

National Practitioner Data Bank Reporting

Under the Health Care Quality Improvement Act (HCQIA), when a hospital¹ conducts a formal review of the medical care provided by one of its physicians, some disciplinary decisions against the physician may be reportable to the National Practitioner Data Bank (NPDB). For this reason, hospitals must use a peer review process that is governed by HCQIA when evaluating their physicians. HCQIA gives rights to a physician and to the hospital conducting the review. It also determines when a hospital can – or must – report an adverse decision against a physician. For mandatory reporting, the following information is required: the name of the health professional against whom disciplinary action has been taken; a description of the disciplinary action; the specific grounds for the disciplinary action; and the date of the incident(s) in question.

In a recent case, *Van Boven v Freshour*, No. 20-0117, 2022 WL 2015663 (Tex, June 3, 2022), the Texas Supreme Court held that the Texas Medical Board acted outside its authority when it filed the wrong type of report with the NPDB. In that case, a disciplinary panel of the Board evaluated a physician's patient care following complaints from two patients. After a hearing, the disciplinary panel temporarily restricted the physician's license and reported the restriction to the data bank. Later, an administrative law judge reviewed the disciplinary panel's decision and determined that the Board had not proved any of the allegations against the physician. The Board then filed a revision-to-action report with the NPDB, which revised the previous report with updated information. However, the Texas Supreme Court upheld the physician's right to have a void report filed, which withdraws the initial report in its entirety. Bottom line: after a hospital takes an adverse action pursuant to a peer review, reporting of the event to the NPDB must comply with HCQIA and other state reporting statutes.

¹ HCQIA also applies to other covered entities beyond hospitals. For convenience, we will refer to covered entities as hospitals.



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