



National Practitioner Data Bank: Partnering to Protect Patients

Medical Malpractice Payment Reporting Requirements

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Anastasia Timothy & Al Golden

Division of Practitioner Data Bank (DPDB)

Bureau of Health Workforce (BHW)

Health Resources and Services Administration (HRSA)



Overview

- ▶ NPDB Medical Malpractice Payment Reporting Data
- ▶ Medical Malpractice Payment Reporting Requirements
- ▶ Reportable/Not Reportable Examples
- ▶ Resources & Questions

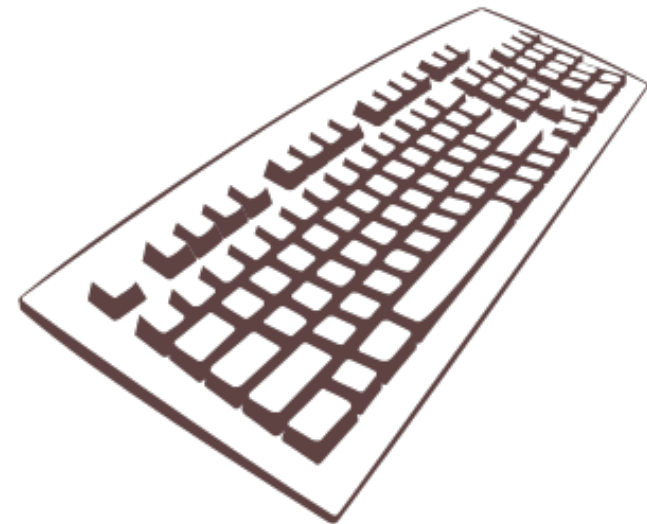


PLEASE NOTE

This presentation and discussion is intended only as a general overview of the NPDB Medical Malpractice Payment Report (MMPR) requirements. It does **NOT** address all possible situations in which an MMPR should, or should not, be submitted to the NPDB. We cannot provide any specific legal or medical advice or guidance in this area. If you have any questions or need clarification regarding specific situations within your agency, hospital, workplace, or other place of business, your best option is to contact our [Customer Service Center](#) via the Web or call 1-800-767-6732. You may also e-mail the [NPDB Policy Center](#).



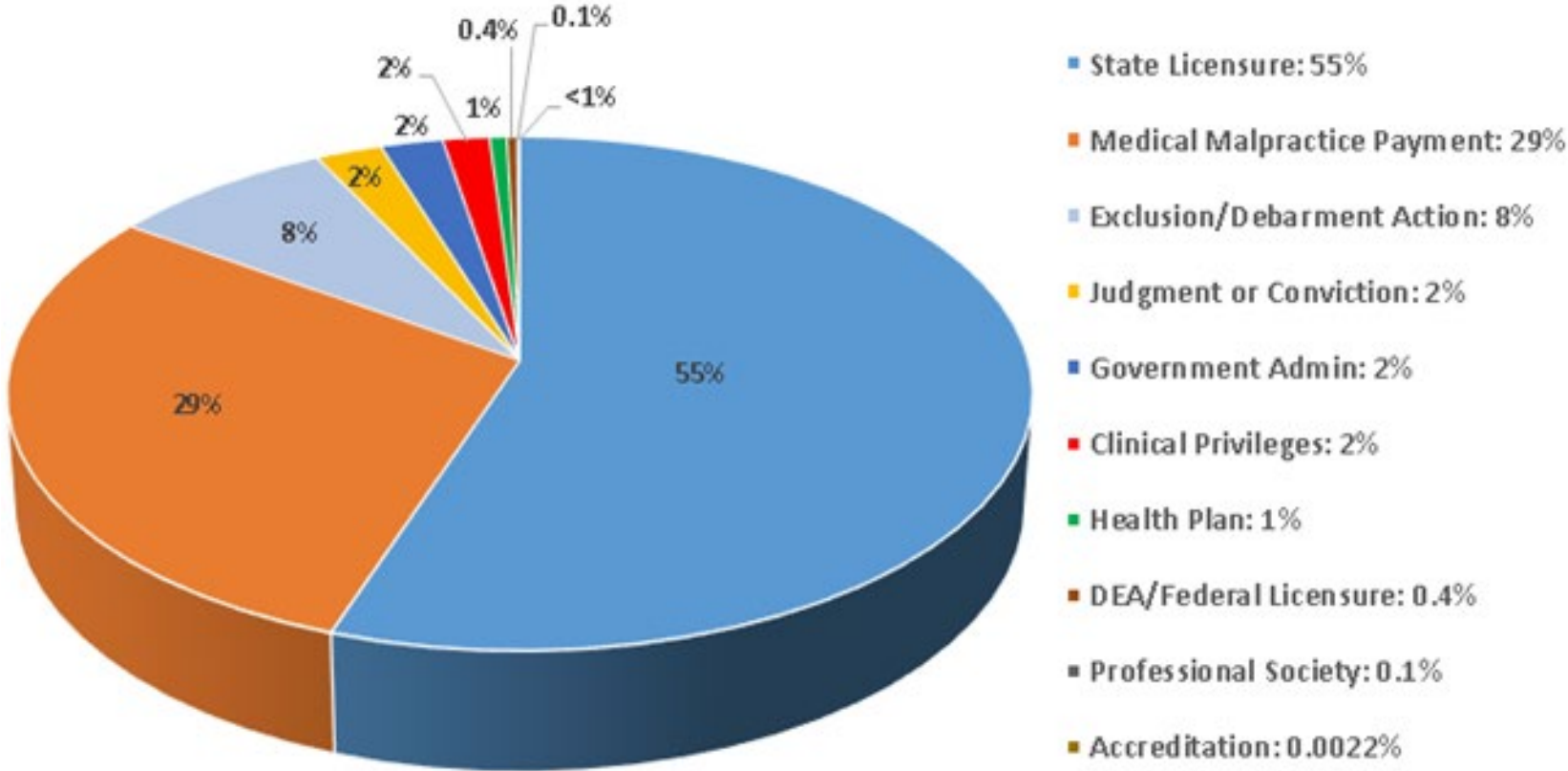
Medical Malpractice Payment Selected Data And Trends



NPDB Statistics

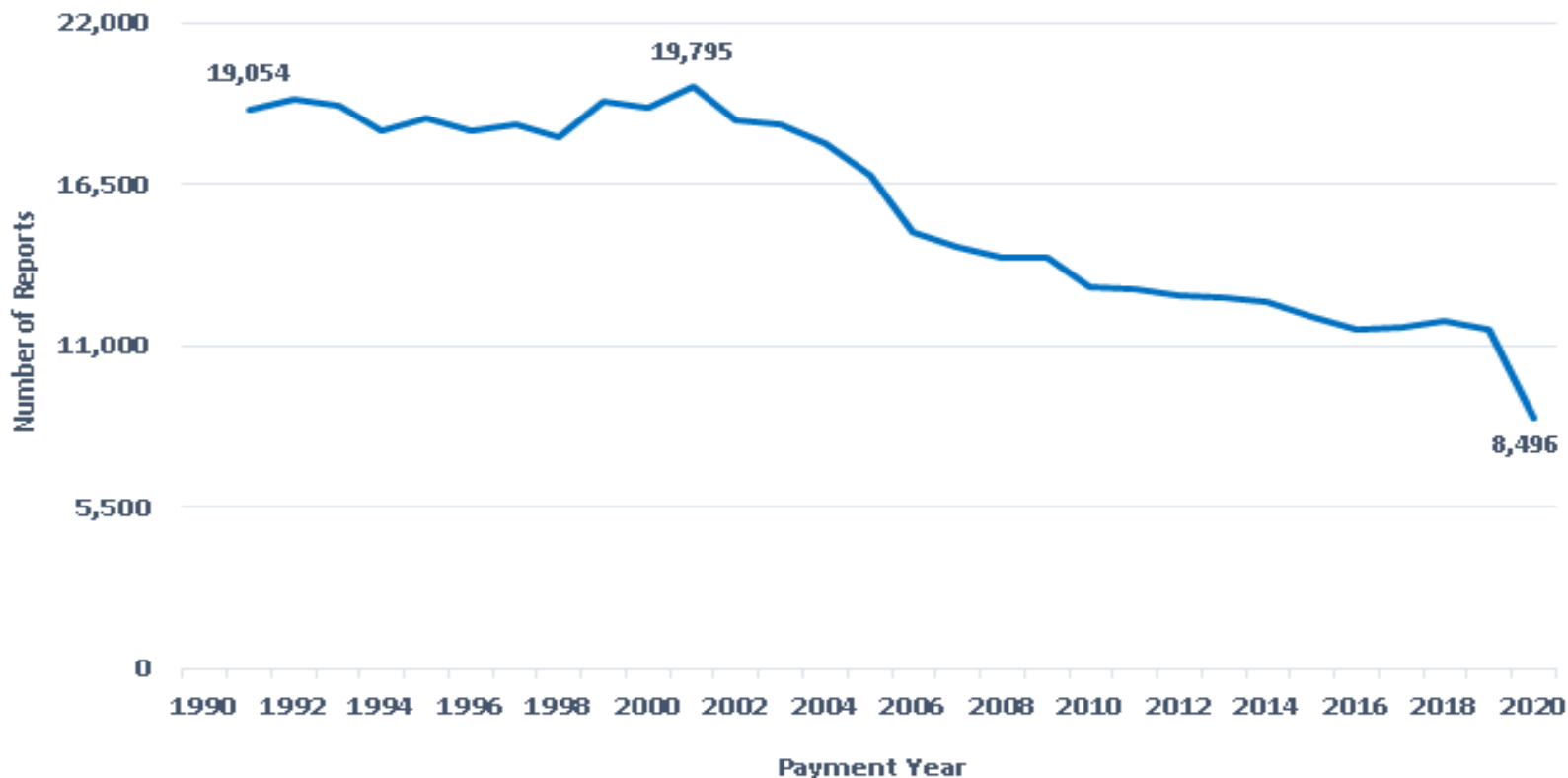
NPDB Reports by Type (N = 1.62 M)

As of December 31, 2020



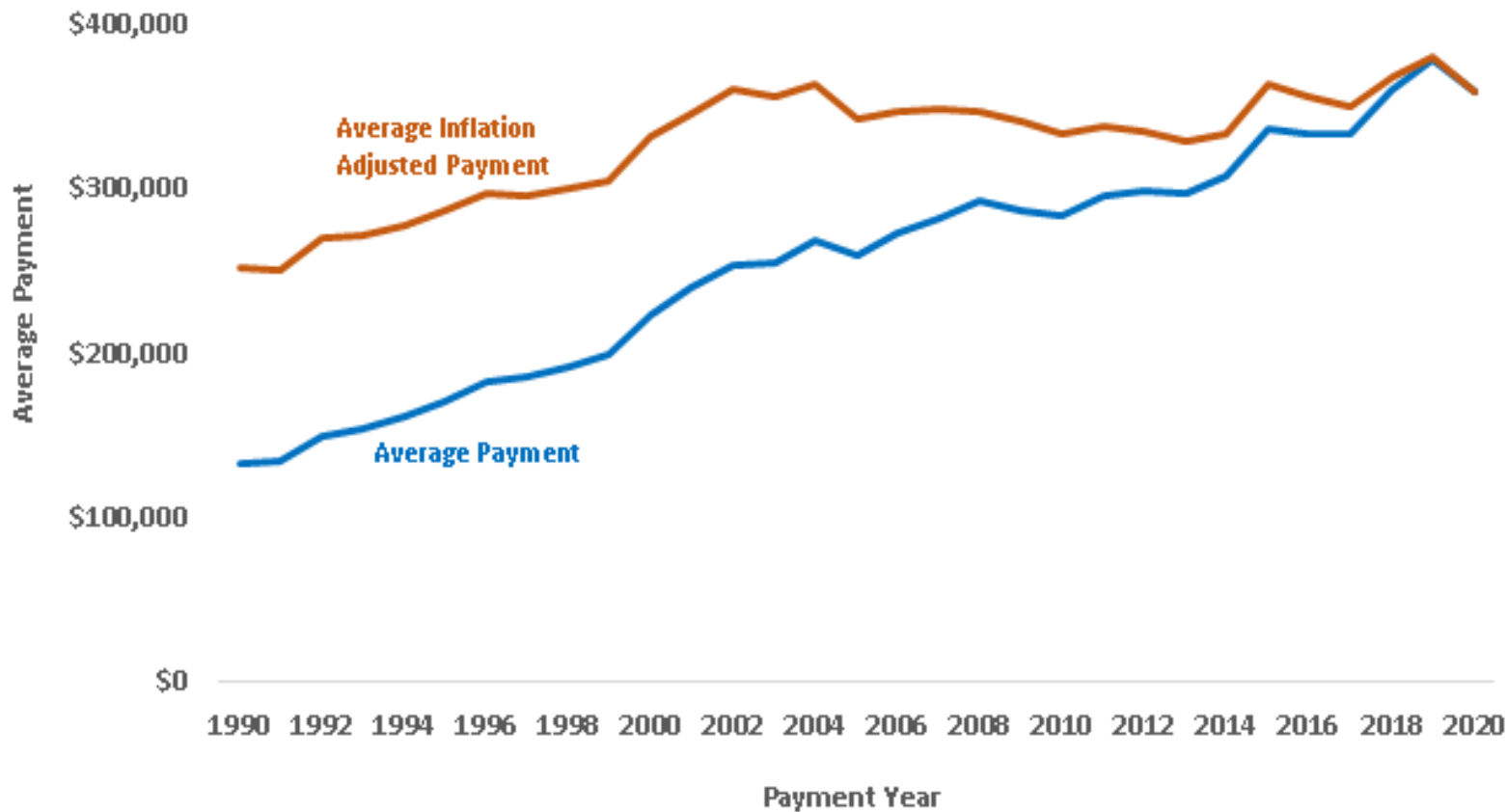
Medical Malpractice Payment Reports Data

Number of MMPRs by Payment Year, 1991 - 2020



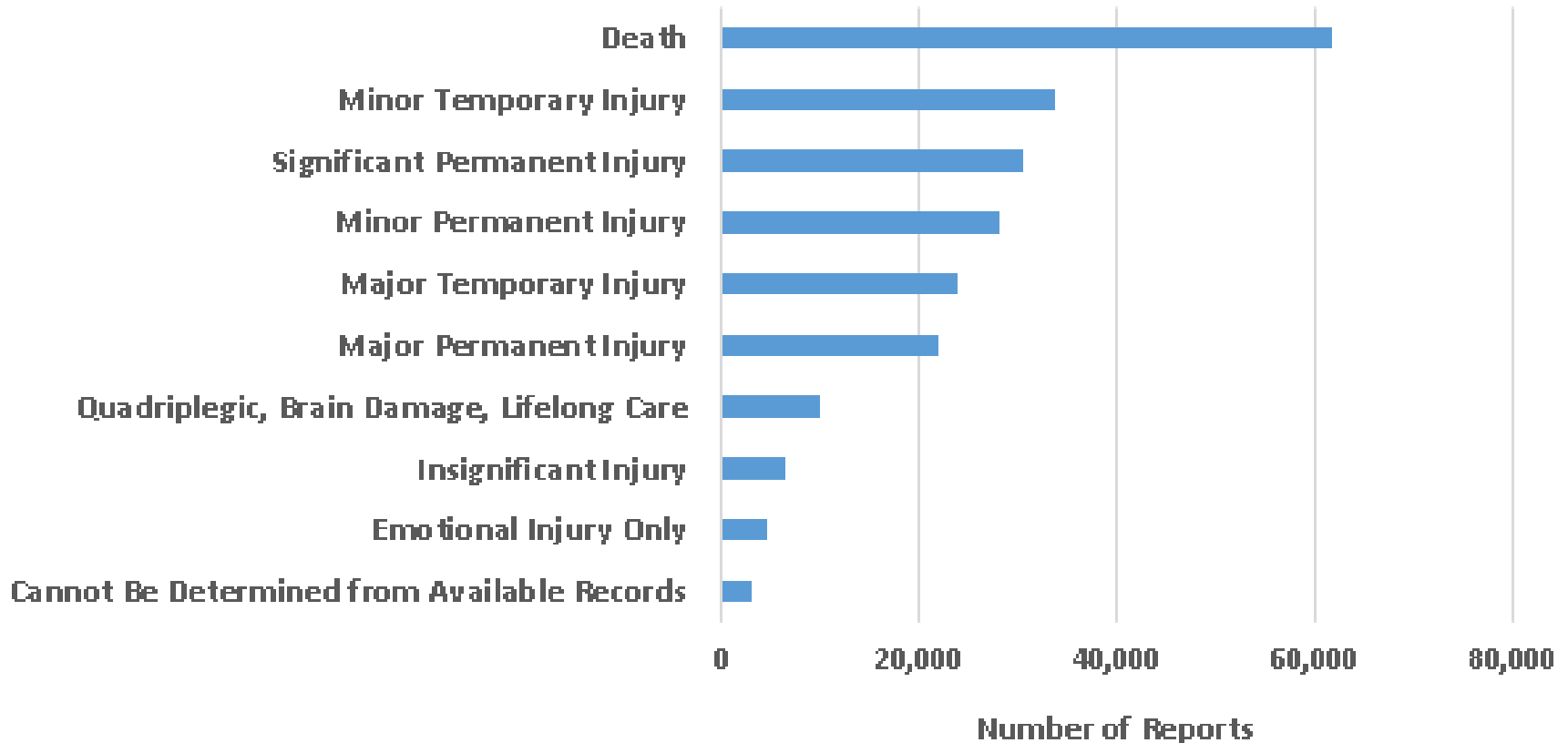
Medical Malpractice Payment Reports Data

Average Payment Amount for MMPRs, 1990 - 2020



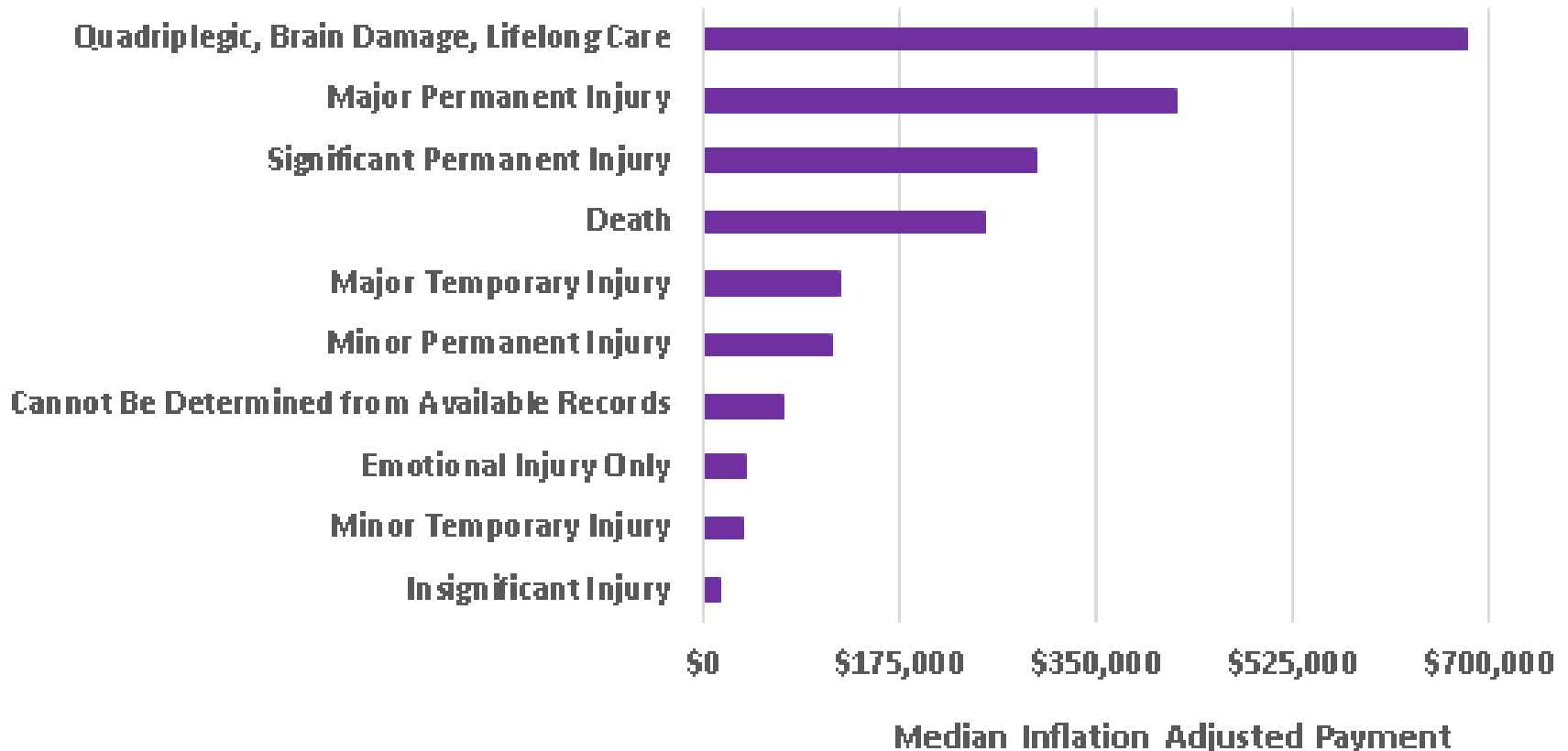
Medical Malpractice Payment Reports Data

Patient Outcome in MMPRs, 1990 - 2020

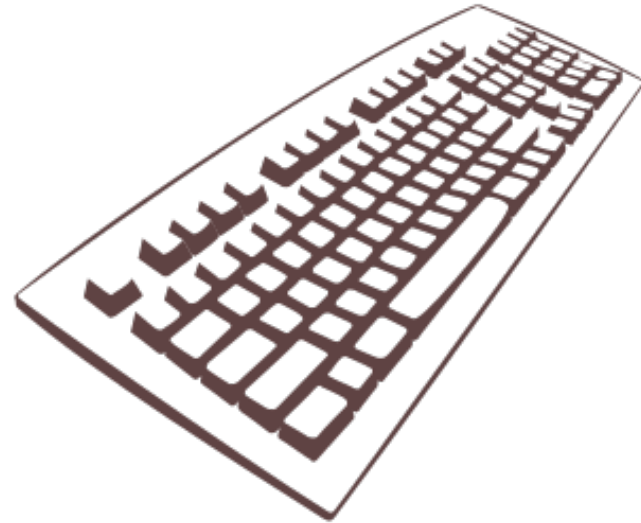


Medical Malpractice Payment Reports Data

Median Inflation Adjusted Payment by Outcome, 1990-2020



NPDB Medical Malpractice Payment Reporting Requirements



Medical Malpractice Payment Reporting

The Law:

As stated in Section 60.7 of the NPDB regulations:

“Each entity, including an insurance company, which makes a payment under an insurance policy, self-insurance, or otherwise, for the benefit of a health care practitioner in settlement of or in satisfaction in whole or in part of a claim or a judgment against such health care practitioner for medical malpractice, must report information as set forth in paragraph (b) of this section to the NPDB and to the appropriate state licensing board(s) in the state in which the act or omission upon which the medical malpractice claim was based.”



Medical Malpractice Payment Reporting

Queriers should note that, as stated in Section 427(d) of the Health Care Quality Improvement Act of 1986, as amended (Title IV of Public Law 99-660), and in 45 CFR §60.7(d) of the NPDB regulations, a “payment in settlement of a medical malpractice action or claim shall not be construed as creating a presumption that medical malpractice has occurred.”



Medical Malpractice Payment Reporting

To be reported to the NPDB, an MMPR MUST

1. Be the result of a written complaint or claim demanding monetary payment for damages. (*The written complaint or claim must be based on a practitioner's provision of or failure to provide health care services.*)
2. Document that the practitioner was named or identified in the complaint or claim demanding monetary payment and in the settlement release or final adjudication.
3. Document that a payment was made on behalf of the practitioner named in the settlement of a claim. *

**(Both settlements and judgments, no dollar threshold for reporting)*



Medical Malpractice Payment Reporting

Non-Reportable Payments

- Medical malpractice payments made solely for the benefit of a corporation such as a clinic, group practice, or hospital.
- A person, rather than a professional corporation or business entity, makes a payment out of personal funds.
- Defendant health care practitioner is dismissed from the lawsuit before settlement or judgment and not as a condition in the settlement or release.

Note: Confidential terms of a settlement do not excuse a reporting entity from submitting an MMPR Report to the NPBD.



Medical Malpractice Payment Reporting

Non-Reportable Payments – Continued

- Practitioners not named or described in a written demand or lawsuit.
- Waiver of debt.
- Unlicensed students.



Medical Malpractice Payment Reporting

Important to Note

- Standard of Care determinations are irrelevant for determining reporting requirements.
- Title IV and NPDB regulations recognize: A report does not mean that malpractice occurred, only that a payment was made.
- If a payment was made for multiple practitioners, the insurer must report, where possible, the actual amount paid for the benefit of each named practitioner.



Medical Malpractice Payment Reporting

High-Low Agreements

- Contractual agreement that defines the parameters of payments.
- Low-end payments reportable unless the defendant is not found liable.
- Settlement prior to trial with high-low agreement does not alter the requirement to report the settlement payment to the NPDB.

Medical Malpractice Payment Reporting

Loss Adjustment Expenses (LAEs)

- LAEs refer to expenses other than those in compensation of injuries, such as attorney fees, billable hours, copying costs, expert witness fees, and deposition and transcript costs.
- LAEs should be reported to the NPDB only if they are included in a medical malpractice payment.
- LAEs should be itemized in the narrative description section of the reporting format.



Medical Malpractice Payment Reporting

Claims in Alternate Settings

Claims raised in other adjudicative bodies, such as alternative dispute resolution or disclosure, apology, and offer models, are considered “claims” for the purposes of reporting, when they include a written demand from the patient for compensation.



Medical Malpractice Payment Reporting

Settlements in Other Adjudicated Actions

Actions that occur in conjunction with settlements in which no findings or admissions of liability have been made, but that meet other NPDB reporting requirements, must be reported.



Medical Malpractice Payment Reporting

Federal Agencies Memoranda of Understanding (MOU)

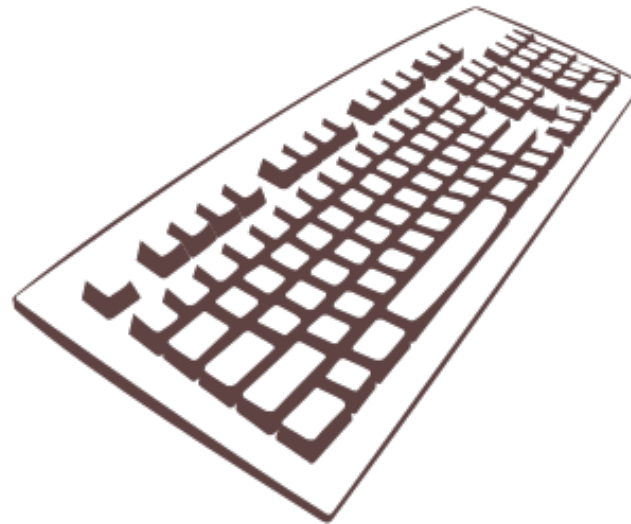
Several Federal Agency partners reporting of Medical Malpractice Payment Reports to the NPDB are governed by special MOUs with the DHHS. While the specific terms and conditions may vary, the reporting requirements of the respective MOUs supersede the federal regulations and Guidebook requirements governing NPDB reporting of MMPRs.

Currently, these Agency partners include:

1. Department of Veterans Affairs
2. Bureau of Prisons
3. Department of Defense
4. Public Health Service



Reportable/Not Reportable Examples

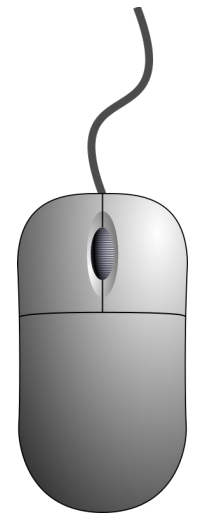


Reportable/Not Reportable?

1. A payment made for the benefit of an unlicensed medical resident
– **Not Reportable**
2. A practitioner defendant released from a medical malpractice lawsuit as a condition of settlement.
– **Reportable**
3. A malpractice settlement or court judgement that includes a stipulation that the terms are kept confidential.
– **Reportable**
4. A practitioner's fee refunded by an entity (including a solo incorporated practitioner) as a result of a written demand.
– **Reportable**
5. A medical malpractice payment made for the benefit of a practitioner who settled out of court.
– **Reportable**



Resources



- ▶ The NPDB [Web Site](#)
- ▶ Medical Malpractice Reporting [Regulations](#)
- ▶ NPDB Guidebook: [Reporting Medical Malpractice Payments](#)
- ▶ NPDB Guide to Reporting MMPR [Infographic](#)
- ▶ NPDB [Help Center](#)
- ▶ Policy Questions: NPDBPolicy@hrsa.gov



Contact Us

Anastasia Timothy

Al Golden

301.443.2300
npdbpolicy@hrsa.gov



Questions



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