

shall lose the protections of section 11111(a)(1) of this title if the Secretary publishes the name of the entity under section 11111(b) of this title.

**(2) Board of Medical Examiners**

If, after notice of noncompliance and providing an opportunity to correct noncompliance, the Secretary determines that a Board of Medical Examiners has failed to report information in accordance with subsection (b), the Secretary shall designate another qualified entity for the reporting of information under subsection (b).

**(d) References to Board of Medical Examiners**

Any reference in this subchapter to a Board of Medical Examiners includes, in the case of a Board in a State that fails to meet the reporting requirements of section 11132(a) of this title or subsection (b), a reference to such other qualified entity as the Secretary designates.

(Pub. L. 99-660, title IV, § 423, Nov. 14, 1986, 100 Stat. 3789.)

**§ 11134. Form of reporting**

**(a) Timing and form**

The information required to be reported under sections 11131, 11132(a), and 11133 of this title shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date (not later than one year after November 14, 1986) specified by the Secretary.

**(b) To whom reported**

The information required to be reported under sections 11131, 11132(a), and 11133(b) of this title shall be reported to the Secretary, or, in the Secretary's discretion, to an appropriate private or public agency which has made suitable arrangements with the Secretary with respect to receipt, storage, protection of confidentiality, and dissemination of the information under this subchapter.

**(c) Reporting to State licensing boards**

**(1) Malpractice payments**

Information required to be reported under section 11131 of this title shall also be reported to the appropriate State licensing board (or boards) in the State in which the medical malpractice claim arose.

**(2) Reporting to other licensing boards**

Information required to be reported under section 11133(b) of this title shall also be reported to the appropriate State licensing board in the State in which the health care entity is located if it is not otherwise reported to such board under subsection (b).

(Pub. L. 99-660, title IV, § 424, Nov. 14, 1986, 100 Stat. 3790.)

**§ 11135. Duty of hospitals to obtain information**

**(a) In general**

It is the duty of each hospital to request from the Secretary (or the agency designated under section 11134(b) of this title), on and after the

date information is first required to be reported under section 11134(a) of this title)—<sup>1</sup>

(1) at the time a physician or licensed health care practitioner applies to be on the medical staff (courtesy or otherwise) of, or for clinical privileges at, the hospital, information reported under this subchapter concerning the physician or practitioner, and

(2) once every 2 years information reported under this subchapter concerning any physician or such practitioner who is on the medical staff (courtesy or otherwise) of, or has been granted clinical privileges at, the hospital.

A hospital may request such information at other times.

**(b) Failure to obtain information**

With respect to a medical malpractice action, a hospital which does not request information respecting a physician or practitioner as required under subsection (a) is presumed to have knowledge of any information reported under this subchapter to the Secretary with respect to the physician or practitioner.

**(c) Reliance on information provided**

Each hospital may rely upon information provided to the hospital under this chapter and shall not be held liable for such reliance in the absence of the hospital's knowledge that the information provided was false.

(Pub. L. 99-660, title IV, § 425, Nov. 14, 1986, 100 Stat. 3790.)

**§ 11136. Disclosure and correction of information**

With respect to the information reported to the Secretary (or the agency designated under section 11134(b) of this title) under this subchapter respecting a physician or other licensed health care practitioner, the Secretary shall, by regulation, provide for—

(1) disclosure of the information, upon request, to the physician or practitioner, and

(2) procedures in the case of disputed accuracy of the information.

(Pub. L. 99-660, title IV, § 426, Nov. 14, 1986, 100 Stat. 3791.)

**§ 11137. Miscellaneous provisions**

**(a) Providing licensing boards and other health care entities with access to information**

The Secretary (or the agency designated under section 11134(b) of this title) shall, upon request, provide information reported under this subchapter with respect to a physician or other licensed health care practitioner to State licensing boards, to hospitals, and to other health care entities (including health maintenance organizations) that have entered (or may be entering) into an employment or affiliation relationship with the physician or practitioner or to which the physician or practitioner has applied for clinical privileges or appointment to the medical staff.

<sup>1</sup>So in original. The closing parenthesis probably should not appear.

**(b) Confidentiality of information****(1) In general**

Information reported under this subchapter is considered confidential and shall not be disclosed (other than to the physician or practitioner involved) except with respect to professional review activity, as necessary to carry out subsections (b) and (c) of section 11135 of this title (as specified in regulations by the Secretary), or in accordance with regulations of the Secretary promulgated pursuant to subsection (a). Nothing in this subsection shall prevent the disclosure of such information by a party which is otherwise authorized, under applicable State law, to make such disclosure. Information reported under this subchapter that is in a form that does not permit the identification of any particular health care entity, physician, other health care practitioner, or patient shall not be considered confidential. The Secretary (or the agency designated under section 11134(b) of this title), on application by any person, shall prepare such information in such form and shall disclose such information in such form.

**(2) Penalty for violations**

Any person who violates paragraph (1) shall be subject to a civil money penalty of not more than \$10,000 for each such violation involved. Such penalty shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1320a-7a of this title are imposed and collected under that section.

**(3) Use of information**

Subject to paragraph (1), information provided under section 11135 of this title and subsection (a) is intended to be used solely with respect to activities in the furtherance of the quality of health care.

**(4) Fees**

The Secretary may establish or approve reasonable fees for the disclosure of information under this section or section 11136 of this title. The amount of such a fee may not exceed the costs of processing the requests for disclosure and of providing such information. Such fees shall be available to the Secretary (or, in the Secretary's discretion, to the agency designated under section 11134(b) of this title) to cover such costs.

**(c) Relief from liability for reporting**

No person or entity (including the agency designated under section 11134(b) of this title) shall be held liable in any civil action with respect to any report made under this subchapter (including information provided under subsection (a))<sup>1</sup> without knowledge of the falsity of the information contained in the report.

**(d) Interpretation of information**

In interpreting information reported under this subchapter, a payment in settlement of a medical malpractice action or claim shall not be construed as creating a presumption that medical malpractice has occurred.

<sup>1</sup> So in original. Probably should be followed by another closing parenthesis.

(Pub. L. 99-660, title IV, §427, Nov. 14, 1986, 100 Stat. 3791; Pub. L. 100-177, title IV, §402(a), (b), Dec. 1, 1987, 101 Stat. 1007.)

**Editorial Notes**

## AMENDMENTS

1987—Subsec. (b)(1). Pub. L. 100-177, §402(a)(1), substituted “as necessary to carry out subsections (b) and (c) of section 11135 of this title (as specified in regulations by the Secretary)” for “with respect to medical malpractice actions” and inserted at end “Information reported under this subchapter that is in a form that does not permit the identification of any particular health care entity, physician, other health care practitioner, or patient shall not be considered confidential. The Secretary (or the agency designated under section 11134(b) of this title), on application by any person, shall prepare such information in such form and shall disclose such information in such form.”

Subsec. (b)(4). Pub. L. 100-177, §402(b), added par. (4).

Subsec. (c). Pub. L. 100-177, §402(a)(2), inserted “(including the agency designated under section 11134(b) of this title)” after “entity” and “(including information provided under subsection (a))” after “subchapter”.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-177, title IV, §402(d), formerly §402(c), Dec. 1, 1987, 101 Stat. 1007, as renumbered and amended by Pub. L. 101-239, title VI, §6103(e)(6), Dec. 19, 1989, 103 Stat. 2208, provided that:

“(1) IN GENERAL.—The amendments made by subsections (a) and (c) [amending this section and sections 1111 and 1115 of this title] shall become effective on November 14, 1986.

“(2) FEES.—The amendment made by subsection (b) [amending this section] shall become effective on the date of enactment of this Act [Dec. 1, 1987].”

**SUBCHAPTER III—DEFINITIONS AND REPORTS****§ 11151. Definitions**

In this chapter:

(1) The term “adversely affecting” includes reducing, restricting, suspending, revoking, denying, or failing to renew clinical privileges or membership in a health care entity.

(2) The term “Board of Medical Examiners” includes a body comparable to such a Board (as determined by the State) with responsibility for the licensing of physicians and also includes a subdivision of such a Board or body.

(3) The term “clinical privileges” includes privileges, membership on the medical staff, and the other circumstances pertaining to the furnishing of medical care under which a physician or other licensed health care practitioner is permitted to furnish such care by a health care entity.

(4)(A) The term “health care entity” means—

(i) a hospital that is licensed to provide health care services by the State in which it is located,

(ii) an entity (including a health maintenance organization or group medical practice) that provides health care services and that follows a formal peer review process for the purpose of furthering quality health care (as determined under regulations of the Secretary), and