AN OVERVIEW OF
STATUTORY AND REGULATORY
REPORTING TO THE
BOARD OF REGISTRATION IN MEDICINE

Susan M. Berg
Medical Malpractice Reporting Attorney
Data Repository Unit
Board of Registration in Medicine
Commonwealth of Massachusetts
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PREFACE

The material presented herein documents some of the reports and information collected by the Data Repository Unit of the Board of Registration in Medicine, and the statutory and regulatory authority for each. If you have any questions regarding this material, please contact the Data Repository at (617) 727-0303 and request to speak to Rebecca Lockwood or Susan Berg. Bonnie Palka is the Chief of the Data Repository Unit.
I INTRODUCTION

Most of the mandated reports to the Data Repository Unit of the Board of Registration in Medicine fall into six broad categories: license renewal forms, court reports, closed claim information, major incident reports, disciplinary action reports, and information reported by health care providers about their peers.

Statutory authority for the collection of these various reports is derived from M.G.L. Chapter 112 section 5, which provides in part:

There shall be established within the board of registration in medicine a data repository which will be responsible for the compilation of all data required under sections five A through five J, inclusive, and any other law or regulation which requires that information be reported to the board.

II. LICENSE RENEWAL

M.G.L. Chapter 112 section 2 requires license renewal every two years. Information which may be collected under the statute is name, license number, home address, office address, specialties, principal work setting, and whether the physician is active or inactive.
The Code of Massachusetts Regulations provides in Chapter 243 section 2.04(5) as follows: "...the renewal form will include..."

-- name, date of birth, home and principal business addresses

-- demographic information as determined by the Board

-- medical training and work experience

-- any disciplinary action taken against the applicant within the last 10 years

-- any claim for damages related to the practice of medicine within the past 10 years, whether or not a lawsuit was filed, and any criminal charges at any time

-- ability to possess or dispense controlled substances

-- other jurisdictions where applicant is or has been licensed, or where applicant has been denied a license

-- statement that applicant will not charge a Medicare beneficiary more than the Medicare reasonable charge

-- any treatment for mental or organic illness, drug dependency or alcoholism.

The renewal form is filled out by the physician every two years before his or her birthday.

III. COURT REPORTED MALPRACTICE ACTIONS

M.G.L. Chapter 231 section 60B, states that within 15 days of a medical malpractice tribunal finding the court clerk shall send a copy of the complaint and finding. Also, upon entry of judgment, settlement, or other final disposition at trial level a copy of such shall be sent
within 15 days. The board may keep the identity of the plaintiff confidential if it so chooses.

IV. CLOSED CLAIM REPORTS

Professional liability insurers are required to report to the Board regarding medical malpractice claims. Physicians who do not possess professional liability insurance are required to report within 30 days of a settlement or of the service and signed agreement regarding an arbitration award.

A. PROFESSIONAL LIABILITY INSURERS

M.G.L. Chapter 112 section 5C requires closed claim reports to be filed by insurers and risk management organizations which provide professional liability protection for physicians. Any claim or action for damages for personal injuries alleged to have been caused by error, omission, or negligence in the performance of professional services must be filed within 30 days of a 1) final judgment, 2) settlement, or 3) final disposition not resulting in payment. The report must include the following:

-- name, address, specialty, and policy number of the physician

-- name, address, and age of claimant/plaintiff
-- nature and substance of claim
-- date and place of incident leading to claim
-- amounts paid, and date and manner of disposition, judgment, or settlement
-- date and reason for final disposition, if no judgment or settlement
-- any additional information the board shall require.

B. PHYSICIANS WITHOUT INSURANCE

Pursuant to M.G.L. Chapter 112 section 5E, any physician without professional liability insurance must report every settlement or arbitration award of a claim or action for damages related to his practice of medicine. The report must be made within 30 days of a written settlement agreement or within 30 days of service of the arbitration award on all parties.

V. MAJOR INCIDENT REPORTS

Health care facilities must report to the Board certain specified incidents that occur at their facilities. Physicians must report other specified incidents that occur at their private offices.
A. HEALTH CARE FACILITIES

M.G.L. Chapter 112 section 5I states that "...[t]he board shall have authority to require hospitals, physicians, health maintenance organizations and other medical service providers to provide data to it as to the results of specific surgical and other procedures performed by physicians on a physician by physician basis."

243 CMR 3.08 requires any entity licensed pursuant to M.G.L. Chapter 111 section 51 (a hospital, an institution for the care of unwed mothers, or a clinic); any state, county, or municipal hospital; or any entity maintaining more than one primary or episodic walk-in center to file major incident reports with the Board on a quarterly basis. Major incidents which must be reported are divided into two separate categories. Category I incidents are described as follows:

1) maternal deaths related to delivery
2) fetal deaths, excluding abortions
3) chronic vegetative state resulting from medical intervention
4) death in the course of or resulting from ambulatory surgical care.

Category II incidents are defined as follows:

major or permanent impairments of bodily functions or deaths that are not ordinarily expected as foreseeable results of the patient's condition or
of appropriately selected and administered treatment.

The reports must include the name and license number of the physician involved, a brief description of the incident, and the results, if any, of any internal investigation and corrective measures.

B. INCIDENT REPORT FROM PHYSICIAN'S PRIVATE OFFICE

243 CMR 3.11(1) provides that "[i]n the case of a licensee's office setting...the licensee must file an incident report...". Incidents are then divided into two categories, as with major incident reports of health care facilities.

Category I incidents are unplanned transfers to a hospital precipitated by an invasive procedure performed in the office. Category II incidents are the same as above for health care facilities: "major or permanent impairments of bodily functions or deaths that are not ordinarily expected as foreseeable results of the patient's condition or of appropriately selected and administered treatment."

VI. DISCIPLINARY ACTION REPORTS

Health care facilities are required to file initial, subsequent, and annual disciplinary reports to the Board.
A. HEALTH CARE FACILITY INITIAL REPORT

M.G.L. Chapter 111 section 53B requires any facility licensed under section 51 (a hospital, an institution for the care of unwed mothers, or a clinic) to report to the board under the following circumstances:

...when...[the facility] denies, restricts, revokes, or fails to renew staff privileges, or accepts the resignation of, any physician registered with the board as qualified to practice medicine in the commonwealth for any reason related to the registrant's competence to practice medicine or for any reason related to a complaint or allegation regarding any violation of law or regulation, or hospital, health care facility or professional medical association by-laws, whether or not the complaint or allegation specifically cites violation of a specific law, regulation, or by-law.

243 CMR 2.07(17)(a) states that whenever a disciplinary report is required "...the person or entity reporting shall use the Board's form prescribed for that purpose." Reports must be filed within 30 days of the imposition of the disciplinary action.

The disciplinary action initial report form is filled out by the health care facility after disciplinary action has been taken against a physician.
B. HEALTH CARE FACILITY SUBSEQUENT REPORT

243 CMR 2.07(17)(e) requires a reporting entity to submit a status report after each 60 days of ongoing disciplinary action and a final report within 30 days after the completion of ongoing disciplinary action.

This report is basically the same as above, except that it is filled out by the health care facility within 30 days of any reversal, completion, or ongoing 60 day period of the disciplinary action which was the subject of the initial report.

C. HEALTH CARE FACILITY ANNUAL REPORT

M.G.L. Chapter 111 section 53B, in addition to the language quoted in a previous section regarding initial reports, states that "...[a]ny licensee subject to the reporting requirements set forth above shall file an annual disciplinary summary..." of the reports submitted for the previous calendar year. If no reports were submitted for the previous calendar year, the annual disciplinary summary shall state that no reports were required. This report form must be filled out by the health care facility by January 31 of each year.
243 CMR 2.07(17)(a), provides the regulatory authority for this report, as it does for the initial report.

D. MEDICAL ASSOCIATION DISCIPLINARY REPORT

M.G.L. Chapter 112 section 5B states in part:

Any professional medical association, society, body, professional standards review organization, or similarly constituted professional organization, whether or not such association, society, body, or organization is local, regional, state, national, or international in scope, shall report...any disciplinary action taken against any of the board's licensees.

Reports filed under this statute must be made within 30 days of the disciplinary action taken by the organization. "Disciplinary action" includes revocation, suspension, censure, reprimand, restriction, nonrenewal, denial or restriction of privileges, or resignation. A denial or restriction of privileges or a resignation must be reported only when it is related to "...(a) the applicant's competence to practice medicine, or (b) a complaint or allegation regarding any violation of law or regulation...or by-laws, whether or not [it] specifically cites violation of a specified law, regulation, or by-law."
VI. REPORTS BY PEERS

Certain individuals are required to report to the Board when they are aware that a physician has violated either M.G.L. Chapter 112 section 5 or one of the Board's regulations.

A. HEALTH CARE PROVIDERS

Under M.G.L. Chapter 112 section 5F health care providers must report violations of section 5 or of any board regulations.

B. GOVERNMENT EMPLOYEES

Under M.G.L. Chapter 112 section 5D "[a]ny officer or employee of any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of any political subdivision thereof which is engaged in the provision or oversight of medical or health services" shall report any violations of section 5 or any board regulations. This is essentially the same as the report required under Chapter 112 section 5F.
C. DISSOLUTION OF PROFESSIONAL CORPORATIONS, ETC.

Under 243 CMR 3.11(5), a licensee must report the circumstances regarding any "dissolution or disassociation of or from a professional corporation, partnership or professional practice group" if it is related to "1) a licensee's competence to practice medicine, or 2) a complaint or allegation regarding any violation of law or regulation...or bylaws...whether or not the complaint or allegation specifically cites violation of a specific law, regulation or bylaw."