



*National Council of State Boards of Nursing*

## NPDB Updates: Reporting Denial of Licensure and the NPDB Dispute Resolution Process

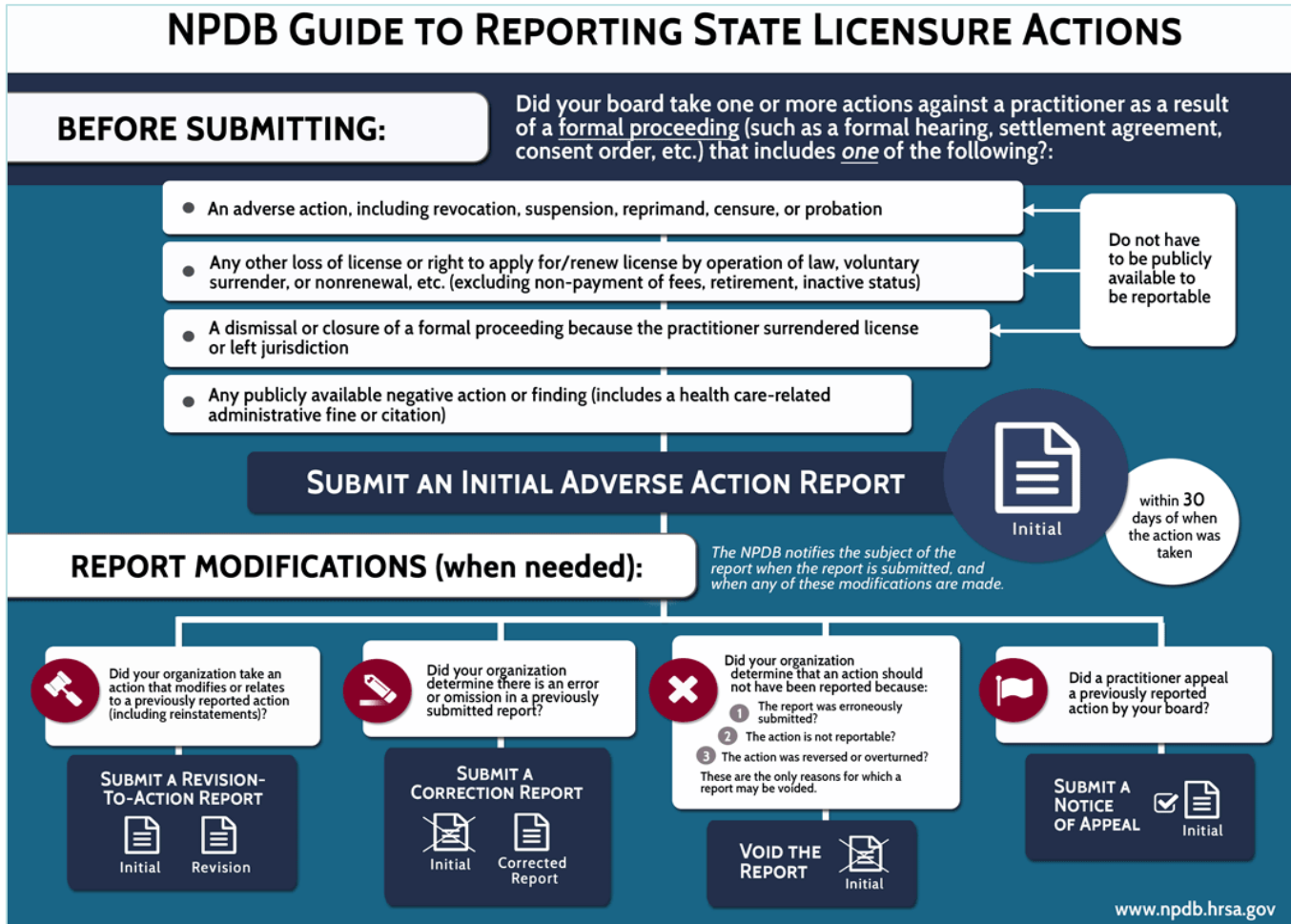
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Discipline Case Management Conference, 2018



# What must be reported to NPDB?



# What must be reported to NPDB

## Three key points



actions taken against health care practitioners



as a result of formal proceedings



publicly available

# Exceptions to the three key points

## Always reportable

- Summary/Emergency Suspensions
- Cease & Desist of Unlicensed Practice
- Actions within an agreement with licensee
  - If reportable action within agreement, report action (not agreement)

# Exceptions to the three key points

## Depends on State Law

- Letter of Concern
- Continuing Education Requirement

# Exceptions to the three key points

## Sometimes reportable

- Some fines or monetary penalties
- Withdrawal of application for **renewal**
  - **not initial**
- Voluntary surrenders in exchange for something
- **Denial of initial & renewal applications**
  - **For cause denials only**

# When to report denial of initial or renewal licensure

Reason for denial	Administrative or For Cause	Reportable
<ul style="list-style-type: none"> <li>■ Failure to meet educational requirement</li> <li>■ Failure to pass NCLEX</li> <li>■ Omitting or falsifying requested application information i.e. criminal or disciplinary actions</li> <li>■ Positive criminal background check</li> <li>■ Failure to answer all application questions</li> <li>■ Failure to pay registration fee</li> <li>■ Failure to meet continuing education requirement</li> </ul>	Administrative	no
	Administrative	no
	For Cause	yes
	For Cause	yes
	Administrative	no
	Administrative	no
	Administrative	no

# REVIEW OF NPDB REPORTING REGULATIONS

February 2018

## Three Key Criteria

If the action meets these three criteria it is always reportable

- ⇒ Action taken against a health care practitioner (includes an imposter)
- ⇒ As a result of formal proceedings
- ⇒ Publicly available

## Criteria for Specific Reportable Actions

### Fines & Monetary Penalties

- ◆ Reportable if any of the following
  - Adverse action, resulting from a formal proceeding
  - Publicly available, connected to delivery of health care services
  - Publicly available, taken in conjunction with another disciplinary action

### Summary/Emergency Suspensions

- ◆ Always reportable

### Denial of Initial & Renewal Applications

- ◆ Reportable if denial is an adverse action, resulting from a formal proceeding

### Withdrawals & Failure to Renew while under Investigation

- ◆ Reportable if a renewal application withdrawn while investigating the applicant

### Voluntary Surrenders

- ◆ Reportable if there is notification of investigation, plus one of the following
  - Request by BON to surrender license
  - Surrender in exchange for BON to cease an investigation
  - Surrender in exchange for BON to not conduct an investigation
  - Surrender in exchange for BON to not order a disciplinary action

### Action within a drug/treatment program contract/agreement

- ◆ Action (i.e. probation, surrender) is reportable, but not the drug/treatment program

### Cease & Desist of Unlicensed Practice

- ◆ Always reportable

### Letter of Concern

- ◆ Reportable if publicly available negative action per state law

### Continuing Education Requirement

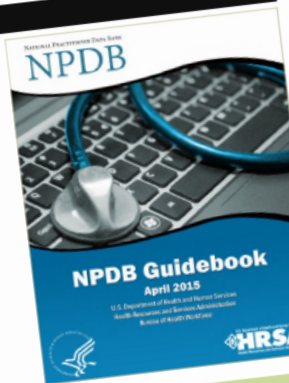
- ◆ Reportable if publicly available negative action per state law

### Actions within an agreement with licensee

- ◆ If reportable action within agreement, report action (not agreement)

### Tips on Reporting

- ⇒ Modification of BON order because of court ruling - revision-to-action report
- ⇒ Reversal of BON order because of court ruling - void
- ⇒ Automatic reinstatement after a probation - no report needed
- ⇒ Reinstatement after a probation - revision-to-action report



<http://www.npdb.hrsa.gov/resources/aboutGuidebooks.jsp>

### Not reportable

- \* Stayed Actions
- \* Investigations
- \* Withdrawal of an initial application for licensure, even if the applicant is under investigation
- \* Voluntary relinquishment of license for retirement, illness (no investigation pending)
- \* Letter of concern that is not a publicly available negative action per state law
- \* Continuing education requirement as a result of failure to disclose on application, not reportable if the requirement is not a publicly available negative action per state law

Pages E-57 - E-73 of the Guidebook pertain to BON licensure actions. <http://www.npdb.hrsa.gov/resources/aboutGuidebooks.jsp>



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What if the nurse disagrees with the report?



**A PRACTITIONER'S GUIDE TO THE NPDB**

The National Practitioner Data Bank is a federal online repository of reports on adverse actions, medical malpractice payments, health care-related judgments or convictions, and exclusions on health care practitioners.

**Here is how it works:**

Health care entities, federal and state agencies, and others are required by law to submit reports. The NPDB contains 1.3 million reports. Entities query for reports when making licensing, hiring, and credentialing decisions.

**WHAT IS THE NPDB?**

**HOW CAN I SEE MY REPORT?**

**SELF-QUERY** OR **REPORT NOTIFICATION**

Order a Self-Query on the NPDB website at any time to view any reports that match your information.

Practitioners are sent a letter when an entity submits a report about them to the NPDB. The letter has the report number and password required to view the report.

**WHAT IF I DISAGREE?**

**Contact the reporting organization**  
Attempt to resolve your disagreement with the entity shown at the top of the report. Only the submitter can correct or modify the report. The NPDB simply stores reports and is prohibited from modifying or correcting them.

**Add a subject statement giving your perspective**  
At any time, you may write a statement containing any additional information. Your statement will be included with all future queries and also sent to all entities that received the report within the last 3 years.

**Place the report into Dispute Status**  
If you feel the report is not accurate, or was not submitted in accordance with NPDB reporting requirements, you may place the report into Dispute Status on the NPDB website. The dispute will become part of the report and the reporting entity and any queriers from the past 3 years will be sent a notification of the dispute.

**Dispute Resolution**  
If you have placed the report into Dispute Status and contacted the reporting entity, and they have not responded after 60 days or they will not modify the report, you may elevate to Dispute Resolution. Dispute Resolution will only address the factual accuracy of the report or whether it was submitted in accordance with NPDB regulations.

U.S. Department of Health and Human Services | HRSA Health Workforce



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## Add a **subject statement** giving your perspective

At any time, you may write a statement containing any additional information. Your statement will be included with all future queries and also sent to all entities that received the report within the last 3 years.

Nurse places the **subject statement** in the report via the *Report Response Service*

- NPDB removes confidential information & coarse language
- NPDB sends the BON & all *queriers* for last 3 years a copy of the *subject statement*
- If there is a revision to the report by the BON, the *subject nurse* may again update the statement or remove the statement



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Acceptable reasons to enter into **Dispute Status** per NPDB :

- disagreement with the factual accuracy of report
- the report not submitted according to NPDB requirements

NPDB sends a copy of Dispute Status to BON & all queriers for the last 3 years

NPDB does **NOT** review the report after the nurse enters Dispute Status



## Dispute Resolution

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*Subject nurse* request the report be elevated to **Dispute Resolution**, but first must:

- enter the report into Dispute Status
- attempt to contact the BON to resolve the issues
- wait 60 days after entering into *Dispute Status*\*
- present verification of the effort to contact BON



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*Dispute Resolution* process will **only** address

- factual accuracy of report
- whether submitted in accordance with NPDB regulations

NPDB will **not**

- review or address the underlying reasons for the report
- whether the BON followed due process procedures

# Example

- Individual applies for initial licensure
- BON starts investigation
- Individual withdraws application while under investigation
- BON reports withdrawal of application to NPDB

Applicant does not think the reporting to NPDB was correct, follows process

- Calls the BON
- Adds a Subject Statement
- Enters into Dispute Status
- Follows process for Dispute Resolution
- Elevates to Dispute Resolution

**What do you predict the NPDB will do?**



# What do you predict the NPDB will do?

## Applicable Reportability Rules

- Withdrawal of application for renewal
  - ✓ reportable
- **Withdrawal of initial application**
  - **not reportable**

Questions???

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