

November 1, 1990

SUBJECT: INSURANCE

Circular Letter No. 16 (1990)  
November 1, 1990

TO: ALL INSURERS ISSUING PROFESSIONAL LIABILITY POLICIES TO HEALTH PROFESSIONALS

RE: NATIONAL PRACTITIONER DATA BANK, FEDERAL REPORTING REQUIREMENTS

This Circular Letter supersedes Circular Letter 10 (1988). A National Practitioner Data Bank for the collection and restricted distribution of information concerning licensed health providers, excluding hospitals, has been established by the Health Care Quality Improvement Act of 1986, Public Law 99-660, as amended by the Public Health Service Amendments of 1987, Public Law 100-177. The United States Department of Health & Human Services has promulgated regulations relating to the Data Bank, 45 CFR 60.

This federal enactment requires insurers, effective September 1, 1990, that have issued professional liability policies to licensed health providers, as specified below, to report to the Data Bank and the appropriate State agency within 30 days of making payments in settlement of a claim. Failure to make required reports can result in imposition by the Department of Health & Human Services of penalties up to \$ 10,000. Those providers who are licensed under the New York Education Law and in regard to whom reports must be filed are:

- . Certified Social Workers
- . Chiropractors
- . Dentists
- . Dental Hygienists
- . Licensed Practical Nurses
- . Ophthalmic Dispensers (Opticians)
- . Optometrists
- . Pharmacists
- . Physicians
- . Physician's Assistants
- . Physical Therapists
- . Physical Therapist Assistants
- . Podiatrists
- . Psychologists
- . Registered Professional Nurses
- . Specialist's Assistants

The Department of Health & Human Services has designated a contractor to operate the Data Bank. Requests for Data Bank Identification Numbers and reporting forms should be addressed to:

National Practitioner Data Bank

P.O. Box 6048

Camarillo, CA 93011-6048

The New York State agency designated to receive copies of insurer's reports on payment of claims on behalf of the above listed practitioners is:

Office of Professional Discipline

New York State Education Department

One Park Avenue

New York, NY 10016-5802

(212) 951-6400

For the purpose of reporting to the Data Bank, the payments must have resulted from the settlement of a claim or complaint or in satisfaction of a judgment. The amount reported should include only payments made on behalf of the insured. Loss adjustment expenses, whether allocated or unallocated, should not be reported to the Data Bank.

A payment made as a result of a claim or suit against a hospital or professional corporation is not reportable, unless a claim was made against an individual health provider. In the case of payments on behalf of multiple practitioners, the insurer should allocate payments to each practitioner and so report. In the case of a payment made for the benefit of multiple practitioners, where it is impossible to allocate the amount paid to each practitioner, the insurer should report, separately for each practitioner, the total payment and the number of practitioners on whose behalf the payment was made.

Reports made to the Data Bank are in addition to reports required by Section 315 of the Insurance Law. Any penalties imposed by the Department of Health & Human Services for disregarding the obligations to report to the Data Bank would be in addition to any penalties applicable for violation of Section 315 of the Insurance Law or any confidentiality provisions of the Public Health Law.

This Circular Letter is only a short synopsis of the Data Bank reporting requirements. While detailed questions concerning obligations should be addressed to the Data Bank, for which it maintains a toll-free number (800) 767-6732, general questions may be addressed to: Alan Rachlin, Supervising Attorney, Office of General Counsel, New York State Insurance Department, 160 West Broadway, New York, NY 10013.

Very truly yours,

[SIGNATURE]

Salvatore R. Curiale

Superintendent of Insurance