BUMED INSTRUCTION 6010.18B

From: Chief, Bureau of Medicine and Surgery

Subj: PARTICIPATION IN THE NATIONAL PRACTITIONER DATA BANK

Ref: (a) 28 U.S.C.
     (b) 45 CFR 60
     (c) DoD Manual 6025.13 of 29 October 2013
     (d) DoD Instruction 6025.13 of 17 February 2011
     (e) 10 U.S.C.
     (f) 5 U.S.C.
     (g) BUMEDINST 6010.31
     (h) BUMEDINST 6010.30
     (i) BUMEDINST 6010.13

Encl: (1) Querying Procedures
     (2) National Practitioner Data Bank Medical Malpractice Reporting Procedures

1. Purpose. To establish policy, publish procedures, and assign responsibility for complying with references (a) though (i). This instruction is a complete revision and must be read in its entirety.

2. Cancellation. BUMEDINST 6010.18A.

3. Scope and Applicability. Applies to all military (Active Component and Reserve Component) and civilian healthcare providers who are assigned to, employed by, contracted to, or under partnership agreements with Department of Navy (DON) activities and who are required to possess a license, or granted privileges to provide healthcare services to active duty members or any other military health system beneficiaries, and who are covered for liability purposes under reference (a), section 2671.

4. Policy. All official correspondence with the National Practitioners Data Bank (NPDB) covered under this instruction must be conducted by the Bureau of Medicine and Surgery (BUMED) unless otherwise specified.

5. Background. The Department of Health and Human Services operates an alert system to facilitate a comprehensive review of healthcare providers' professional credentials. This system includes the NPDB, which is a confidential information clearinghouse containing reports of medical malpractice payments, adverse licensure actions, adverse clinical privilege actions, adverse professional membership actions, health care related criminal convictions and civil
judgements, and other adverse government administrative actions. The NPDB is governed by regulations of the Department of Health and Human Services per reference (b). The responsibility assigned to the Surgeon General (SG) of the Navy outlined in reference (c) will be executed through authority as Chief, BUMED.

6. Responsibilities

a. Assistant Deputy Chief, BUMED Risk and Quality Management (BUMED-M5) must:

   (1) Report medical malpractice claim payments, including active duty death and disability payments. A report is made in the name of a healthcare provider anytime the Service SG with oversight of the facility where the event occurred, determines a provider failed to meet standard of care (SOC) and in turn caused harm to the patient. Per reference (c), a final decision on SOC must be made within 180 days of notification of payment or all identified providers will be reported to the NPDB. If SOC is subsequently found to have been met, an amended report will be submitted; however, the NPDB report will remain in the data bank. Enclosure (2) outlines the medical malpractice process for reporting. Per reference (d) all NPDB reports will be entered into Joint Centralized Credentials Quality Assurance System (JCCQAS).

   (2) Maintain a record of all cases reported to the NPDB or other outside agencies per the Secretary of the Navy Manual (SECNAV) 5210.1 of January 2012. References (e), section 1102 and (f), section 552 also apply.

b. Director, Medical Legal Affairs (BUMED-M00J) must:

   (1) Report adverse clinical privilege actions, healthcare related military criminal convictions, and other Navy administration actions which have or could have negatively impacted the delivery of a healthcare item or service to the NPDB. Reference (g) provides additional guidance.

   (2) Maintain a record of all cases reported to the NPDB or other outside agencies per the SECNAV 5210.1 of January 2012. References (e), section 1102 and (f), section 552 also apply.

c. The Centralized Credentials and Privileging Directorate (CCPD) BUMED-M5 Detachment Jacksonville. Must query the NPDB prior to employment, initial medical staff appointment, or whenever there is a change in privileges. Information obtained from the query is maintained in the provider’s JCCQAS credentials record. Per references (h) and (i), the appropriate privileging authority will be notified upon CCPD’s receipt of any adverse information. Enclosure (1) outlines the query procedure details.

d. Medical Healthcare Professionals. Must disclose when a medical malpractice payment was made in their name. Being identified as involved in an adverse event is an unproven allegation of medical malpractice unless a final SG decision on SOC has been made.
7. **Records Management.** Records created as a result of this instruction, regardless of media and format, must be managed per the SECNAV M-5210.1 of January 2012.

8. **Review and Effective Date.** Per OPNAVINST 5215.17A, BUMED-M5 will review this instruction annually on the anniversary of its effective date to ensure applicability, currency, and consistency with Federal, Department of Defense, SECNAV, and Navy policy and statutory authority using OPNAV 5215/40 Review of Instruction.

9. **Form and Information Management Control**
   
   a. **Form.** Standard Form (SF) 95 Claim For Damage, Injury, or Death is available at [http://www.gsa.gov/portal/forms/type/SF](http://www.gsa.gov/portal/forms/type/SF).

   b. **Information Management Control.** The reports required in enclosure (1), paragraph 2 and enclosure (2), subparagraphs 2b(3)(d)(3) and 2b(5) are exempt from reports control per SECNAV M-5214.1 of December 2005, part IV, subparagraph 7j.

   

Releasability and distribution:
The instruction is cleared for public release and is available electronically only via the Navy Medicine Web site, [http://www.navy.mil/directives/Pages/BUMEDInstructions.aspx](http://www.navy.mil/directives/Pages/BUMEDInstructions.aspx).
QUERYING PROCEDURES

1. **Querying.** Navy Medicine queries the NPDB centrally via the CCPD BUMED Detachment Jacksonville. The NPDB is an alert system designed to facilitate a comprehensive review of healthcare providers’ professional credentials. It includes medical malpractice payments, adverse licensure actions, adverse clinical privilege actions, adverse professional membership actions, and Medicare or Medicaid exclusion reports. NPDB is intended to augment, not replace, traditional forms of credentials review and is used in conjunction with information from other sources when granting clinical privileges or in employment or affiliation decisions.

2. **Initial Query Requirements Prior to Granting a Medical Staff Appointment or Privileges**
   
   a. **Direct Accessions, Recalls to Active Duty, and Inter-Service Transfers to DON.** Applicants must submit a copy of a current NPDB form as part of their package for review by the applicable professional review board.
   
   b. **New Civil Service Employees.** Applicants are required, as part of the application process, to provide a copy of a current NPDB form to the local human resources office for review by the applicable professional review board.
   
   c. **New Contract Practitioners.** Contracting agency must include a copy of a current NPDB form as part of the credentials package for review prior to approving the practitioner’s application for professional staff appointment and privileges.
   
   d. **Personal Service Contractors or Partnership Practitioners.** Applicants must submit a copy of a current NPDB form, as part of their package, for review by the applicable professional review board.
   
   e. **American Red Cross Volunteers.** Applicants must submit a copy of a current NPDB form, as part of their package, for review by the applicable professional review board.

3. **CCPD** is responsible for requesting an NPDB query as soon as the practitioner’s credentials information is entered into the JCCQAS database and within 90 days prior to renewal of privileges. The information obtained from the results of the query will be maintained in the provider’s JCCQAS credentials record. If there is any adverse information on file, the appropriate privileging authority will be notified upon CCPD’s receipt of the adverse information.
NATIONAL PRACTITIONER DATA BANK MEDICAL MALPRACTICE REPORTING PROCEDURES

1. **Policy.** Chief, BUMED is responsible for reviewing all paid medical malpractice cases, active duty member cases, and all active duty death or active disability cases where there is a question of whether health care caused or contributed to the death or disability. Review must include a SOC determination for each involved provider and must be completed no later than 180 days after notification of payment.

2. **Responsibilities Upon Notification of a Payment**

   a. **Assistant Deputy Chief, BUMED-M5 must:**

      (1) Obtain all medical records, litigation reports or quality assurance investigations.

      (2) Create a summary of all information received.

      (3) Obtain any additional specialty reviews.

      (4) Identify significantly involved providers; locate them and give them an opportunity to review the information and make a statement.

      (5) Schedule and prepare separate packages for each required review.

   b. **Professional Case Review Panel (PCRP)**

      (1) **Membership**

      (a) Members must be of the same corps or civilian profession as the provider being reviewed; however, there is no requirement they be of the same medical, dental, nurse or ancillary subspecialty.

      (b) Each of the respective Corps Chiefs will appoint an officer to represent their community in matters involving the PCRP. Upon notification of need to schedule a PCRP, the officer will appoint a minimum of three providers to perform as the PCRP. The appointed officer may, but need not act, as a PCRP member.

      (c) PCRP members must not participate in the review of a case in which the member acted as the investigating officer or specialty reviewer or has a personal conflict.
(2) **Administrative Support.** The Director, Risk Management, BUMED M5:

(a) Notifies the respective Corps Chief office when a case is ready for review and provides a case file for each member to review.

(b) May attend the PCRP and provide additional information as requested, and may take part in the deliberations, but has no vote.

(3) **Deliberations**

(a) PCRP reviews are not adversarial proceedings.

(b) Neither potential subjects of NPDB reports nor their personal representatives will be permitted to make a personal appearance before the PCRP.

(c) PCRP deliberations are protected under reference (h), section 1102.

(d) The file, pertaining to the medical malpractice payment and compiled for review by the PCRP, will include the following, if reasonably available.

1. A copy of the initial investigation with enclosures and endorsements.

2. All specialty reviews.

3. Available closed claim documentation, which may include a copy of the SF 95 Claim For Damage, Injury, or Death, and a copy of the settlement memorandum or judgement.

4. The provider’s statement or documentation showing provider declined to make a statement, or documentation showing reasonable attempts to contact provider.

(e) The PCRP may seek additional documents for consideration; however the PCRP must not consider any documents unless the involved providers have also reviewed the same documents.

(f) The PCRP’s recommendation must be based solely on the information provided in the case file.

(g) The PCRP must use the following standards to determine whether an NPDB report should be recommended.

1. Payment was made in response to a claim either as settlement or court action or as a result of an active duty death gratuity or disability payment.
2. Payment was caused by the failure of one or more providers to meet SOC.

3. Regarding attending practitioners supervising trainees:
   a. When a trainee is a significantly involved provider subject to report, the attending practitioner responsible (not the trainee) for the delivered case must be reported to the NPDB.
   b. If the attending practitioner clearly met all reasonable standards of supervision and the trainee’s act or omission was not reasonably foreseeable by the attending practitioner, then the trainee (not the attending practitioner) must be reported to the NPDB.

4. Supervision of unlicensed providers:
   a. When a significantly involved provider is under a plan of supervision or requires ongoing supervision, the supervising provider responsible for the delivered care must be reported to the NPDB.
   b. If the supervising provider clearly met all reasonable standards of supervision and the unlicensed provider’s act or omission was not reasonably foreseeable, the unlicensed provider must be reported to the NPDB.

5. No report is required for cases in which “system problems,” rather than the failure of significantly involved providers to meet the professional SOC, were responsible for the payment.

6. No report is required for payments based on administrative or litigation considerations as contrasted to clear evidence establishing on the record that provider(s) failed to meet SOC.

(4) Opinions and recommendations must be majority vote.

(5) A memorandum will be provided for the senior member to sign, identifying the date of panel and the names of the panel members. It will include the panel’s recommendation for each provider reviewed and submitted to the risk management office once a decision has been made.

c. External Peer Review

   (1) If the PCRP decision is that significantly involved provider(s) met SOC, the medical records and provider statements must be forwarded to the medical peer review agency external to the Department of Defense as designated by the Assistant Secretary of Defense (Health Affairs). That includes cases in which the SOC was not met but it was determined the reason was due to causes not directly related to the significantly involved providers.
(2) The external peer reviewer must be of the same profession and specialty as the provider(s) reviewed and must provide a written opinion on whether or not SOC was met for each provider and address the issue of causation.

(3) An external peer review is only required if no involved provider is determined to have caused the adverse event.

d. Corps Chief Review

(1) Upon receipt of the PCRP’s recommendation and the external peer reviewer’s opinion, if required, a case file that summarizes all documentation received must be forwarded for the cognizant Corps Chief’s review. The file must include the following if reasonably available.

(a) A copy of the initial investigation with enclosures and endorsements.

(b) All specialty reviews.

(c) Available closed claim documentation, which may include a copy of the SF 95 and a copy of the settlement memorandum or judgement.

(d) The provider’s statement or documentation showing provider declined to make a statement, or documentation showing reasonable attempts to contact provider.

(2) The Corps Chief must provide a written recommendation to Chief, BUMED within the timeframe specified in the package provided for review.

e. Chief, BUMED Review

(1) Upon receipt of the cognizant Corps Chief’s recommendation, a case file that summarizes all documentation received must be forwarded to Chief, BUMED for decision on whether to report any significantly involved providers. The file must include the following, if reasonably available.

(a) A copy of the initial investigation with enclosures and endorsements.

(b) All specialty reviews.

(c) Available closed claim documentation, which may include a copy of the SF 95 and a copy of the settlement memorandum or judgement.

(d) The provider’s statement or documentation showing provider declined to make a statement, or documentation showing reasonable attempts to contact provider.
(e) A letter addressed to each individual provider notifying them of the decision to report them to the NPDB.

(2) Only Chief, BUMED can report a provider to the NPDB. If a report is to be made, Chief, BUMED must sign the individual notification letters which are then mailed to the provider with a copy of the actual NPDB report.

3. Reports

a. As directed by Chief, BUMED, the Director, Risk Management, BUMED-M5 must prepare all documents required to report.

b. Closed claim reporting files must be created from the existing case file, scanned and retained indefinitely. These files may be necessary for future audits by outside agencies reviewing NPDB reporting compliance.

4. Mandatory Reporting Requirement

a. A final decision on SOC must be made within 180 days of notification of payment or all identified providers will be reported to the NPDB. If SOC is subsequently found to have been met, an amended report must be submitted; however, the NPDB report will remain the data bank.

b. Medical healthcare professionals are required to disclose when a medical malpractice payment was made in their name.

c. Once a provider is reported to the NPDB, only the Service SG who reported the provider can remove the report.

5. Active Duty Member Cases

a. Cases where SOC was not met and resulted in an active duty death or active duty disability are processed per subparagraphs 2b(3)(g)(1) through 2b(3)(g)(6) of this enclosure.

b. Cases where SOC was not met, and there is no active duty death or active duty disability are not reportable to the NPDB as there is no payment. Instead the information will be recorded in the JCCQAS risk management data base and in the individual providers JCCQAS credentials record.