



# **Maryland Board of Physicians**

## **Mandated Reporting Requirements**

### **Hospitals, Related Institutions & Alternative Health Systems**

January 08, 2015

# Mission

The mission of the Maryland Board of Physicians is to assure quality health care in Maryland through the efficient licensure and effective discipline of health providers under its jurisdiction, **by protecting and educating clients, customers and stake holders and enforcing the Maryland Medical Practice Act.**



# Objectives



Attendees will:

- Understand the legislative background.
- Understand the 6-month reports and 10-day reports mandated by law and background.
- Recognize the differences in the reports.
- Understand the information required for the reports.
- Understand the forms and format required for reporting.



# Objectives Cont'd



Attendees will:

- Identify the reporting periods and submission dates.
- Recognize the consequences of failure to report and the statutorily mandated fines for failure to report.
- Understand the National Practitioner Data Bank's reporting requirements corresponding to the statutorily mandated reports.

# Background

Recommendation 42 of the 2011 Sunset Review Report by the Department of Legislative Services:



The Board should ... conduct outreach with facilities on the issue of mandated reporting requirements.

# Board's Sunset Review of 2011

The auditors from Department of Legislative Services (DLS) found the following:

From 2007 to 2011 - The Board **only** received **36** mandatory 10-Day reports from hospitals.

Due to the low compliance rate, DLS recommended:

- Additional outreach;
- The Board exercise its authority to assess civil fines against an entity that does not report as required under §14-413; and
- Posting on the Board's website a Report of Disciplinary Action Form.

# Board's Sunset Review of 2011 Cont'd

On May 2, 2013, House Bill 1096 was enacted - State Board of Physicians and Allied Health Advisory Committees – Sunset Extension and Program Evaluation.

The law states that the Board, in consultation with all interested parties, may adopt regulations to define:

(1) Changes in employment or privileges that require reporting under this section; and

(2) Actions by licensees that are grounds for discipline and that require reporting.

## Data from Calendar Year 2014

- 62 Hospitals are required to report in the State of Maryland.
- 29,601 Active, Licensed Physicians in the State of Maryland.
- 84,179\* Active, Licensed Physicians with hospital privileges in the State of Maryland.
- 13 Mandated 10-Day Reports filed by hospitals (From January 1st through June 30th).

*\*May include multiple hospital privileges held by each physician.*



# Mandatory Reporting Requirements Across the Country

- ❑ 61 of the 70 members of the Federation of State Medical Boards require reports from hospitals.
- ❑ Reporting timeframes depending on the circumstances vary (72 hours, 7 days, 10 days, 15 days, 30 days & 60 days).
- ❑ Generally, civil penalties attach for failure to report.
- ❑ The language of the mandated reporting requirements vary from state to state but the focus is on public protection.

# Implementing The Sunset Recommendation

- ❑ In August 2012, the Board initiated a set of revisions to the Adverse Action Form (10-Day Reports).
- ❑ In February 2013, the Board sent letters on the reporting requirements to Hospitals, Related Institutions and Alternative Health Systems.
- ❑ In April 2014, the Board conducted a training session on the reporting requirements to stakeholders at the Maryland Hospital Association.
- ❑ On July 21, 2014, in response to a request, the Board conducted a training session on the reporting requirements at University of Maryland Medical Systems.

# Implementing The Sunset Recommendation Cont'd

- ❑ In August 2014, the Board sent a Question and Answer document developed in response to questions arising from the April 2014 training session to stakeholders.
- ❑ In August 2014, the Board revised and posted the 10-Day Reporting Form on the website (Mandated 10-day Reporting Form).
- ❑ In August 2014, a request for input concerning the proposed regulations on the reporting requirements was sent to stakeholders (deadline to respond extended).
- ❑ In September 2014, in response to a request, the Board conducted a training session on the reporting requirements at Kennedy Krieger.
- ❑ In November 2014, by request, participation in the Maryland Association Medical Staff Services Conference.

## Why Has The Board Become Concerned About Under-Reporting?

- ❑ The Board's concern is not new and is shared by the Department of Legislative Services.
- ❑ It is based on hard statistics showing just how significant the under-reporting is.

## Why Has The Board Become Concerned About Under-Reporting Cont'd

- ❑ Historically, the Board and DLS have been concerned about the low rate of compliance by hospitals with the reporting requirements.
- ❑ Following the passage of Senate Bill 500 in 2003, the Board sent letter to all Maryland hospitals for the purpose of educating them again on the statutory requirements under §14-413 of the Maryland Medical Practice Act (Act).

## Why Has The Board Become Concerned About Under-Reporting Cont'd

Following the passage of House Bill 1096 in 2013, specifically in response to the DLS finding that compliance with reporting requirements by hospitals was low and its recommendation that the Board conduct outreach to hospitals on the reporting requirements:

- ❑ Another letter was sent by the Board to hospitals in February 2013;
- ❑ Training for stakeholders commenced; and
- ❑ Educational material was sent to stakeholders.

# Are These New Mandated Reporting Requirements?

**No.**

The mandated reporting requirements have been part of Maryland law since 1977 and date back to the days of the Commission on Medical Discipline.

Subsequent amendments to the law in the decades since that time did not change the substantive requirement for hospitals to report.

## The Board is Establishing New Reporting Requirements Without Any New Legal Authority or Promulgation Process

**No.**

That statement is inaccurate because this law has existed for over 30 years since 1977.

Consistent with HB 1096, Chapter 401 of Acts 2013, the Board has properly requested input from stakeholders on the proposed regulations and continues to reach out to stakeholders.



# Process of Promulgating the Regulations

## Stakeholders' Concerns

*Legislature was clear that any definitional change to define "changes in privileges ..." that might be grounds for disciplinary action was only to be undertaken after consultation with interested parties.*

That is incorrect.

To date, the Board has not promulgated any regulations.

The Board has not made any changes to definitions. Rather, the Board is enforcing the provisions of the Act by educating stakeholders about the mandatory reporting requirements and reminding them of their existing obligations under the law.

The statute did not proscribe or stay the Board's enforcement responsibilities under the Act pending promulgation of the regulations.

## Process of Promulgating the Regulations Stakeholders' Concerns Cont'd

*The Board acted without consulting interested parties and without following the legally required consultation and regulatory process.*

That is incorrect.

Consistent with the consultation process and its discretion to adopt regulations based on HB 1096, the Board sent a request for input to interested parties.

The Board extended the deadline set to receive responses to allow more participation by stakeholders in advance of any regulations.

# Process of Promulgating the Regulations

## Stakeholders' Concerns Cont'd

The goal of the proposed regulations, so there are no further misperceptions about or misinterpretations of the law's requirements, is to:

- Enhance understanding of the law;
- Clarify changes in employment and privileges that require reporting; and
- Clarify actions by licensees that require reporting.

Hospitals have always exercised discretion to determine what might be grounds for disciplinary actions as they pertain to the reporting requirements.

- ❑ The Medical Practice Act grants no discretion to hospitals to make those determinations.
  
- ❑ Under the Act, only the Board is authorized by the legislature to apply the disciplinary grounds of §14-404 and to make determinations from underlying facts whether the disciplinary grounds have been violated.

Hospitals have always exercised discretion to determine what might be grounds for disciplinary actions as they pertain to the reporting requirements cont'd.

- ❑ The fact that hospitals may have exercised discretion in the past to determine what underlying facts might be grounds for disciplinary action does not mean that it is permissible under the law or that they are authorized to exercise that discretion.
- ❑ Except for the Board, no person, entity or facility is authorized to apply these grounds.

Section 14-413 since its inception, has been left to the reasonable judgment of hospitals to decide if a change or denial in privileges was for reasons that might be grounds for disciplinary action.

- ❑ That statement is incorrect and an erroneous interpretation of the law.
- ❑ The fact that this misperception exists does not mean that it is consistent with the law and legislative intent.
- ❑ Application of the grounds of 14-404 is a power conferred by the Legislature solely on the Board. It is a power reserved to the Board.

Section 14-413 since its inception, has been left to the reasonable judgment of hospitals to decide if a change or denial in privileges was for reasons that might be grounds for disciplinary action cont'd.

- ❑ The Board cannot and will not validly redelegate to others its authority to apply these grounds, especially to entities that have no expertise in applying the 14-404 grounds and may have inherent conflicts of interest in exercising such a power.
- ❑ The remarkable under-reporting shown by the statistics alone shows that hospitals are either unable or unwilling to properly apply the grounds and file reports only in very limited circumstances, despite the broad language in the statute encompassing limitations, reductions, changes, and terminations of staff privileges and resignations whether or not a physician is under formal accusation.

# Will the proposed regulations clarify which voluntary resignations must be reported?

- Yes.
- The Board is in the process of developing regulations that will address the reporting requirements, including voluntary resignations.
- However, the legislative history from 1977 is full of references that the legislative intent included the reporting of voluntary resignations of physicians by hospitals.
- In 1977, the following language offered to amend (Senate Bill 263) the reporting requirements passed:
  - Each hospital shall report to the Commission ... any voluntary resignation of a physician while the physician is under formal accusation for activities listed in the law.



# Legislative History Highlights

- ❑ During the Senate Finance Committee meeting on Senate Bill 263 in February 1977, John Sargeant representing MedChi testified in support of the bill and recommended an amendment to add the wording that any voluntary resignation of a physician while he is under formal accusation be reported to the Commission.
- ❑ He explained that, report to the Commission does not necessarily mean that the license of the physician would be revoked or action taken against him, but it would identify the problem and hopefully corrective steps could be taken.

# Legislative History Highlights Cont'd

- ❑ In 1986, Senate Bill 560 signed into law, further amended the reporting requirements with the following language:
- ❑ "Requires a hospital or related institution to report to the Commission if the hospital or related institution changes the staff privileges of a physician, or if the physician resigns whether or not under formal accusation".

# Specific Reporting Requirements

## Stakeholders' Concerns

- 1. It is unnecessary to report a person who resigns for personal reasons or reaches retirement and resigns.*
- 2. It is unnecessary to report practitioners placed on administrative suspension (for required training, inadvertent insurance lapse, etc.) leave of absence, focused review and maternity leave.*

The Board is in the process of promulgating regulations to clarify the reporting requirements, including voluntary resignations and other categories of changes in privileges that are not co-mingled with underlying facts that might be grounds for disciplinary action.

The Board should consider allowing hospitals to continue only submitting reports on practitioners for whom there is an investigation, or threatened investigation of events that are grounds for disciplinary action under section 14-404(a).

- ❑ In addition to the fact that it is only the Board authorized to determine what might be grounds for disciplinary action, the reporting requirements are much broader than the examples specified above.
  
- ❑ The Board is concerned that hospitals have limited reporting to examples described above.

Hospitals and their medical staff are in the best position to determine if a change in a physician's privileges is based on acts which are unprofessional or a departure from the standard of care.

- ❑ The significant under-reporting by hospitals indicates that they may not have the motivation to appropriately comply with their reporting obligations under HO 14-413.
- ❑ Hospitals simply do not have the authority or expertise to apply disciplinary grounds that are specifically reserved to the Board as the enforcement entity.
- ❑ Except for the Board, no person, entity or facility is authorized to apply these grounds.

Hospitals and their medical staff are in the best position to determine if a change in a physician's privileges is based on acts which are unprofessional or a departure from the standard of care cont'd

- ❑ It is important to note that there are 41 disciplinary grounds for which a physician may be disciplined, not just unprofessional conduct or a failure to meet the standard of quality care.
- ❑ Again, the Board is concerned that hospitals may be limiting their reporting to these examples.

The medical staff office may not be aware of the actions taken to provide the required report within 10 days.

- ❑ This is an internal problem which should be addressed by individual hospitals.
- ❑ The law mandates 10-day reports.
- ❑ However, law gives the Board the discretion to extend the reporting time for good cause.

The level of detail required when reporting voluntary resignations is unclear

- ❑ The Mandated 10-Day Report Form provides a full page to provide explanations concerning any 10-Day report.
- ❑ The explanation should be sufficient enough to provide details for the Board to determine whether the underlying facts might be grounds for disciplinary action.



## Example of Under-Reporting Affecting Public Protection

- ❑ In 2009, the Board received an anonymous complaint regarding a physician reporting to work at a hospital under the influence of alcohol and reading EKGs.
- ❑ During the course of the Board's investigation, the Respondent's quality assurance file was subpoenaed and it contained **no** information regarding the event.
- ❑ After the incident, the hospital immediately placed the licensee on a medical leave of absence. Therefore, the hospital did not complete the mandated 10-Day report and all the information relating to the physician being under the influence of alcohol while practicing medicine **was not included** in the licensee's QA file.

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# Why Should Facilities Submit Certain Reports To The Board

- ❑ Maryland law, the Medical Practice Act (Act), mandates the reporting of certain actions taken by facilities.
- ❑ The reporting requirements are intended to assure that the Board is made aware of any health care provider concerns that may impact the practice of medicine and the health, safety, and welfare of the public.

# The Mandated Reports

6-Month Reports

10-Day Reports

Other Mandated Reports

# Which State Agency Are The Reports Submitted To

The Maryland Board of Physicians.

Send the 6-month reports electronically to:

[dhmh.mbpsixmonthreports@maryland.gov](mailto:dhmh.mbpsixmonthreports@maryland.gov); or

By CD mailed to:

Maryland Board of Physicians

4201 Patterson Avenue, 4<sup>Th</sup> Floor

Baltimore, MD 21215



# Which State Agency Are The Reports Submitted To Cont'd

Send the 10-day reports:

By mail to:

Intake Manager

Maryland Board of Physicians

4201 Patterson Avenue, 4<sup>th</sup> Floor

Baltimore, MD 21215; or

By fax to:

(410) 358-1298 or (410) 358-2252

# Which Facilities Have to Report

Hospitals

Related Institutions

Alternative Health Systems



# Definition of Hospital

Section 19-301(f) of the Health - General Article provides that:

“Hospital” means an institution that:

- Has a group of at least 5 physicians who are organized as a medical staff for the institution;
- Maintains facilities to provide, under the supervision of the medical staff, diagnostic and treatment services for 2 or more unrelated individuals; and
- Admits or retains the individuals for overnight care.



# Definition of Related Institution

Section 19-301(o)(1) of the Health - General Article provides that:

“Related institution” means an organized institution, environment or home that:

- Maintains conditions or facilities and equipment to provide domiciliary, personal, or nursing care for 2 or more unrelated individuals who are dependent on the administrator, operator, or proprietor for nursing care or the subsistence of daily living in a safe, sanitary, and healthful environment; and
- Admits or retains the individuals for overnight care.

# Definition of Alternative Health System

Section 1-401 of the Health Occupations Article provides that:

- ❑ Alternative health system means a system of health care delivery other than a hospital or related institution.
  
- ❑ Alternative health system includes:
  - A health maintenance organization;
  - A preferred provider organization;
  - An independent practice association;

# Definition of Alternative Health System Cont'd

- A community health center that is a nonprofit, freestanding ambulatory health care provider governed by a voluntary board of directors and that provides primary health care services to the medically indigent;
- A freestanding ambulatory care facility as that term is defined in section 19-3B-01 of the Health - General Article; or
- Any other health care delivery system that utilizes a medical review committee.

# What Reports Are Required From The Facilities

- ❑ 6-month reports (Physicians only - every 6 months).
- ❑ 10-day reports (within 10 days of any reportable action).
  - Generally, the 10-day reporting requirements pertaining to the physicians and allied health practitioners are similar, however there are a few distinctions.
- ❑ Other mandated reports.

# Which Licensees Are The Reports Submitted On

## ☐ 6-month reports:

- Physicians only, including postgraduate medical trainees.

## ☐ 10-day reports:

- Physicians; and
- Allied Health Practitioners; except Athletic Trainers.



# 6-Month Reports

- Statutory predicates
- Reportable actions
- Individuals reported
- Format
- Content
- Failure to report

# Statutory Predicates

## Section 14-413

Section 14-413 (a)(1) of the Medical Practice Act provides that: Every 6 months, each hospital and related institution **shall** file with the Board a report that...

# Statutory Predicates

## Section 14-413 Cont'd

A. Contains the name of each licensed physician who, during the 6 months preceding the report:

- Is employed by the hospital or related institution;
- Has privileges with the hospital or related institution; and
- Has applied for privileges with the hospital or related institution; and

B. States whether, as to each licensed physician, during the 6 months preceding the report, the facility took a reportable action.



# Statutory Predicates

## Section 14-414

Section 14-414 (a)(1) of the Medical Practice Act provides that:

Every 6 months, each alternative health system as defined in section 1-401 of the Act **shall** file with the Board a report that...

# Statutory Predicates

## Section 14-414 Cont'd

A. Contains the name of each licensed physician who, during the 6 months preceding the report:

- Is employed by the alternative health system;
- Is under contract with the alternative health system; and
- Has completed a formal application process to become under contract with the alternative health system; and

B. States whether, as to each licensed physician, during the 6 months preceding the report, the facility took a reportable action.

# Reportable Actions For 6-Month Reports

Include the:

- Reportable actions under section 14-413 of the Medical Practice Act; and
- Reportable actions under section 14-414 of the Medical Practice Act.

# Reportable Actions Under Section 14-413

Include the:

A. Denial of the application for staff privileges;

B. Limitation, reduction, otherwise changing, or terminating the staff privileges of a physician; or

C. Resignation of a physician whether or not under formal accusation;

If the denial, limitation, reduction, change, termination, or resignation is for reasons that might be grounds for disciplinary action under section 14-404 of the Medical Practice Act.

# Reportable Actions Under 14-413 Cont'd

Include:

- D. Any disciplinary action against a salaried, licensed physician without staff privileges, including:
- The termination of employment, suspension, or probation for reasons that might be grounds for disciplinary action under section 14-404 of the Medical Practice Act.

# Reportable Actions

## Under Section 14-413 Cont'd

Include:

E. Any disciplinary action against an individual in a postgraduate medical training program, including:

- The removal from the training program, suspension, or probation for reasons that might be grounds for disciplinary action under section 14-404 of the Medical Practice Act.

# Reportable Actions

## Under Section 14-413 Cont'd

Include:

F. The voluntary resignation of a licensed physician or an individual in a postgraduate training program:

- From the staff, employ, or training program of the hospital or related institution for reasons that might be grounds for disciplinary action under section 14-404 of the Medical Practice Act.

# Reportable Actions

## Under Section 14-413 Cont'd

Include:

G. Any other restrictions or conditions placed on any of the:

- Licensed physicians that applied for privileges, have privileges or are salaried; or
- Individuals in a postgraduate training program;

For any reasons that might be grounds for disciplinary action under section 14-404 of the Medical Practice Act.



# Reportable Actions Under Section 14-414

Include the:

- A. Denial of the formal application of a physician to contract with the alternative health system;
- B. Limiting, reducing, otherwise changing, or terminating the contract of a physician; or
- C. Resignation of the physician whether or not under formal accusation;

If the denial, limitation, reduction, change, termination, or resignation is for reasons that might be grounds for disciplinary action under section 14-404 of the Medical Practice Act.

# Reportable Actions Under 14-414 Cont'd

Include:

D. Any other restrictions or conditions  
placed on any licensed physician for any  
reasons that might be grounds for  
disciplinary action under section 14-404 of  
the Medical Practice Act.

# What are the Reasons

That might be grounds for disciplinary action under section 14-404 of the Maryland Practice Act:

For guidance:

- Review the Board's newsletter (sanctions).
- Review the Board's website (sanctions).
- Report rather than fail to report.
- **Contact the Board.**

Note: The Board determines what might be grounds for disciplinary action under the Act from the facts.

# 6-Month Reports on Physicians

Hospitals, related institutions and alternative health systems are mandated to report to the Board every six months, certain information regarding licensed physicians and postgraduate medical trainees who are:

- Employed by;
- Under contract with;
- Have privileges at;
- Are in a training program; or
- Have applied for privileges, employment or contractual status with a facility.

# Format of the 6-Month Reports

The reporting format for the 6-month reports includes the following fields:

- Facility codes;
- License numbers;
- Privilege status of the physicians;
- Effective date of the privilege status;
- Social security numbers; and
- Names of the physicians.

## Format of the 6-Month Reports Cont'd

The report must be submitted as:

- An excel spreadsheet; or
- A comma delimited format (.csv)
  - The values are separated by commas.

## Content of the 6-Month Reports

- ❑ From Hospitals and Related Institutions (HRIs).
- ❑ From Alternative Health Systems (AHSs).

# Content of the 6-Month Reports

## Cont'd

- ❑ Each 6-month report must contain information on **every licensed physician** who has applied for privileges or contractual status, has privileges, is employed or has contractual status at the hospital, related institution or alternative health system submitting the report.
- ❑ Hospitals and related institutions are required to file 6-month and 10-day reports on individuals in postgraduate medical training programs.



# Content of the 6-Month Reports Hospitals and Related Institutions

The report shall contain:

- The name of each licensed physician who, during the 6 months preceding the report:
  - Is employed by the hospital or related institution;
  - Has privileges with the hospital or related institution; and
  - Has applied for privileges with the hospital or related institution...

# Content of the 6-Month Reports

## Hospitals and Related Institutions Cont'd

The report shall state whether the facility during the 6 months preceding the report:

A. Denied the application of a physician for staff privileges or limited, reduced, **otherwise changed**, or terminated the staff privileges of a physician, or the physician resigned **whether or not under formal accusation**;

If the denial, limitation, reduction, change, termination, or resignation is for reasons that might be grounds for disciplinary action under section 14-404 of the Medical Practice Act;

# Content of the 6-Month Reports

## Hospitals and Related Institutions Cont'd

The report shall state whether the facility during the 6 months preceding the report:

- B. Took any disciplinary action against a salaried, licensed physician **without staff privileges**, including termination of employment, suspension, or probation, for reasons that might be grounds for disciplinary action under section 14-404 of the Medical Practice Act;
- C. Took any disciplinary action against an individual in a postgraduate medical training program, including removal from the training program, suspension, or probation for reasons that might be grounds for disciplinary action under section 14-404 of the Medical Practice Act;

# Content of the 6-Month Reports Hospitals and Related Institutions Cont'd

The report shall state whether the facility during the 6 months preceding the report:

- D. A licensed physician or an individual in a postgraduate training program voluntarily resigned from the staff, employment, or training program of the hospital or related institution for reasons that might be grounds for disciplinary action under section 14-404 of the Medical Practice Act: or
- E. The hospital or related institution **placed any other restrictions or conditions** on any of its the licensed physicians for any reasons that might be grounds for disciplinary action under section 14-404 the Medical Practice Act.

# Content of the 6-Month Reports Alternative Health Systems

The report shall contain:

- The name of **each licensed physician** who, during the 6 months preceding the report:
  - Is employed by the alternative health system;
  - Is under contract with the alternative health system; and
  - Has completed a formal application process to become under contract with the alternative health system; and ...

# Content of the 6-Month Reports Alternative Health Systems Cont'd

The report shall state whether, as to each licensed physician, during the 6 months preceding the report:

- A. The alternative health system denied the formal application of a physician to contract with the alternative health system; or
- B. Limited, reduced, **otherwise changed**, or terminated the contract of a physician, or the physician resigned **whether or not under formal accusation**;

If the denial, limitation, reduction, change, termination, or resignation is for reasons that might be grounds for disciplinary action under section 14-404 of the Medical Practice Act; or

## Content of the 6-Month Reports Alternative Health Systems Cont'd

The report shall state whether, as to each licensed physician, during the 6 months preceding the report:

C. The alternative health system **placed any other restrictions or conditions** on any licensed physician for any reasons that might be grounds for disciplinary action under section 14-404 of the Medical Practice Act.

## Content of the 6-Month Reports Cont'd

Facilities must report all the reportable actions taken against a physician's privileges, employment or contractual status during the reporting periods.

Example of multiple actions during a reporting period:

B12, Dxxxxx, **P**, 5/29/1995, xxx-xx-0000, "Bambi Doe"

B12, Dxxxxx, **S**, 7/12/2013, xxx-xx-0000, "Bambi Doe"

B12, Dxxxxx, **P**, 11/20/2013, xxx-xx-0000, "Bambi Doe"



# 6-Month Reports (.csv)

## Physicians - Example 1

FAC,LIC#,PRIV,EFFDATE,SS#,Name

B12, Hxxxxx,P,6/31/2004,xxx-xx-0000,"Jane Doe"

B12, Dxxxxx,L,12/24/2006, xxx-xx-0000,"John Doe"

B12, Hxxxxx,L,8/23/2007, xxx-xx-0000,"Fawn Doe"

B12, Dxxxxx,P,3/1/2010, xxx-xx-0000,"Bob Doe"

B12, Dxxxxx,P,5/29/1995, xxx-xx-0000,"Bambi Doe"

B12, Dxxxxx,S,7/12/2013, xxx-xx-0000,"Bambi Doe"

B12, Dxxxxx,P,11/20/2013, xxx-xx-0000,"Bambi Doe"

# 6-Month Reports (.csv)

## Physicians - Example 2

```
FAC,LIC#,PRIV,EFFDATE,SS#,Name  
B12, Hxxxxx,P,6/31/2004,xxx-xx-0000,"Jane Doe"  
B12, Dxxxxx,L,12/24/2006, xxx-xx-0000,"John Doe"  
B12, Hxxxxx,L,8/23/2007, xxx-xx-0000,"Fawn Doe"  
B12, Dxxxxx,P,3/1/2010, xxx-xx-0000,"Bob Doe"  
B12, Dxxxxx,P,5/29/1995, xxx-xx-0000,"Bambi Doe"  
B12, Dxxxxx,S,7/12/2013, xxx-xx-0000,"Bambi Doe"  
B12, Dxxxxx,P,11/20/2013, xxx-xx-0000,"Bambi Doe"
```

# 6-Month Reports (.csv)

## Physicians - Example 3

```
FAC,LIC#,PRIV,EFFDATE,SS#,Name  
B12, Hxxxxx,P,6/31/2004,xxx-xx-0000,"Jane Doe"  
B12, Dxxxxx,L,12/24/2006, xxx-xx-0000,"John Doe"  
B12, Hxxxxx,L,8/23/2007, xxx-xx-0000,"Fawn Doe"  
B12, Dxxxxx,P,3/1/2010, xxx-xx-0000,"Bob Doe"  
B12, Dxxxxx,P,5/29/1995, xxx-xx-0000,"Bambi Doe"  
B12, Dxxxxx,S,7/12/2013, xxx-xx-0000,"Bambi Doe"  
B12, Dxxxxx,P,11/20/2013, xxx-xx-0000,"Bambi Doe"
```

## 6-Month Reports (.csv) - With Individuals in Postgraduate Medical Training Programs

FAC,LIC#,PRIV,EFFDATE,SS#,Name

B12, Pxxxxx,P,6/31/2004,xxx-xx-0000,"Lane Doe"

B12, Dxxxxx,L,12/24/2006, xxx-xx-0000,"John Doe"

B12, Pxxxxx,L,8/23/2007, xxx-xx-0000,"Dawn Doe"

B12, Dxxxxx,P,3/1/2010, xxx-xx-0000,"Bob Doe"

B12, Dxxxxx,P,5/29/1995, xxx-xx-0000,"Bambi Doe"

B12, Dxxxxx,S,7/12/2013, xxx-xx-0000,"Bambi Doe"

B12, Dxxxxx,P,11/20/2013, xxx-xx-0000,"Bambi Doe"

# Tests For 6-Month Reports

1. The applicable law?
  - Section 14-413 or section 14-414 of the Medical Practice Act?
2. The individual?
  - Is the individual a licensed physician who has applied for privileges or contractual status, has privileges, is employed or has contractual status or is in a postgraduate medical program?
3. The action?
  - Is the action an action listed in the law?
4. Reason for the action?
  - Is the reason one that might be grounds for disciplinary action under section 14-404 of the Maryland Medical Practice Act.\*\*

# Facility Codes

- The Board assigns the facility codes to the facilities.
- If a facility does not have a code, the facility should use an \* in place of the code and notify the Board.
- The Board will send the facility a code.

# \* Sample 6-Month Reports (.csv)

FAC,LIC#,PRIV,EFFDATE,SS#,Name

- \* ,Dxxxxx,P,6/31/2004, xxx-xx-0000,"Jane Doe"
- \* ,Dxxxxx,L,12/24/2006, xxx-xx-0000,"John Doe"
- \* ,Dxxxxx,L,8/23/2007, xxx-xx-0000,"Fawn Doe"
- \* ,Dxxxxx,P,3/1/2010, xxx-xx-0000,"Bob Doe"
- \* ,Dxxxxx,P,5/29/1995, xxx-xx-0000,"Bambi Doe"
- \* ,Dxxxxx,S,7/12/2013, xxx-xx-0000,"Bambi Doe"
- \* ,Dxxxxx,P,11/20/2013, xxx-xx-0000,"Bambi Doe"

## What Are The Reporting Periods For 6-Month Reports

- ❑ Reporting Period A - is from July 1 through December 31 each calendar year (preceding year).
- ❑ Reporting Period B - is from January 1 through June 30 each calendar year (current year).



# When Should The 6-Month Reports Be Submitted

- Twice a year.
- For Reporting Period A - July 1- December 31:
  - Submit the report between January 1 and February 1 every year.
- For Reporting Period B - January 1 through June 30:
  - Submit the report between July 1 and August 1 every year.



# How To Submit The 6-Month Report



The 6-month report is submitted either:

- Electronically to an email account at: [dhmh.mbpsixmonthreports@maryland.gov](mailto:dhmh.mbpsixmonthreports@maryland.gov); or
- By CD sent in the mail to the Board at  
4201 Paterson Avenue, 4<sup>th</sup> Floor  
Baltimore, Maryland 21215
- Paper submissions are not accepted.



# Immunity From Civil Liability

Sections 14-413(c) and 14-414(c) of the Medical Practice Act provide that:

Any person shall have the immunity from liability described under section 5-715(d) of the Courts and Judicial Proceedings Article for giving any of the information required by the sections.

# Subpoenas and Discovery

A report made under sections 14-413 and 14-414 of the Medical Practice Act is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and decision of the Board or a disciplinary panel under the Act.

# Reinforcement Exercise

An individual is observed swaying from side to side while walking in a park. Law enforcement is called. It is determined that the individual, a physician with privileges with Hospital A is addicted to controlled dangerous substances.

Based on Hospital A's investigation and the information from law enforcement, the hospital decides to grant the physician a leave of absence to take care of the problem.

Should this action be reported to the hospital. If yes, when?



## Consequences of Failure to Report



Sections 14-413(e) and 14-414(e) of the Medical Practice Act provide that:

- The Board may impose a civil penalty of up to \$5,000 for failure to report.
- The Board shall remit any penalty collected into the General Fund of the State.

# Unsure About Reporting

❑ When in doubt, facilities are encouraged to report.

- **Contact the Board.**

❑ The Board will, in turn, determine from the underlying facts whether the disciplinary grounds have been violated.

# 10-Day Reports

- ❑ Reports of any action taken which alter the privileges and/or salaried or contractual employment of a physician, allied health practitioner, or postgraduate medical trainee with a facility or employer shall be filed with the Board within 10 days of the action.
- ❑ An action is reportable within 10 days of the initial change of the individual's privileges, and/or salaried or contractual employment, or status in a postgraduate medical training program not after the appeal process.



# 10-Day Reports Cont'd

- Statutory predicates
- Reportable actions
- Individuals reported
- Format
- Content
- Failure to report
- Exceptions

# Statutory Predicates

## Medical Practice Act:

- Physicians - sections 14-413 and 14-414.
- Physician Assistants - section 15-103.
- Respiratory Care Practitioners - section 14-5A-18.
- Radiographers, Radiation Therapists, Nuclear Medicine Technologists, and Radiology Assistants - section 14-5B-15.
- Polysomnographic Technologists - section 14-5C-18.
- Perfusionists - section 14-5E-18.

# 10-Day Reports

## Physicians - Reportable Actions

In addition to the 6-month report, the law mandates that facilities report reportable actions taken against licensed physicians and postgraduate medical trainees within 10 days of the action.

# 10-Day Reports

## Allied Health - Reportable Actions

For allied health practitioners, facilities are mandated to report all reportable actions taken on allied health practitioners (except athletic trainers) within 10 days of the action.

Except as otherwise provided by law, a hospital, a related institution, an alternative health care system, or an employer of the allied health practitioner **shall** report to the Board, within 10 days of the action **any**:

- Limitation, reduction, or other change of the terms of employment of allied health practitioner or any termination of employment of the allied health practitioner for any reason that might be grounds for disciplinary action under the Medical Practice Act.

# Which Licensees Are The 10-Day Reports Submitted On

- Physicians
- Physician Assistants
- Respiratory Care Practitioners
- Polysomnographic Technologists
- Perfusionists
- Radiographers, Radiation Therapists, Nuclear Medicine Technologists, and Radiology Assistants (Rad Techs)

# Content of the 10-Day Reports on Physicians

The report shall state:

- The reportable action taken by the facility; and
- The reasons for its action; or
- The nature of the formal accusation pending when the physician resigned.

# Content of the 10-Day Report on Allied Practitioners

The report shall state:

The reportable action taken against the allied health practitioner (except athletic trainers); and

The reason for the action.

# Format of 10-Day Reports

- ❑ The Board makes available on its website: [www.mbp.state.md.us](http://www.mbp.state.md.us), the “Mandated 10-Day Reporting Form”.
- ❑ The form consists of 2 pages and both pages must be completed.



# Content of the 10-Day Reports Physicians and Allied Health Practitioners

The information requested includes the:

- Name of the facility/employer;
- Name and number of contact designee of record;
- Date of the action;
- Name of licensee or postgraduate medical trainee;
- License type or PG medical trainee registration;
- Practitioner's license number;
- Action taken; and
- A description of the events leading up to the action.

# Tests For 10-Day Reports

1. The law?
  - Which of the respective laws apply?
2. The individual?
  - Is the individual a licensed physician who has applied for privileges or contractual status, has privileges, is employed or has contractual status, is in a postgraduate medical training program or is an allied health practitioner (except an athletic trainer)?
3. The action?
  - Is the action an action listed in the law?
4. Reason for the action?
  - Is the reason one that might be grounds for disciplinary action under the Medical Practice Act.\*\*

# 10-Day Reports

## Allied Health - Impairment Exemptions

A facility that has reason to know that a licensed allied health practitioner has:

- Committed an action or has a condition that might be grounds for reprimand or probation, suspension or revocation of the license because the licensed allied health practitioner is alcohol impaired or drug impaired is not required to report the practitioner to the Board ...

## 10-Day Reports

### Allied Health - Impairment Exemptions Cont'd

**If** the facility or employer knows that the licensee is:

A. In an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or is certified by the Department; or

B. Under the care of a health care practitioner who is competent and capable of dealing with alcoholism and drug abuse;

## 10-Day Reports

### Allied Health - Impairment Exemptions Cont'd

C. The facility or employer is able to verify that the licensee remains in the treatment program until discharge; and

D. The action or condition of the licensee has not caused injury to any person while the licensee is practicing.

# Notice From Allied Health Licensee to Facility and Employer

- ❑ If the allied health licensee enters; or
- ❑ Is considering entering an alcohol or drug treatment program that is accredited by the JCAHO or that is certified by the Department, the licensee **shall** notify the facility or employer of their decision to enter the treatment program.

# Consequences of Failure of Allied Health Licensee to Provide Notice

- ❑ If the licensee fails to provide the notice required; and
- ❑ The facility or employer learns that the licensee has entered a treatment program, the facility or employer **shall** report to the Board that:
  - A. The licensee entered a treatment program; and
  - B. Failed to provide the required notice.

## Consequence of Failure of Allied Health Licensee to Comply with Program

If the allied health licensee is found to be noncompliant with the treatment program's policies and procedures, the treatment program **shall** notify the facility or employer of the licensee's noncompliance.



## Consequence of Failure of Allied Health Licensee to Comply with Program Cont'd

After receipt of the required notification of noncompliance, the facility or employer of the allied health licensee **shall** report the licensee's noncompliance to the Board.

# Subpoena and Discovery

## Reports on Allied Health Practitioners

A report made in accordance with the respective laws governing 10-day reports is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and decision of the Board or a disciplinary panel.

# Confidentiality of Reports

A person is not required under the respective allied practitioner laws to make any report that would be in violation of any federal or state law, rule, or regulation concerning the confidentiality of alcohol and drug abuse-related patient records.



## Consequence of Failure to File

### 10-Day Reports on Allied Practitioners

- The Board may impose a civil penalty of up to \$1,000 for failure to report as mandated by law.
- The Board shall remit any penalty collected under the respective laws into the General Fund of the State.

## Other Mandated Reports

- Termination of physician assistant employment for quality of care issues.
- Termination of athletic trainer.
- Reports corresponding to the National Practitioner Data Bank reports.

# Mandated Report - Physician Assistants Termination of Employment Report

Section 15-103(b) of the Medical Practice Act:

An employer of a physician assistant shall report to the Board ... any termination of employment of the physician assistant if the cause of termination is related to a quality of care issue.

## Mandated Report - Physician Assistants Termination of Employment Report

If a physician assistant's employment is terminated, in accordance with section 15-103(j) of the Medical Practice Act, an employer shall submit the required report to the Board within **5 days after the date of termination of employment.**

# Mandated Report - Athletic Trainers

## Termination of An Athletic Trainer

- ❑ A physician or an employer **shall** notify the Board within 10 days of the **termination** of an athletic trainer for reasons that would be grounds for discipline under the Act.
- ❑ A supervising physician and an athletic trainer **shall** notify the Board of the termination of the relationship under an evaluation and treatment protocol.



# Differences

## 6 –Month Reports

- ❖ On Physicians only.
- ❖ 2 Reporting periods.
- ❖ Combined report on physicians.
- ❖ Facility code provided.

## 10-Day Reports

- ❖ **On Physicians and Allied Practitioners (except ATs\*).**
- ❖ **Report within 10 days.**
- ❖ **Separate reports on each individual licensee.**
- ❖ **No facility code required.**

# Differences Cont'd

## 6-Month Reports

- ❖ No reason for the action taken is required.
- ❖ Paper report not accepted.
- ❖ Report using Excel or .csv.

## 10-Day Reports

- ❖ **Reason for the action taken is required.**
- ❖ **Paper report accepted.**
- ❖ **Use the report of Mandated 10-day form.**

# Differences Cont'd

## 10-Day Reports - Physicians

- No alcohol/drug impairment exemptions.
- Terminations shall be reported within 10 days.

## 10-Day Reports - Allied Health

- **Certain exemptions for alcohol/drug impairment exist.**
- **Terminations for physician assistants for quality of care concerns shall be reported within 5 days.**

# Board Actions

## From Mandated Reports

- No action
- Rehabilitation Program
  - Behavioral & psychological issues
- Disposition Agreements
- Summary Suspensions
- Disciplinary Actions

# Positive Reporting

Positive reporting occurs when facilities submit all mandated reports to the Board in a timely manner.

# Examples of Positive Reporting

Hospital B filed a 10-Day report with the Board regarding the reportable action taken against a physician for stealing sharps and self-injecting drugs.

Outcome of the Board's review:

- Summary suspension.
- Enrollment in treatment program.

## Examples of Positive Reporting

Hospital C filed a 10-Day report with the Board regarding the reportable action against a physician for standard of care concerns.

Outcome of the Board's review:

- No action following peer review.

## Examples of Positive Reporting

Hospital D filed a 10-Day report with the Board regarding the suspension of a physician for failing to renew Board certification.

Outcome of the Board's review:

- No action.



# Examples of Actions & Underlying Reasons Not Reported

- Wrong site surgery
- Suspensions
- Removal from postgraduate training
- Health issues/medical leave of absence
- Medical records issues
- Leave of absence
- Voluntary resignations
- Unprofessional conduct (sexual)
- Drug & alcohol abuse
- Disruptive conduct

# Reinforcement Exercise

Hospital A takes action against Physician 1  
For various surgical complications with the  
following condition:

Mandatory consultation for a period  
of 3 months with another physician prior to  
performing the procedure.

Should this reported to the Board? If yes, when?

# Reinforcement Exercise

Hospital A suspended Physician 2's privileges for only 30 days for unauthorized access to medical records.

Should this reported to the Board?

If yes, when?

# Notice of Public Actions

Will the Board notify hospitals where a physician has privileges when the Board issues a Public Board Order or when another hospital takes action?

**Yes.**

The Board sends out letters to the facilities where licensed physicians have privileges. In addition, public orders are listed in the Board's newsletters, on profile pages and on the Board's Disciplinary Alerts tab on the website.

# Reinforcement Exercise

Dr. X applied for privileges at Facility A, however the application was denied. Facility A does not have to include this information on the 6 month report because:

- A. Dr. X did not have prior privileges.
- B. Dr. X was not previously employed.
- C. Facility A is required to report this information.
- D. A and B.

# Reinforcement Exercise

During a reporting period, a facility took 3 actions against a physician, when the facility submits its report, the facility should report:

- A. Only the first action because it occurred first.
- B. Just the last action because it occurred last during the reporting period.
- C. All 3 actions.
- D. The most severe action.

# Reinforcement Exercise

A facility does not yet have a facility code at the end of a reporting period, should the facility still submit a report:

- A.No, because the facility does not have a facility code.
- B.Yes, submitting the report is statutorily mandated.
- C.Yes, because the facility can still report without the facility code.
- D.B and C.

# Reinforcement Exercise

A reportable action is taken by a facility on July 3, 2014. On July 6, 2014, the facility starts preparing its report for reporting period B (January 1 - June 30) to submit it by August 1, should it include the July 3 action in its report:

- A. Yes, because it is convenient.
- B. Yes, because the facility is preparing the report before August 1.
- C. No, because the action did not take place during reporting period B.
- D. A and B.



# Reinforcement Exercise

A facility decides to submit its 6-month report by sending a paper report to the Board:

- A. The Board will process the report.
- B. The Board will accept the paper report and convert it to the acceptable format.
- C. The Board does not accept paper reports.
- D. B and C.

# Reinforcement Exercise

Concerning 6-month reports, facilities must file:

- A. Reports on all licensed physicians who applied for privileges, have privileges, or are employed.
- B. Reports twice a year covering 2 reporting periods by specified dates.
- C. Must not send paper reports to the Board.
- D. Reports on all actions occurring during the reporting periods.
- E. All of the above.

# Reinforcement Exercise

On May 2, 2014, Facility A suspends the privileges of Physician B for falsifying medical records. Facility A should report the action by:

- A. May 22, 2014.
- B. After the appeal process in October 2014.
- C. Only in the 6-month report of reporting period B.
- D. May 12, 2014.
- E. A and B.

# Reinforcement Exercise

On June 15, 2014, Facility A reports the termination of privileges of Physician C that occurred on June 10, 2014, and only completes page 1 of the form by checking the termination box. The 10 day report:

A. Is complete because it was submitted within 10 days of the action.

B. Is complete because the termination box was checked.

C. Is incomplete because page 2 was not completed and no reason for the termination was provided.

# Reinforcement Exercise

Exemptions from the 10-day reports exist for allied health practitioners (AHP) if:

- A. The facility knows that the AHP is in an JCAHO accredited or Department certified alcohol or drug treatment program.
- B. The AHP is under the care of health care practitioner competent and capable of dealing with alcoholism and drug abuse.
- C. The facility or employer is able to verify that the licensee remains in the treatment program until discharge.
- D. The action or condition of the licensee has not caused injury to any person while the licensee is practicing.
- E. All of the above.

# Reinforcement Exercise

An individual in a postgraduate medical training program, was suspended for unprofessional conduct, the facility:

- A. Should not report the action because the individual is not licensed.
- B. Shall report this action as a 10-day report.
- C. Should omit this action in the 6-month report.
- D. Shall report this action in the 6-month report.
- E. B and D.

# Reinforcement Exercise

An individual in a postgraduate medical training program, was placed on probation from April 1, 2014 to June 30, 2014, for disruptive conduct, the facility:

- A. Shall submit a 10-day report by April 11, 2014.
- B. Should not report this action as a 10-day report.
- C. Should not report the action in the 6-month report because the probation ended on June 30, 2014.
- D. Shall report this action in the 6-month report.
- E. A and D.

# National Practitioner Data Bank

The National Practitioner Data Bank (NPDB), or "the Data Bank," is a confidential information clearinghouse created by Congress with the primary goals of improving health care quality, protecting the public, and reducing health care fraud and abuse in the United States.

<http://www.npdb.hrsa.gov/topNavigation/aboutUs.jsp>



# NPDB's Definition of Health Care Entities

Health care entities include hospitals and other organizations that provide health care services and follow a formal peer review process in order to further quality health care.

## Eligible Health Care Entities

- ❑ Eligible health care entities are responsible for meeting the NPDB's reporting and querying requirements.
- ❑ Each eligible entity must certify its eligibility in order to report to and/or query the NPDB.

## Eligibility to Report to NPDB

To be eligible to **report** to the NPDB, an entity must be one of the following:

- A. An entity that makes medical malpractice payment.
- B. A board of medical examiners or State licensing board taking an adverse action against a physician (or dentist).

## Which Eligible Entities May Report to NPDB Cont'd

- C. A health care entity that takes an adverse clinical privileging action as a result of professional review.
  
- D. A professional society that takes an adverse membership action as a result of professional review.

## Determining Eligibility For NPDB

- ❑ Each entity is responsible for determining its eligibility to participate in the NPDB and must certify that eligibility to the NPDB in writing.
- ❑ Contact the NPDB.

# NPDB - Corresponding Reports and Obligations

❑ Health care entities that report clinical privilege actions and professional society membership actions to the NPDB are required by Federal Law to notify state boards of the report submitted to the NPDB.

❑ 2 Independent obligations:

- Report to the NPDB; and
- Report to the Board.

# NPDB - Corresponding Reports and Obligations Cont'd

Health care entities (including hospitals) must report adverse actions on physicians to NPDB within 15 days from the date the adverse action was taken or clinical privileges were voluntarily surrendered and notify the Board.

The reporting requirements and description of adverse actions can be found in the NPDB Guidebook located at: <http://www.npdb.hrsa.gov>.

## NPDB - Corresponding Reports and Obligations Cont'd

Does the report to the National Practitioner Data Bank only, satisfy the facility's obligation to report to the Board?

**No.**

Facilities are mandated by the Medical Practice Act to file reportable actions to the Board.

In addition, facilities must submit a copy of each report submitted to the NPDB to the Board within 15 days from the date of action.



## NPDB - Corresponding Reports and Obligations Cont'd

Does the report to the Board satisfy the facility's obligation to report to the National Practitioner Data Bank?

**No.**

Reports to the National Practitioner Data Bank are governed by federal law and regulations.

# Reporting and Public Protection

The reporting requirements are intended to assure that the Board is made aware of any health care provider concerns that may impact the practice of medicine and the health, safety, and welfare of the public.

# Contact Information

Maureen Sammons 10-Day reports & submission questions  
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# Questions



# Maryland Board of Physicians



Thank you for your attention