Reports to the National Practitioner Data Bank involving dentists, 1990–2004

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ABSTRACT

Background. While the National Practitioner Data Bank (NPDB) contains reports relating to dentists, an analysis of these data has not been published.

Methods. The authors analyze 47,441 reports to the NPDB relating to malpractice payments, licensure actions and adverse actions against dentists from Sept. 1, 1990, to Sept. 30, 2004.

Results. A total of 13.2 percent of all NPDB reports were related to dentists. Of these, 73.7 percent resulted from malpractice actions and the remaining 26.3 percent were from adverse actions. While the number of large payments increased over this period, the median payment remained relatively stable.

Conclusions. Dental malpractice settlements and judgments generally have kept pace with inflation over the past decade.

Practice Implications. Dentists should be aware that the NPDB retains reports of adverse actions and malpractice settlements and judgments indefinitely. These reports are available to hospitals evaluating their credentials, state licensing boards and certain health care entities (for example, health maintenance organizations and preferred provider organizations) entering into an employment or other relationship with them.

Key Words. National Practitioner Data Bank; dental malpractice; professional misconduct.

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A 2000 study by The Institute of Medicine[1] identified medical errors as being responsible for patients' loss of trust in the health care system. Estimated costs of medical errors, beyond loss of life, include disability and loss of income and household productivity. These costs have been estimated to range from $17 billion to $29 billion per year. The Institute of Medicine concluded that these were preventable errors, resulting more from faulty systems, processes and conditions than from individual errors leading to mistakes or the failure to prevent them.

In an attempt to address the problem of increasing medical malpractice litigation and concerns that physicians or dentists who lost their licenses in one state were able to obtain a license in another state,[2] Congress passed the Health Care Quality Improvement Act of 1986, authorizing the secretary of the U.S. Department of Health and Human Services (DHHS) to establish a National Practitioner Data Bank (NPDB).[3]

The NPDB was designed to collect and release information relating to the professional competence and conduct of health care

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practitioners. It also was intended to facilitate the credential review process and provide information regarding malpractice payments, licensure actions and adverse actions that would follow the practitioner across state boundaries, preventing nondisclosure when a practitioner movement from state to state would occur. Oshel and colleagues,[4] however, pointed out that the NPDB is only a flagging system and that the existence of a malpractice payment report does not necessarily mean that the standards of care were not met.

On Oct. 17, 1989, the DHHS released reporting rules and regulations,[5] and the NPDB became operational in September 1990. All settlements and judgments arising from malpractice claims, paid by an "entity" must be reported to the NPDB. Lovitky[6] pointed out that the original NPDB regulation required reports from each "person or entity" making a malpractice payment. However, in litigation initiated by the American Dental Association, the District of Columbia Circuit Court of Appeal found that the regulation was invalid because under the statute, "entity" referred only to groups and organizations.[7] Consequently, payments made by practitioners out of their own personal funds (as opposed to their corporations) need not be reported.

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In addition to reporting malpractice payments, hospitals, other health care entities, state licensing boards and professional societies must report certain adverse actions to the NPDB and include the actions or omissions and injuries or illnesses on which the payment was based.[8] Access to the NPDB is available to state licensing boards, hospitals and health care entities (such as health maintenance organizations and preferred provider organizations) when they are either entering into an employment or affiliation agreement with a practitioner or participating in professional review activities; to professional societies as part of a professional review; to plaintiffs' attorneys under limited circumstances; and to practitioners for data related to themselves. While the NPDB is not available to the general public, Congress could mandate public access. If the Patient Protection Act of 2000 (H.R. 5122) had passed, it would have allowed the public access to all of the information reported to the NPDB.

While the NPDB has been in existence since 1990, data from the public use file related to dentists have not been reported in the dental literature. In this article, we analyze the NPDB Public Use Data File, 1990-2004,[9] summarizing the first 14 years of data related to dentists.

MATERIALS AND METHODS

The NPDB comprises two types of data:

- reports of malpractice payments (settlements or judgments);
- adverse actions (for example, revocation or suspension of licensure, clinical privileges, professional society membership), Drug Enforcement Administration (DEA) reports and Medicare and Medicaid exclusion actions taken by the DHHS inspector general for health care providers entered into the NPDB between Sept. 1, 1999, and Sept. 30, 2004.[9]

As the NPDB Public Use Data File is updated once a year, 2001 was the last year for which there were complete data for adverse actions and malpractice payments. Therefore, in this study, we analyzed data for the number of adverse action reports from 1991 through 2001, because there often is a substantial lag between an adverse action taking place and the report being sent to the NPDB. On the other hand, we included malpractice payment data for 2002 and 2003, though they were incomplete. In this article, we focus on reports related to dentists.

We identified each report according to whether it was generated by a malpractice payment or an adverse action, the nature of the malpractice (for example, failure to diagnose, surgery on wrong body part), the state where the incident occurred (the work state if it was reported and the home state if no work state was reported[9]), the practitioner's license type (for example, dentist, physician, nurse), the practitioner's age group, year of occurrence, payment amount range, if the payment was one of several, and whether the payment resulted from a judgment or settlement. Rather than recording the exact payment, the NPDB Public Use Data File provided only ranges.[9] The NPDB data file coded payments of less than $100 as $50, payments of $101 to $500 as $300 and payments of $501 to $1,000 as $750. It coded payments from $1,001