

PROFESSION

HHS removes public access to National Practitioner Data Bank

Consumer advocacy groups protest the move, which comes in response to a news report that matched a physician to his confidential record.

By KEVIN B. O'REILLY, amednews staff. Posted Sept. 26, 2011.

The National Practitioner Data Bank has shut down public access to anonymized information about physicians after a reporter was able to identify an individual doctor's record for a news article.

The move to protect physician confidentiality has drawn objections from consumer advocacy groups and journalists who say it marks a shift from the Obama administration's promises of transparency.

Adverse actions against physicians such as medical liability payments, medical board disciplinary actions and peer review sanctions are reported to the data bank, operated by the Dept. of Health and Human Services' Health Resources and Services Administration. Only authorized entities such as hospitals and insurers are allowed access to individual physician records.

Since 2001, the data bank has posted a deidentified data file online, updating it quarterly. A numeric string appeared in place of the physician's name, and other information such as payment amounts and ages were stated in broad ranges rather than using the actual figures. Researchers and consumer advocacy groups have used the data to assess trends in disciplinary actions by state, specialty and more.

But when a reporter for *The Kansas City Star* was able to identify a neurosurgeon's data bank record by comparing the anonymized information with state court and disciplinary records, HRSA took swift action.

"The public use file for the National Practitioner Data Bank was removed because we have a responsibility to uphold the law that created the data bank that states that information about individual practitioners must remain confidential," said HRSA spokesman Martin Kramer. "We did that once we were made aware of the ability to triangulate the information -- that's the word the reporter used -- in the data bank to figure out information about individual practitioners."

The data bank's administrators are working to revise the public access file to make it less vulnerable to such triangulation, Kramer said. The process could take as long as six months. In the meantime, the data bank has pledged to respond to individual public requests for deidentified information. A Sept. 13 request by the consumer advocacy group Public Citizen for the most recent version of the data file had not been filled at this article's deadline.

Reactions mixed

The government made the right call in shutting down public access, said Andrew B. Wachler, a health care lawyer who often represents physicians on medical licensure and medical staff matters.

"They acted in a conservative fashion to protect the integrity of the peer review process, which frankly already can be used as a sword and not just a shield," said Wachler, a founding partner of the Royal Oak, Mich., law firm Wachler & Associates PC. "By protecting the integrity of the current system you enhance quality and protect the public, because if we made it completely public, then we would have less reporting because of the impact."

Others disagreed. Summarily removing the public access file will make the medical disciplinary process less transparent, said Michael Carome, MD, deputy director of the Health Research Group at Washington-based Public Citizen. In March, the group released a report comparing actions reported to the data bank with disciplinary measures taken by state medical boards. Public Citizen's report did not name individual physicians.

"It's not just us, but other consumer advocacy groups, health researchers and the media who use it to assess trends in physician conduct and actions taken by entities like state medical boards that oversee physicians," Dr. Carome said. "Having that data available and put out anonymously with all physician names and identifiers stripped is an important resource for researchers who use it to identify systematic problems related to the delivery of health care by physicians."

Other groups, such as Consumers Union, the Society of Professional Journalists, and Investigative Reporters and Editors, also called for public access to be restored promptly.

Taking down the public access file makes research more burdensome, and responding to individual requests will add to the data bank's workload, they said. Federal law requires the data bank to make deidentified information publicly

available upon request, but it is not required to post it online.

In protesting the government's action, Investigative Reporters and Editors on Sept. 16 posted to its website the most recent version of the public data bank file from August. It includes information on hundreds of thousands of actions reported from all 50 states and the District of Columbia. Kramer, of HRSA, declined to comment on the action.

On Sept. 21, HRSA Administrator Mary Wakefield denied requests to restore access to the public-use file, or PUF.

"The statute that governs the NPDB clearly states that we are obligated to keep data about individual practitioners housed in the NPDB confidential," she wrote in a letter to the Assn. of Health Care Journalists. "We now know that the PUF in its current form can be manipulated to identify individual practitioners, and therefore were compelled to act."

The American Medical Association says physicians should receive due process and be notified before a report is filed with a data bank. Reports should be updated when an action is reversed. The AMA has policy supporting alternatives to the data bank to track physician quality.

ADDITIONAL INFORMATION:**WEBLINK**

National Practitioner Data Bank (www.npdb-hipdb.hrsa.gov/topNavigation/aboutUs.jsp)

"State Medical Boards Fail to Discipline Doctors with Hospital Actions Against Them," Public Citizen, March 15 (www.citizen.org/hrg1937)

Copyright 2011 American Medical Association. All rights reserved.

RELATED CONTENT

- » **When is conduct reportable? National Practitioner Data Bank takes complaints from hospitals about physicians** Sept. 21, 2009
- » **Courts examine peer review: Maintaining a proper sense of balance** Sept. 22/29, 2008
- » **Peer review under fire: Real problems or trumped-up accusations?** Oct. 10, 2005