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Member of the National Practitioner Data Bank Executive Committee

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On September 1, 2011, the Department of Health and Human Services (HHS) unwisely decided to remove the NPDB Public Use Data File from the Internet because of a complaint by a physician in Kansas that an investigation by a local reporter, combining publicly available information about the Kansas physician with unidentifiable information from the NPDB, had made it possible to provide a more complete summary of actions taken involving the physician.

For many years, Public Citizen has utilized the Public Use File to identify state licensing boards that are not taking actions to protect the public from physicians with records of repeated malpractice payments and serious sanctions against their hospital clinical privileges based on the quality of their care or their behavior. We have also conducted research that found that only about 2 percent of all physicians are responsible for over half of all the money paid out in malpractice cases over the last 20 years. Most of these physicians, including the majority of those with 10 or more payouts, have similarly never been disciplined by state boards.

A Public Citizen study finished in March of this year examined the NPDB's Public Use Data File from its inception in 1990 to 2009. Of 10,672 physicians listed in the NPDB for having clinical privileges revoked or restricted by hospitals, just 45 percent of them also had one or more licensing actions taken against them by state medical boards. That means 55 percent of them — 5,887 doctors — escaped any licensing action by the state, even though most of them lost their admitting privileges permanently or for at least a year. Of these, 220 were identified by their hospitals as an immediate threat to the health or safety of patients.

We wrote to the state medical boards in 33 states in which over one-half of the doctors with clinical privilege actions had never been disciplined by the state medical board. By prior agreement with the NPDB, we asked the boards to contact the NPDB to learn the identities of these physicians, because they were not identifiable from the public use file. Thus far, according to the NPDB, 19 of these 33 boards have obtained the names of these physicians. We have found, from responses to us by three of these boards, that as a result of our study and subsequently contacting the NPDB, the boards learned the identity of some physicians whom they had not previously known to have had hospital credentialing actions. In a number of instances, they have launched investigations. One state, Florida, wrote to us that: "We appreciate Public Citizen offering us the opportunity to research the data to provide an analysis and response … We look forward to continued cooperation with HRSA on data sharing."

Our research is in addition to research by journalists, represented by Investigative Reporters and Editors (IRE), the Association of Health Care Journalists (AHCJ), and the Society of Professional Journalists (SPJ), all of whom wrote to HHS strongly protesting

the removal of the Public Use Data File. Other important research has been done by academic researchers using the Public Use Data File, 23 of whom also wrote a strong letter to HHS protesting its removal.

The common denominator of all of this important use of the Public Use Data File is to greatly augment the work of the NPDB itself as well as state medical boards, often understaffed and underfunded to do the kinds of analyses referred to above. This all falls under the heading of improving patient safety.

The joint IRE, AHCJ, and SPJ letter referred to above stated: “The Public Use File, while it didn’t identify doctors by name or address, provided invaluable information about the functioning of state medical boards and hospital disciplinary systems. Reporters for years have used the data to identify flaws in their states’ regulatory systems that have led to patient harm. As a result of these stories, states have enacted new legislation and medical boards have taken steps to investigate problem doctors.”

It is absolutely essential that, if the file is restored, a means be provided — the common numeric but anonymous physician identifier — so all the reports belonging to a particular practitioner, hospital actions, state board actions, federal actions, and malpractice payouts can be tied together.

The only remedy to this secrecy crisis created earlier this year is to put the Public Use Data File back up in exactly the form it was previously in and, further, to consider suggestions from academic, journalist, health advocacy, and other users for increasing the usefulness of this important public use file by adding other confidential data elements.