



National Practitioner Data Bank: Partnering to Protect Patients

Medical Malpractice Payment Reports

April 9, 2019

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Division of Practitioner Data Bank (DPDB)

Bureau of Health Workforce (BHW)

Health Resources and Services Administration (HRSA)



The Audience

▶ Let's Get to Know the Audience:

1. Who traveled the farthest?
2. How many years have you used the NPDB?
3. How do you use Medical Malpractice Reports?



Overview

- ▶ Data on Medical Malpractice Reporting
- ▶ Medical Malpractice Payment Reporting
- ▶ Attestation
- ▶ Resources, Quiz, and Questions



Question & Answer

Question 1:

Do medical malpractice payers have to report payments made for the benefit of a deceased practitioner?



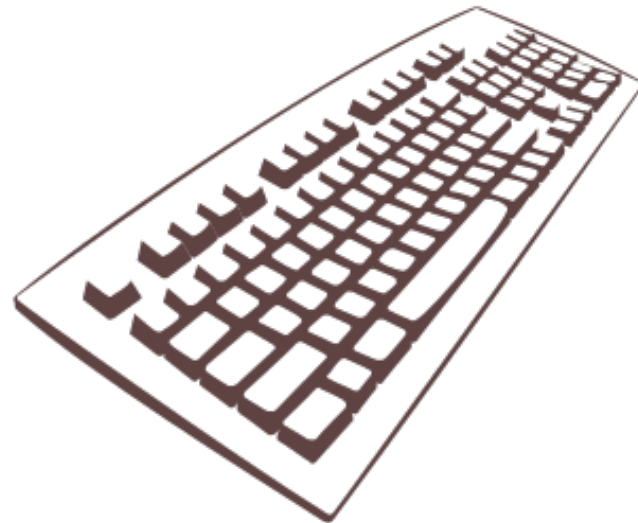
Question & Answer

Answer 1:

Yes. Because fraudulent practitioners may seek to assume the identity of a deceased practitioner.



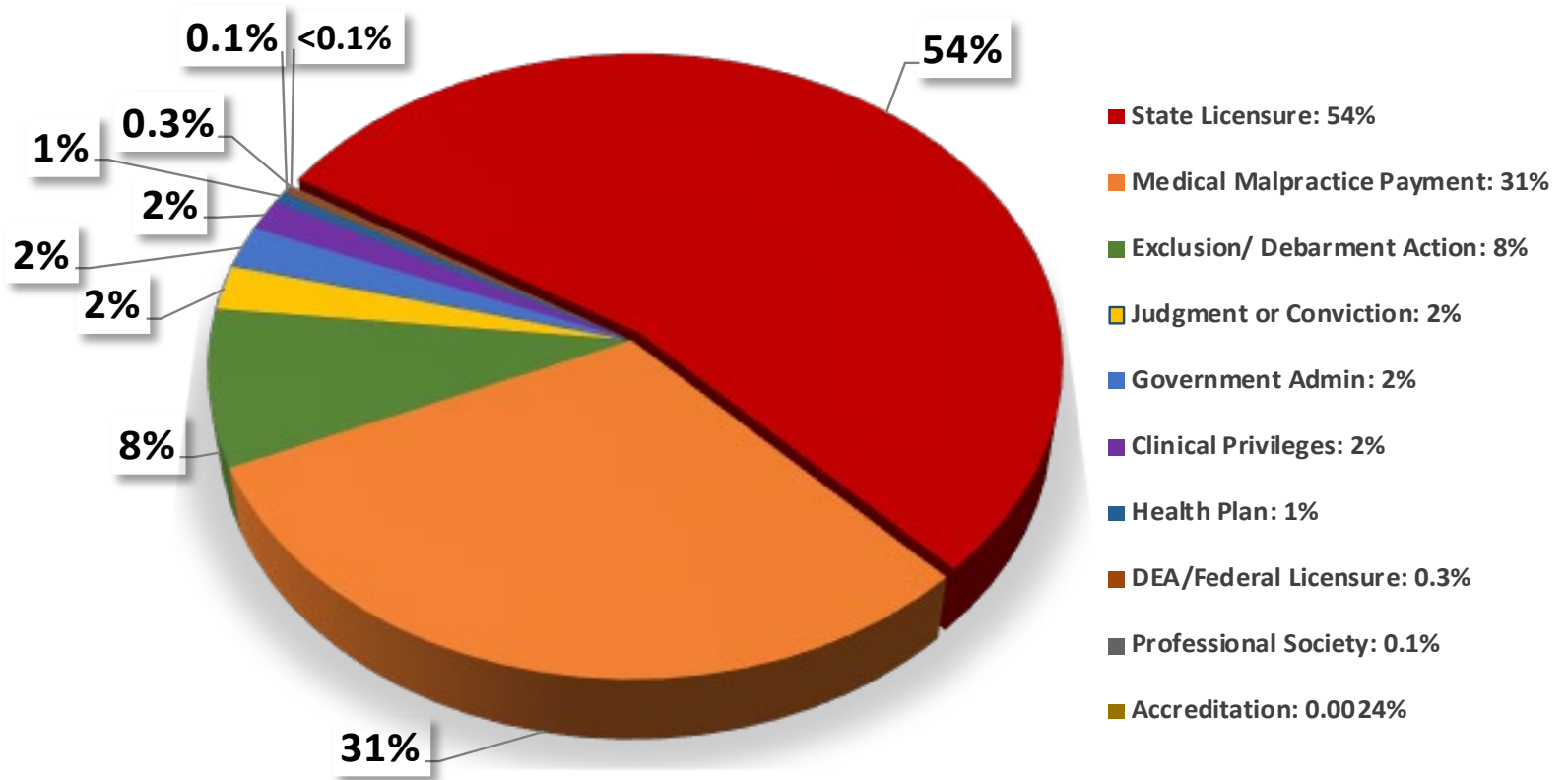
Data on Medical Malpractice Payment Reporting



NPDB Statistics

NPDB Reports by Type (N = 1.4M)

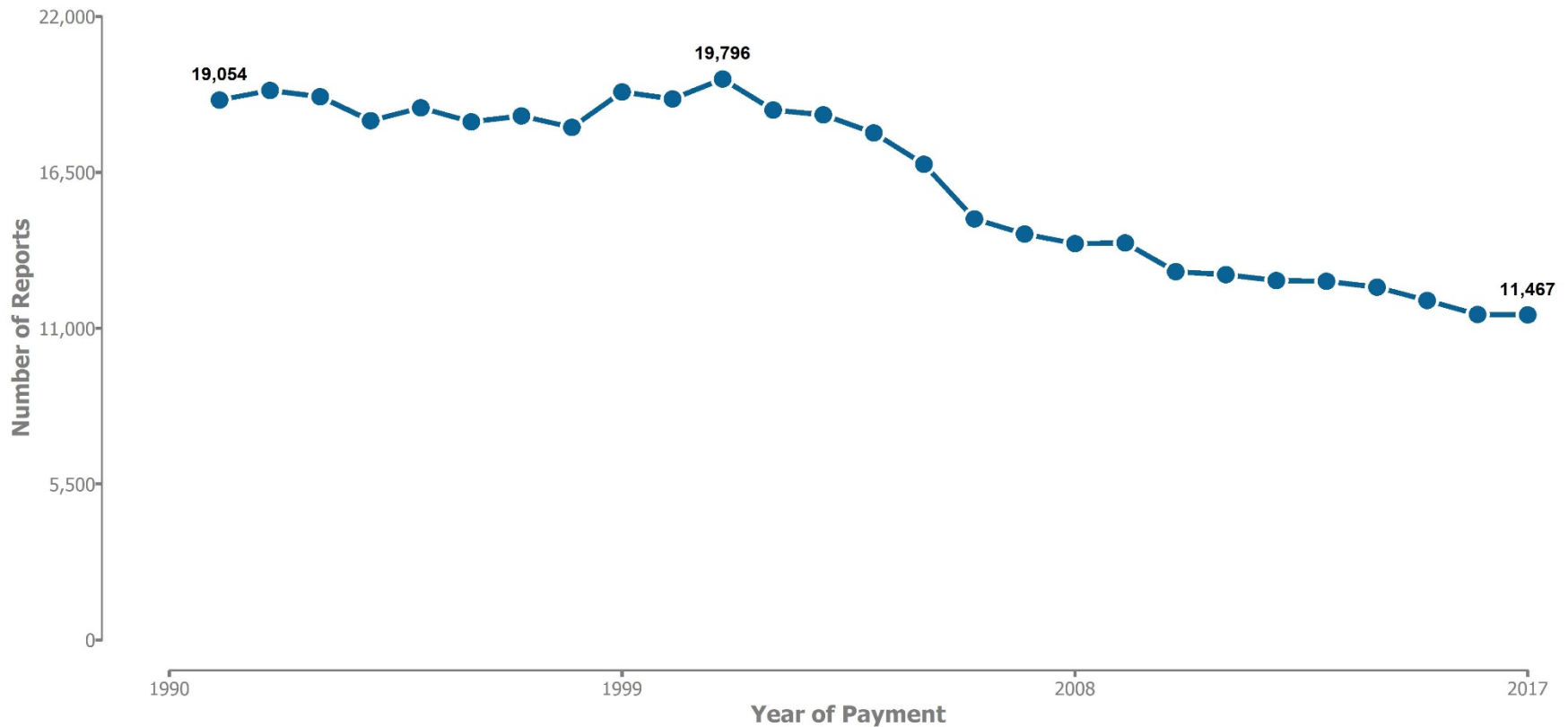
As of December 31, 2018



Medical Malpractice Payment Reports Data

Medical Malpractice Payment Reports have been Steadily Decreasing Since 2001

Line graph showing the number of medical malpractice payment reports submitted to the National Practitioner Data Bank, 1991 - 2017



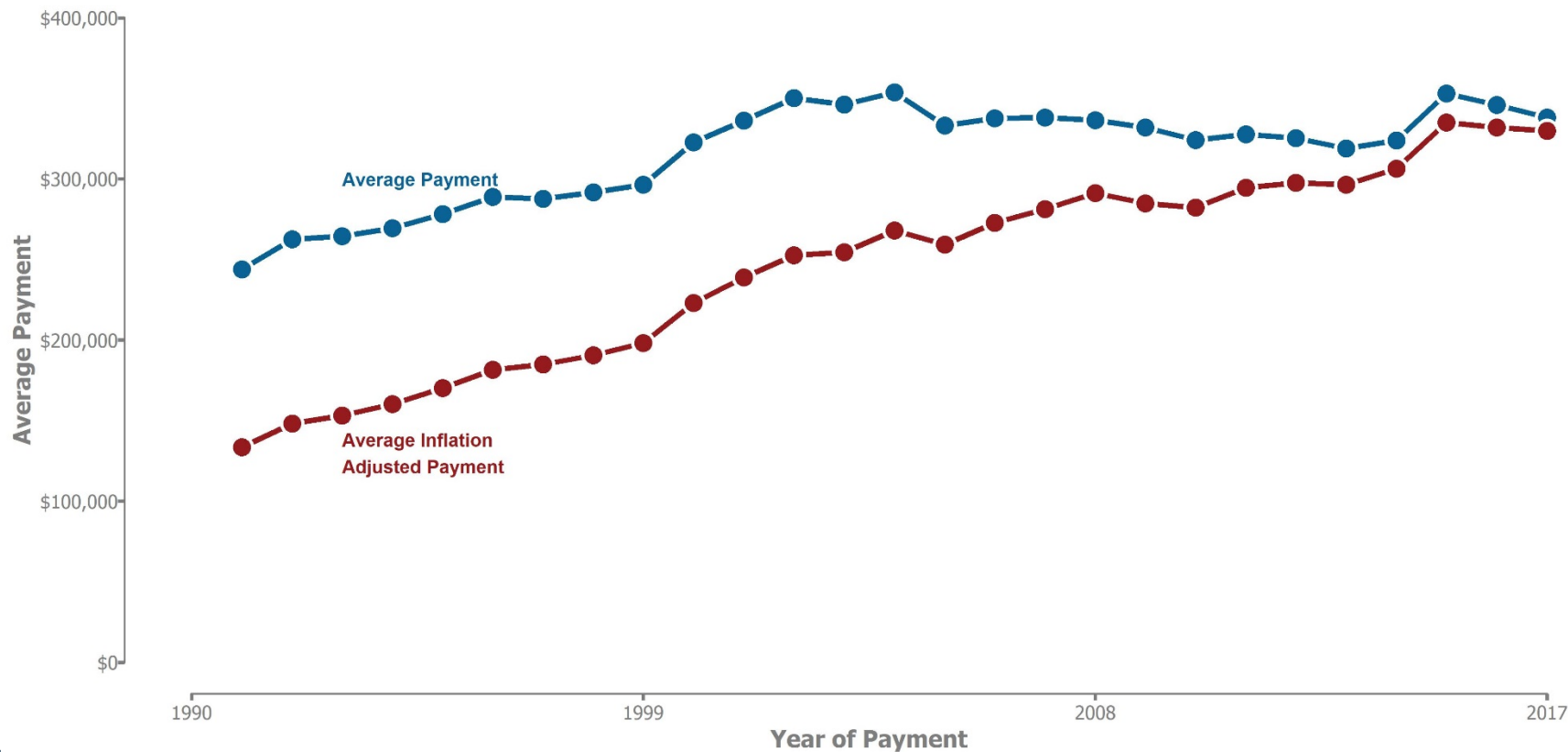
Source: NPDB IAF 2018Q3



Medical Malpractice Payment Reports Data

The Average Payment Amount for Medical Malpractice Payment Reports has Increased Since 1991

Line graph showing the average payment amount of medical malpractice payment reports submitted to the National Practitioner Data Bank, 1991 - 2017



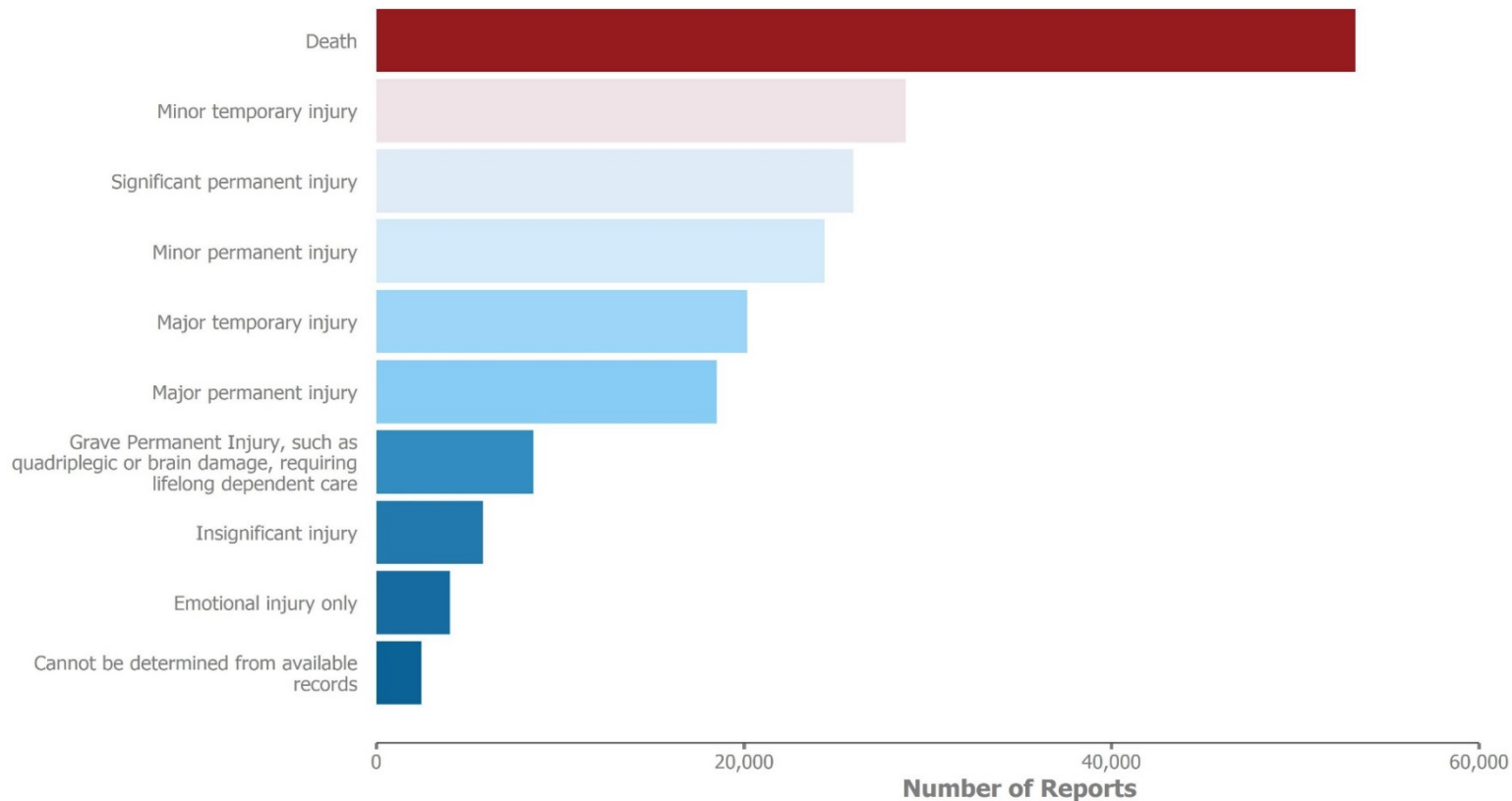
Source: NPDB IAF 2018Q3



Medical Malpractice Payment Reports Data

Death is the Most Common Patient Outcome in Medical Malpractice Payment Reports

Bar chart showing patient outcomes in medical malpractice payment reports where one was listed, 1991 - 2017



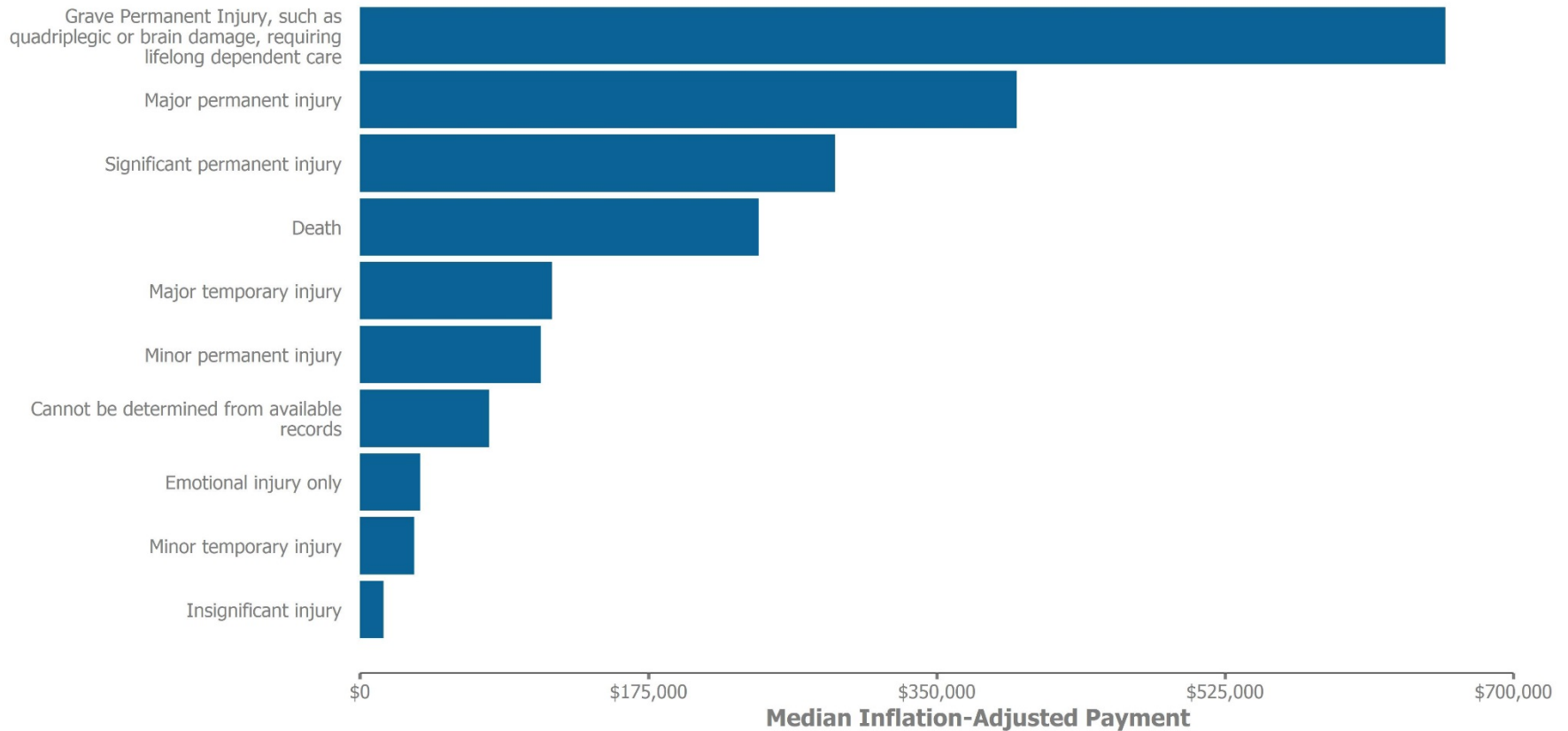
Source: NPDB IAF 2018Q3



Medical Malpractice Payment Reports Data

Grave Permanent Injury is the Most Costly Patient Outcome in Medical Malpractice Payment Reports

Bar chart showing the inflation-adjusted median payment in medical malpractice payment reports by patient outcome where one was listed, 1991 - 2017



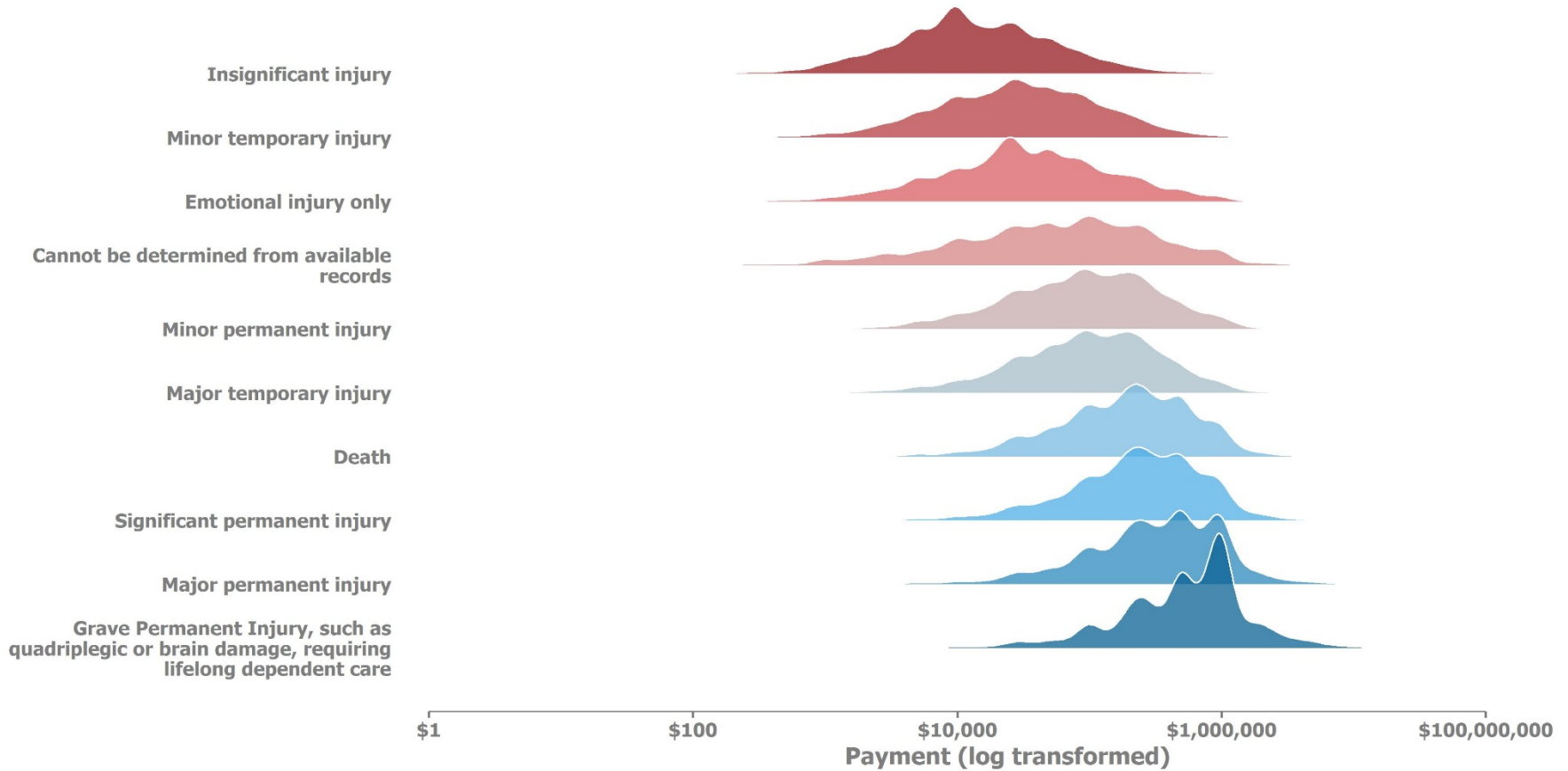
Source: NPDB IAF 2018Q3



Medical Malpractice Payment Reports Data

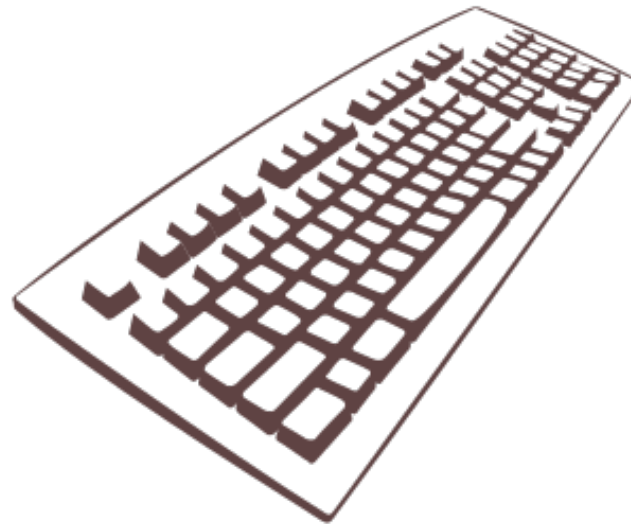
Medical Malpractice Payments by Patient Outcome

Density plots showing the distribution of inflation-adjusted medical malpractice payments (log transformed for visibility) by patient outcome, 1990 - 2018



Source: NPDB IAF 2018Q3

Medical Malpractice Payment Reporting



Medical Malpractice Payment Reporting

The Law

“Each entity (including an insurance company) which makes payment under a policy of insurance, self-insurance, or otherwise in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim shall report . . . information respecting the payment and circumstances thereof.”

-- Title IV of Public Law 99-660



Medical Malpractice Payment Reporting

To Be Specific . . .

For a medical malpractice payment to be reportable to the NPDB, there must be:

1. A payment made;
2. For the benefit of a health care practitioner;
3. Against whom a written medical malpractice claim or judgment was made; and
4. By a third party.



Medical Malpractice Payment Reporting

What This Means

All malpractice payments in any amount made for the benefit of a health care practitioner must be reported to the NPDB

- ▶ Both settlements and judgments
- ▶ No dollar threshold for reporting



Question & Answer

Question 2:

A Defendant health care practitioner agreed to settle a medical malpractice claim in exchange for being dismissed from a lawsuit. All parties involved in the lawsuit agreed to the condition. Should the resulting payment be reported to the NPDB?

Question & Answer

Answer 2:

Yes. Because the payment is the result of the condition that the defendant health care practitioner be dismissed from the lawsuit, the payment can only be construed as a payment for the benefit of the health care practitioner and must be reported to the NPDB.



Medical Malpractice Payment Reporting

Important to Note

- ▶ Standard of Care determinations are irrelevant for determining reporting requirements.
- ▶ Both Title IV and NPDB regulations recognize: A report does not mean that malpractice occurred, only that a payment was made.



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



Non-Reportable Payments - Continued

- ▶ Practitioners not named or described in written demand or lawsuit
- ▶ Waiver of Debt
- ▶ Unlicensed Students

Question & Answer

Question 3:

A patient makes an oral demand for payment for damages, should the resulting payment be reported to the NPDB?



Question & Answer

Answer 3:

No. Only payments resulting from written demands must be reported to the NPDB. Even if the practitioner transmits the demand in writing to the medical malpractice payer, the payment should not be reported if the patient's only demand was oral. However, if a subsequent written claim or demand is received from the patient and then a payment is made by an entity, that payment must be reported.



Question & Answer

Question 4:

A patient made a written demand for a refund for services and, in response, the practitioner made the payment out of her personal funds.

Should the payment be reported to the NPDB?



Question & Answer

Answer 4:

No. A refund made by an individual out of personal funds should not be reported to the NPDB. However, if the practitioner's malpractice insurer reimburses the practitioner for her out-of-pocket expenses, the insurer must report the payment.



High-Low Agreements

- ▶ Contractual agreement that defines the parameters of a payment.
- ▶ 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)

- ▶ Only reportable if included in the medical malpractice payment
 - LAEs should be itemized in the narrative description section of the report.

Question & Answer

Question 5:

If there is no medical malpractice payment and Loss Adjustment Expenses (LAEs) are paid in order to release or dismiss a health care practitioner from a medical malpractice lawsuit, should the LAEs be reported?



Question & Answer

Answer 5:

No. If LAEs are not included in the medical malpractice payment, then they should not be reported to the NPDB.



Question & Answer

Question 6:

True or False – A high-low agreement is in place prior to trial. The parties agree to a low-end payment of \$50,000 and a high-end payment of \$200,000. The jury finds the defendant physician liable and awards \$40,000 to the plaintiff in damages.

The \$40,000 is not reportable because it did not reach the \$50,000 agreed to by the parties.



Question & Answer

Answer 6:

False. The \$40,000 payment is reportable because the jury found the defendant physician liable. The defendant's insurer must pay an additional \$10,000 as a result of the high-low agreement. The payment to the NPDB should be reported as \$40,000 and the additional \$10,000 explained in the narrative.

Question & Answer

Question 7:

True or False – A high-low agreement is in place prior to trial. The parties agree to a low-end payment of \$50,000 and a high-end payment of \$150,000. Before the judge returns a verdict, the parties agree to settle the case for \$100,000. The high-low agreement is no longer in effect due to the settlement.

The \$100,000 payment is reportable.



Question & Answer

Answer 7:

True. The \$100,000 payment is reportable because it is made in settlement of the claim.



Additional Topics:

- ▶ Insurance policies that cover more than one practitioner
- ▶ Residents and Interns
- ▶ Subrogation-Type Payments
- ▶ Confidential Terms

Medical Malpractice Payment Reporting

Claims and Settlements in Alternative Settings



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.

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

Attestation



What is Attestation?

What is Attestation:

During Attestation, Medical Malpractice Payers confirm they have submitted all reportable actions and medical malpractice payments to the NPDB.

The Goals of Attestation are to:

- ▶ Ensure the accuracy and completeness of the information in the NPDB
- ▶ Educate users about their reporting obligations



How Does Attestation Work?

- ▶ Linked to registration renewal every two years
- ▶ You will be notified when your renewal date is coming up
- ▶ When you go into the Integrated Query and Reporting Service (IQRS) you will see the information about Attestation



Who Attests for Your Organization?

- May be the same person as the Data Bank Administrator
(The Data Bank Administrator is the person who manages the organization's profile and user accounts)
- Affirms that the health care entity has met its NPDB reporting obligations



Start live demo of the Attestation process in IQRS here.

(The next slides, 43-47, are screenshots of what the live demo will cover, in case of any connectivity issues.)



Demo of Attestation Process

Registration Confirmation

You are signed in as:

MALPRACTICE INSURANCE INC
999 HAWTHORNE AVE, ATHENS, GA 30606-2139
Telephone: (333) 444-5555

The NPDB registration for your organization expires on 04/06/2019 and must be renewed by the Data Bank administrator. If the entity account expires it will be deactivated and you may be unable to query or report to the NPDB until it is renewed.

Entities must renew their registration every 2 years to maintain their access to the NPDB. Administrators must review and update all information for the entity registration and user accounts. If your information is current, you can complete the form in about 5 minutes.

Be prepared to verify or provide:

- Entity information (Name, Address, Department, Phone Number, Tax Identification Number, etc.)
- Certifying official information (Name, Title, Phone Number)
- User accounts
- Point of contact for reports (Name, Title, Phone Number)
- For hospital participating in Medicare: Centers for Medicare and Medicaid Services (CMS) certification number

For help, contact the [NPDB Customer Service Center](#).

[Continue - Do not renew now](#)

[Renew Registration](#)

Only specific entities authorized by law may request the disclosure of information from (i.e., query) or submit reports to the National Practitioner Data Bank (NPDB). Authorized entities must be registered with the NPDB and have received a confidential Data Bank Identification Number (DBID) and password prior to using this querying and reporting service. Any unauthorized individual or organization that attempts to query or file reports with the NPDB is subject to fine and imprisonment under Federal statute. If you are not authorized by law and registered to query or report to the NPDB, **please log off now**.

SECURITY NOTICE: Please read this important information regarding your role in protecting critical NPDB information.

Last sign in: FEB 22, 2019 02:08PM

Next renewal: APR 06, 2019



Demo of Attestation Process

Begin Attestation

ENTITY REGISTRATION: RENEWAL

NATIONAL PRACTITIONER DATA BANK
NPDB

Public burden statement

Review Summary > Statutory Authority > Submit > **Registration Status** > Reporting Attestation

Registration Status

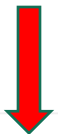
Your registration renewal is complete. Any changes you made to your registration or user accounts are in effect immediately. You may review your registration and user accounts in the Administrator Options section of the NPDB.

Your next date to renew is scheduled for **April 6, 2021**

Contact Us

Finish the Attestation Later

Continue to Attestation



Demo of Attestation Process

Attestation

Attest to Your Organization's Compliance with NPDB Reporting Requirements

Your organization added a total of 2 reports to the NPDB for actions taken and/or payments made from January 26, 2017, to January 26, 2019.

Has your organization submitted all reports, as required by law, from January 26, 2017, to January 26, 2019?

- Yes, all required reports were submitted No, some required reports were not submitted



Demo of Attestation Process Review

Entity: MALPRACTICE INSURANCE INC (ATHENS, GA) | User: johnsmith

[Sign Out](#)

REPORTING ATTESTATION

NATIONAL PRACTITIONER DATA BANK
NPDB

1. Attestation

[Edit](#)

2. Certify and Submit

Please review your attestation and submit it. If it is not correct, select a section to edit.

Attestation for MALPRACTICE INSURANCE INC, ATHENS, GA for reports submitted to the NPDB from January 26, 2017, to January 26, 2019.

My organization has fulfilled its NPDB reporting requirements.

Certify Attestation

I certify that I am authorized to submit these attestation statements on behalf of my organization regarding NPDB reporting requirements and that the statements are true and correct to the best of my knowledge.

I further certify that in the future my organization will submit all required reports to the NPDB within 30 days of the date an action was taken or a medical malpractice payment was made.

Attested by:

Name: JOHN SMITH
Title: ADMIN
Phone: (333) 444-5555
Email: john@entity.com
Date: February 25, 2019

WARNING:

Any person who knowingly makes a false statement or misrepresentation to the National Practitioner Data Bank (NPDB) may be subject to a fine and imprisonment under federal statute.

[Exit](#)

[Save and Finish Later](#)

[Submit](#)



Demo of Attestation Process Confirmation

Entity: MALPRACTICE INSURANCE INC (ATHENS, GA) | User: johnsmith

[Sign Out](#)

ATTESTATION CONFIRMATION

NATIONAL PRACTITIONER DATA BANK
NPDB

✔ Thank you for submitting your attestation.

Your attestation is valid until your next registration renewal on April 6, 2021. At that time, you will attest to your organization's continued compliance with all NPDB reporting requirements.

Attestation for MALPRACTICE INSURANCE INC, ATHENS, GA for reports submitted to the NPDB from January 26, 2017, to January 26, 2019.

My organization has fulfilled its NPDB reporting requirements.

Certify Attestation

I certify that I am authorized to submit these attestation statements on behalf of my organization regarding NPDB reporting requirements and that the statements are true and correct to the best of my knowledge.

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Name: JOHN SMITH
Title: ADMIN
Phone: (333) 444-5555
Email: john@entity.com
Date: February 25, 2019

 [Contact Us](#)

 [View Printable Copy](#)

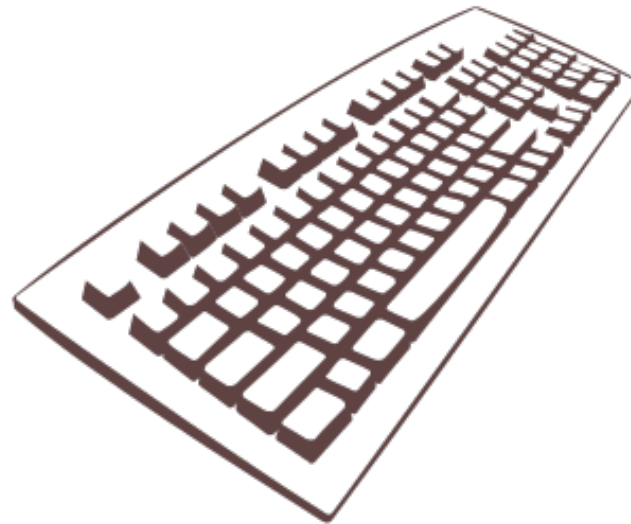
[Edit Attestation](#)

[Exit](#)



The logo for HRSA Health Workforce, featuring a stylized red and white figure resembling a person or a flame, and the text "HRSA Health Workforce" in blue and red.

Resources, Quiz, and Questions



Resources

- ▶ The NPDB Web Site at www.npdb.hrsa.gov
- ▶ Medical Malpractice Landing Page:
<https://www.npdb.hrsa.gov/orgs/mmpr.jsp>
- ▶ Help Center: <https://www.npdb.hrsa.gov/helpCenter/org.jsp>
- ▶ Policy Questions: NPDBPolicy@hrsa.gov



Question & Answer

Reportable?

1. A payment made for the benefit of an unlicensed medical resident.
2. A practitioner defendant released from a medical malpractice lawsuit as a condition of settlement.
3. A medical malpractice payment made for the benefit of a practitioner who settled out of court.
4. A malpractice settlement or court judgement that includes a stipulation that the terms are kept confidential.
5. A practitioner's fee refunded by an entity (including a solo incorporated practitioner) as a result of a written demand.



Question & Answer

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 medical malpractice payment made for the benefit of a practitioner who settled out of court - **Reportable**
4. A malpractice settlement or court judgement that includes a stipulation that the terms are kept confidential - **Reportable**
5. A practitioner's fee refunded by an entity (including a solo incorporated practitioner) as a result of a written demand - **Reportable**



Contact Us

MATTHEW WILEY: 301.443.2300

PAUL LOTTERER: npdbpolicy@hrsa.gov



Questions



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