically, without a request and free of charge—of the record to the health care practitioner or entity who is the subject of the report and to the reporter.

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

- (1) Direct and indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement;
- (2) Physical overhead, consulting, and other indirect costs including materials and supplies, utilities, insurance, travel and rent and depreciation on land, buildings and equipment;
- (3) Agency management and supervisory costs;
- (4) Costs of enforcement, research, and establishment of regulations and guidance;
- (5) Use of electronic data processing equipment to collect and maintain information—the actual cost of the service, including computer search time, runs and printouts; and
- (6) Any other direct or indirect costs related to the provision of services.

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