



# NPDB-HIPDB DATA BANK NEWS



National Practitioner Data Bank—Healthcare Integrity and Protection Data Bank

JANUARY 2010

## Confidentiality of the Data Banks

**C**onfidentiality of information is a Data Bank requirement. With over 17,000 registered organizations that access the Data Banks, and most with multiple users registered under their account, the critical nature of confidentiality is clear. Specific policies and procedures are in place for organizations to follow to ensure the protection of information. By following these procedures, an organization not only helps prevent damaging security breaches, it also helps protect against civil suits and fines that are the possible consequences of violating the Federal statutes and regulations that protect the information held in the Data Banks.

### Confidentiality with Authorized Agents

Healthcare organizations that are eligible and registered with the Data Banks may elect to have another party query and/or report on their behalf. In this instance, the party is referred to as an authorized agent. While authorized agents can be an asset to users of the Data Banks, it is important to understand the responsibilities that come with this relationship. An authorized agent is an entity that queries and/or reports to the Data Banks on behalf of an eligible and registered organization. When an authorized agent is designated to handle queries and/

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## System Enhancements Debut in January

**E**nhancements scheduled for implementation on January 25, 2010 will help you improve productivity, reduce the amount of paper used in the registration process, and enable your Data Banks administrator to save and assign multiple credit cards to users when submitting queries. Many ideas for enhancements come from users like you who attend our Outreach events and share ideas and experiences. If you have ideas for enhancements, please email them to [help@npdb-hipdb.hrsa.gov](mailto:help@npdb-hipdb.hrsa.gov).

### ONLINE REGISTRATION

Organizations will receive a welcome email with their registration confirmation including the online login information instead of having to wait several days to receive it in the mail. You will still need to initiate the Data Banks registration online, sign and mail it for processing. Once the Data Banks processes your registration, and you receive your confirmation email, you can use the system right away! This new process protects your login

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or reports, both the organization and the agent are accountable for maintaining confidentiality in accordance with Data Banks requirements. However, the organization authorizing the agent's access to the information is ultimately responsible and liable for compliance with Data Banks requirements.

Because of this important responsibility, an organization should establish a written agreement with all authorized agents. One key issue to include in the agreement is that the information received by the agent belongs to the organization it represents and may not be used by the agent for any purpose. This means that an agent cannot accumulate, review, research, analyze, or disseminate the confidential data it obtains as an agent. The agreement should, among other things, confirm the following:

- The agent is authorized to conduct business in the State where it is located.
- The agent's facilities are secure, ensuring the confidentiality of the Data Banks query responses.
- The agent is aware that it is explicitly prohibited from using information obtained from the Data Banks for any purpose other than the purpose for which it was disclosed.

- The agent is aware of the possible sanctions if information is requested, used, or disclosed in violation of the Data Banks' provisions.

With a comprehensive agreement in place, an organization may protect itself from confidentiality issues that can arise when using an authorized agent. In addition, the agent will have clear documentation of its responsibilities as an agent for that organization.

### Regulations and Penalties

Federal regulations under Title IV of Public Law 99-660, the *Health Care Quality Improvement Act of 1986*, Section 1128E of the *Social Security Act*, and other Federal statutes are what protect the confidentiality of information in the Data Banks. The Office of Inspector General (OIG), Health and Human Services, (HHS), has the authority to impose civil money penalties of up to \$11,000 against each responsible party for each violation of confidentiality. For more information about Data Banks laws and regulations, see [www.npdb-hipdb.com/legislation.html](http://www.npdb-hipdb.com/legislation.html). ❖

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information because we are no longer sending a physical copy to your mailing address and provides faster feedback. Online registration also enables you to see your registration status and allows you to quickly find out if there are registration errors that require resolution. Errors can be corrected immediately and the registration application re-submitted quickly online. We will reduce paper, improve security, and save time!

### STORE AND ASSIGN MULTIPLE CREDIT CARDS IN THE INTEGRATED QUERYING AND REPORTING SERVICE (IQRS)

As the Data Banks administrator, do you ever wish you could assign your credentialing staff multiple credit cards when paying for queries or PDS (24/7 notification) enrollments and renewals? Or do you want to be able to easily differentiate between the queries you submit and the credit card you use? Beginning January 25, 2010 you can! You can store, name the credit card, and assign one or more to your staff. For example, you can use separate credit cards for queries and for PDS (24/7 notification) enrollments and assign all of those cards to a single individual. Your Data Banks Administrator will be able to grant users access to any or all of your organization's stored credit cards. ❖

## URP/Policy Education Forum—Successful!

Forty-four individuals, representing organizations that query and report to the Data Banks, attended the User Review Panel (URP) and Policy Education Forum held in Dallas, TX on September 22-23, 2009. Users like you gave the Data Banks several new ideas that will improve Data Banks functionality in the future. Thank you for participating in this event!

The Forum included education about the Data Banks' querying and reporting requirements, new initiatives, and compliance activities. The following agenda topics were discussed: report codes, reportable actions, reporting and querying compliance, timeliness in reporting, policy updates, entity-agent relationships, security, recent system improvements, and future system improvements.

The attendees offered valuable feedback and we held a helpful question and answer session. Suggestions from attendees that are under consideration for future implementation include:

- Group Web site content by type of organization and task.
- Identify Report Verification Documents (RVDs) more clearly as part of the U.S. Department of Health and Human Services (HHS).
- Offer high-volume querying discount for using the PDS (24/7 notification).
- Make the Web site easier to navigate (available soon).
- Include online training.

The Data Banks sponsor User Review Panel/Policy and Education Forums periodically to stay in touch with their users. See the Data Banks Web site, [www.npdb-hipdb.hrsa.gov](http://www.npdb-hipdb.hrsa.gov), for upcoming events that you can attend. The Data Banks value the ideas and opinions of our users. We hope to see you at an upcoming event! ❖

## Data Banks Outreach and Education Activities

RECENT OUTREACH ACTIVITIES			
CONFERENCE	LOCATION	DATE	ACTIVITY
National Association of Medical Staff Services (NAMSS) 33rd Annual Conference	Reno, NV	October 3-7, 2009	Exhibited
National Health Care Anti-Fraud Association: Annual Training Conference	Orlando, FL	November 17-20, 2009	Exhibited
Virginia Association of Medical Staff Services (VA AMSS) Conference	Roanoke, VA	November 19-20, 2009	Spoke
UPCOMING OUTREACH ACTIVITIES			
National Credentialing Forum	Palm Springs, CA	February 4-5, 2010	Round Table
Michigan Association of Medical Staff Services (MI AMSS) Conference	Grand Rapids, MI	April 28.-29, 2010	Speak
Maine Association of Medical Staff Services (ME AMSS) Conference	Wells, ME	May 14, 2010	Speak

We frequently update our schedule so please refer to our Web site, [www.npdb-hipdb.hrsa.gov/outreach.html](http://www.npdb-hipdb.hrsa.gov/outreach.html), for additional activities. ❖

# Ensure Accuracy with Stored Credit Cards

If your healthcare organization is not currently taking advantage of the Data Banks stored credit card feature, you will want to read this article. This is a true story; one that could easily happen to any organization.

## SCENARIO

Recently, an individual contacted the Data Banks, upset because Data Banks charges were on his personal bank statement. He was not a registered Data Banks user, and did not have any interaction with the Data Banks, so he had no idea why the charges were on his statement. The charges caused his bank account card to exceed its limit, which resulted in loss of funds and significant overdraft charges.

He initially contacted his bank to question the charges and was told to contact the Data Banks for more information regarding the charges. Upon contacting the Data Banks' Customer Service Center (CSC), the man spoke with the Billing Supervisor, who asked for specific identifying information to research the charges. After researching the issue, the Billing Supervisor discovered the individual who authorized the charges, and the name of the registered hospital associated with the charges. The Billing Supervisor contacted the individual who authorized the charges to discuss the situation and, it turned out that the individual was the credit card owner's wife who worked for the hospital as the Credential Verification Officer (CVO) Manager, and the story began to unfold.

## RESOLUTION

Initially, the wife (CVO Manager) did not know why Data Banks charges appeared on her husband's bank statement. Upon further review, the CVO Manager discovered that she had inadvertently given a credentialing staff member her husband's personal credit card to use for querying (instead of her organization's credit card). As a result of the mix-up, Data Banks queries were charged to her husband's personal credit card.

While the couple was relieved to find out how the charges were incurred, they now needed to

know how to resolve the problem, including how to have the bank remove the associated fees for overdraft.

The Data Banks' Billing Supervisor worked with the couple, and guided them through the process. Requested information was faxed to the Data Banks on company letterhead explaining the issue with the correct billing information so that the correct hospital credit card could be charged. In order for the bank fees to be taken off the account, the bank requested that the Data Banks refund the card to reflect the error. The Data Banks immediately complied with the bank's request. The CVO Manager also provided an explanation and, as a result, her husband's bank removed the fees.

The couple was extremely pleased with the care, concern, and assistance of Data Banks staff. This story, which began with an upset individual, had a happy ending, and a few lessons were learned by the organization.

## LESSONS LEARNED

- ✓ Your Data Banks Administrator may store credit cards by selecting Maintain IQRS Credit Cards on the *Administrator Options* page. This will help avoid aggravating issues and improve efficiency within busy credentialing groups.
- ✓ After storing your credit card information, verify the accuracy of the data entered prior to using it to avoid inadvertent keystroke errors or the use of the wrong credit card.
- ✓ Contact the Data Banks' Customer Service Center Billing Department to resolve billing issues quickly and efficiently. Unresolved billing issues can disrupt your Data Banks services.

All Data Banks stored credit cards are kept secure and only the last four digits of the stored credit cards are displayed on the screen for added protection. The Data Banks care about you and will help you resolve Data Banks billing issues! ❖

## Security Hints from the Data Banks

Computer attacks continue to remain a cause for concern for Internet users. Attacks are becoming increasingly more sophisticated, and can remain undetected for long periods of time. According to industry analysis, **phishing attacks** were the most prevalent type of attack activity through 2008. In 2009, however, **Web-based attacks** increased by 500 percent, replacing phishing as the most prevalent attack activity. It is important for computer users to be aware of both attack types, how to prevent becoming a victim, and how the Data Banks avoids these attacks.

### PHISHING

Phishing is a fraudulent attempt, usually through email, to steal sensitive personal information such as Social Security Numbers, credit card numbers, account numbers, and passwords. These emails may appear to:

- Come from well-known organizations.
- Coincide with major news headlines or holidays.

These emails may contain links to fraudulent Web sites or contain attachments with malicious codes to steal your personal information.

Don't take the bait! If you receive an email requesting this type of sensitive personal information, do not respond to the sender. Instead, forward the email to your Information Technology (IT) Security Department. Rest assured that the Data Banks will never send an email requesting sensitive personal information.

### WEB-BASED ATTACKS

In Web-based attacks, legitimate trusted Web sites are exploited. They may be infected with malicious code set-up to steal sensitive information, or may contain links to fraudulent Web sites that capture sensitive information. Work with your IT Security Department to ensure your computers have up-to-date patches and current versions of software packages. The Data Banks' Web site is monitored to detect any unauthorized modifications, and security scans are conducted regularly to detect any vulnerability.❖

## PDS Accepted by Major Accrediting Organizations

To satisfy the interest and requirements for ongoing monitoring of healthcare practitioners, many organizations are choosing the Proactive Disclosure Service (PDS 24/7 notification) instead of the traditional querying method. The Data Banks have worked with accreditation organizations to ensure that PDS contains the correct documentation to assist in meeting the particular querying and ongoing monitoring standards. The following accreditation organizations accept PDS as an acceptable alternative to the traditional Data Banks query:

- The Joint Commission.
- National Committee for Quality Assurance (NCQA).
- Centers for Medicare & Medicaid Services (CMS).
- Commission on Accreditation of Rehabilitation Facilities (CARF).
- URAC.

View the individual recognition letters on our Web site at [www.npdb-hipdb.hrsa.gov](http://www.npdb-hipdb.hrsa.gov).❖

# Summary Suspension or Precautionary Suspension: “A Rose By Any Other Name...”

A summary suspension is a professional review-based temporary adverse action that results in a restriction of clinical privileges. This type of suspension is triggered by an event where the failure to suspend privileges may result in imminent danger to the health of an individual, including but not limited to patients or staff. In the execution of a summary suspension, notice and hearing or other due process procedures occur after the suspension. Consequently, a summary suspension is not considered a final adverse action until after the investigation, findings, and final adjudication of the authorized hospital committee or body.

According to the Health Care Quality Improvement Act of 1986, as amended, (HCQIA), (42 U.S.C. § 11101, et seq.), which established the National Practitioner Data Bank (NPDB), hospitals and other healthcare organizations must report certain adverse clinical privilege actions taken against a physician or dentist to the NPDB. Summary suspensions are reportable events to the NPDB as adverse clinical privileging actions if they are:

1. in effect or imposed for more than 30 days,
2. based on the professional competence or professional conduct of the physician, dentist, or other healthcare practitioner that adversely affects, or could adversely affect, the health or welfare of any individual, and
3. the result of a professional review action taken by a hospital or other healthcare organization.

Some in the healthcare community have introduced the concept of a

“precautionary suspension” and/or “abeyance” and have put forth the argument that these actions are not reportable. They argue that these terms better reflect the nature of a suspension imposed on a practitioner when his or her actions raise concerns for patients’ safety and have reserved this terminology for circumstances where an investigation has not yet established whether a restriction on privileges is necessary or not. Further, they argue that the adoption of this policy allows the hospital to highlight the need for an investigation without going as far as reporting the practitioner in question to the NPDB. In these instances, the hospital suspects, but has not confirmed, a risk to individuals and imposes the suspension or abeyance as a precaution. The suspension and/or abeyance is not considered a punitive action and no hearing is required.

The Data Bank’s position is that the reportability of any particular action is based upon whether it satisfies the reporting elements of the NPDB not the name affixed to the action. Renaming a summary suspension as a “precautionary suspension” and/or “abeyance” does not remove the requirements to report the action to the NPDB as an adverse action against clinical privileges if the factors listed above are present.

There are instances when a healthcare organization, out of concern for the welfare of an individual or individuals, must immediately suspend a practitioner’s clinical privileges while an investigation is being conducted to determine if the identified problem is of a nature requiring corrective action. This type of suspension whether called immediate, summary, emergency, precautionary suspension, or abeyance, typically means that a serious question has been raised. The healthcare organization

identifies a serious question and determines that it must be addressed immediately because inaction might cause harm to subsequent individuals. As provided by 42 U.S.C. section 11112 (c)(2), a summary suspension is taken to prevent “imminent danger to the health of any individual.”

Consequently, in the scenario stated above, if a hospital suspects but has not confirmed a risk to an individual and imposes a suspension as a precaution and the suspension remains in effect for more than 30 days, it is reportable to the NPDB. The rationale behind reporting the immediate suspension and the criteria used to determine if it is a reportable event is the same no matter what terminology is used.

The HCQIA treats summary suspensions differently than other professional review actions for purposes of granting immunity from damages for professional review actions. The immunity provisions granted to healthcare organizations under the HCQIA remain in effect even though the procedural rights of the practitioner are provided for after the suspension, rather than before the suspension (see HCQIA, section 412(c) (2)). This is in keeping with the intent of the HCQIA, which is to protect individuals from unprofessional or incompetent healthcare practitioners while encouraging professional review activities.

For reporting purposes, HCQIA treats summary suspension the same as any other suspension. Once a professional review action or recommendation will affect or has affected clinical privileges for more than 30 days, it must be reported regardless of the due process procedures followed by the healthcare organization. The actual presence

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of imminent danger is not a factor for reporting purposes.

Healthcare organizations may be apprehensive about reporting an action or recommendation affecting privileges after the expiration of the 30 days but prior to the completion of the investigation and final decision by the body granted authority by the by-laws to make final decisions on the summary or precautionary suspension. However, once the investigation is completed, if the authorized body determines that the practitioner's clinical privileges should not have been suspended and the privileges are reinstated, then the event does not meet the NPDB reporting criteria and the report of the summary suspension would be voided by the healthcare organization, thus clearing the practitioner's record. A Void is the retraction of a report in its entirety. The report is removed from the practitioner's disclosable record in the NPDB. If the authorized body revises or modifies the summary or precautionary suspension after the investigation is complete, e.g., by making the suspension permanent, revoking privileges, or by establishing conditions for reinstatement, then the healthcare organization must submit a Revision-to-Action Report covering the new action. Similarly, if the authorized body decides the suspension was warranted at the time but further suspension is no longer required and the physician is reinstated, a Revision-to-Action Report covering the reinstatement is required. When the NPDB processes an Initial report of an adverse action, and/or a report status change, a subject notification document is mailed to the practitioner and all healthcare organizations that received the report as part of a query within the past 3 years.

In conclusion, a summary suspension by any name is reportable to the NPDB if the action complies with the standards described in this article. On the other hand, if a summary suspension is imposed administratively and not through a professional review process, no report is required even if the suspension lasts longer than 30 days, but in such a case, the entity does not benefit from the protection from damages granted by the HCQIA for professional review actions.

If you have a question about a report or need additional clarification, please contact the NPDB-HIPDB Customer Service Center by email at [help@npdb-hipdb.hrsa.gov](mailto:help@npdb-hipdb.hrsa.gov) or by phone at 1-800-767-6732 (TDD 703-802-9395). ❖

## Dear Data Banks...

This column answers questions about the Data Banks' policies and procedures. If you have a question, please write to Dear Data Banks at P.O. Box 10832, Chantilly, VA 20153-0832 or email your question to Dear Data Banks at [help@npdb-hipdb.hrsa.gov](mailto:help@npdb-hipdb.hrsa.gov). We look forward to hearing from you!

**Question:** Can you explain the difference between a traditional query and a Proactive Disclosure Service Prototype (PDS 24/7 notification) enrollment?

**Answer:** Enrolling in the PDS is like querying 24 hours a day, every day of the year. The biggest difference between a traditional query and a 24/7 notification enrollment is that the query only gives you a "snapshot" of a practitioner's status at the time that you submit the query. A 24/7 notification enrollment provides you with that "snapshot" when you enroll practitioners, plus it provides 24/7 notification any time an enrolled practitioner's report status changes (e.g., a new report is filed on the practitioner, or a previously-filed report on the practitioner is corrected, revised or voided) for 12 consecutive months of enrollment.

At the end of 12 months, you can continue to renew the practitioner in 24/7 notification for as long as the practitioner is part of your organization. Enrollment renewals are \$3.25 per Data Bank per year, and this fee is in lieu of (not in addition

to) the traditional query fee of \$4.75 per Data Bank per name.

If you submit a traditional query on Dr. X today, and no reports were submitted to the Data Banks prior to your query, you will receive a query response that says "No Reports Found." If a report on Dr. X is received at the Data Banks after your query was submitted, you would not receive that information until your next query on Dr. X, which could be 2 years later.

When you enroll Dr. X in the 24/7 notification, you receive the initial enrollment confirmation that includes the response stating "No Reports Found." However, if a report is received by the Data Banks (1 day, 1 week or anytime) after Dr. X is enrolled, you will receive an email notification within 24 hours, alerting you to login and view the report. In addition, enrollment and report information are always available for downloading or printing. See page 5, "PDS Accepted by Major Accrediting Organizations" for additional information about PDS (24/7 notification).

If you would prefer to discuss a specific issue, please call the Customer Service Center at 1-800-767-6732. Information Specialists are available to speak with you weekdays from 8:30 a.m. to 6:00 p.m. (5:30 p.m. on Fridays) Eastern Time. The Customer Service Center is closed on all Federal holidays. ❖

## Topic of the Quarter

What topics would you like to see addressed in future Data Banks webinars and newsletter articles:

- How to use the Proactive Disclosure Service (PDS 24/7 notification)?
- Section 1921?
- Other topics?

Please send your suggestions or comments to [help@npdb-hipdb.hrsa.gov](mailto:help@npdb-hipdb.hrsa.gov), and reference the subject "Topic of the Quarter." We look forward to hearing your ideas! ❖

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