



NOV - 1 2011

The Honorable Charles E. Grassley
United States Senate
Washington, DC 20510

Dear Senator Grassley:

Thank you for your letters on October 7, 2011 and October 17, 2011 regarding the National Practitioner Data Bank's (NPDB's) Public Use File (PUF). The PUF is a clearinghouse of de-identified information about health care practitioners that allows researchers, patient safety experts, policy analysts, and journalists to improve the delivery of health care and patient safety.

On September 1, the Health Resources and Services Administration (HRSA) temporarily removed the PUF from its website after learning that a reporter was able to use the data to identify an individual practitioner. HRSA is now seeking a solution to make as much information available to the public as soon as possible. In doing so, we are seeking to balance the need to protect confidentiality under the NPDB statute with our strong commitment to facilitate research that can advance health care safety and quality.

Although the PUF is temporarily down, the NPDB is still active and can be queried by authorized users. In addition, researchers and journalists can still submit requests to HRSA to obtain non-identifiable data. HRSA has already responded to several such requests.

Answers to the specific questions in your letters and responsive documents are enclosed.

Sincerely,

A handwritten signature in blue ink that reads "Mary Wakefield". The signature is fluid and cursive.

Mary K. Wakefield, Ph.D., R.N.
Administrator

Enclosures

HRSA Responses to

National Practitioner Data Bank (NPDB) Questions from Senator Grassley

Responses to Questions in Senator Grassley's October 7 Letter:

1. *How do you reconcile the claim in the letter to Mr. Bavley that "information reported to the NPDB is confidential and is not to be disclosed or redisclosed outside of HHS except in furtherance of professional review activities" with the fact that the statute clearly contemplates that the data will be public in a de-identified form?*

On August 26, 2011, Health Resources and Services Administration (HRSA) sent a letter to Mr. Bavley describing the confidentiality regulations governing the NPDB. As explained in that letter, HRSA sent this information because it had been informed that Mr. Bavley was planning to publish an article "which potentially involves the republication of information obtained from the National Practitioner Data Bank."

The initial information HRSA received did not indicate Mr. Bavley had used the Public Use File (PUF). Instead, HRSA's understanding at the time was that Mr. Bavley had information from the NPDB showing that a specific physician was denied clinical privileges from a health care organization and the number of associated Medical Malpractice Payment Reports. Accordingly, HRSA sent Mr. Bavley a standard letter that HRSA sends to any entity if there is reason to believe they are about to make public information from the NPDB that is, by law, to remain confidential. HRSA sent similar letters to all hospitals and health plans that had queried on the physician since 2005.

HRSA's letters related to use of confidential data from NPDB itself—not from the Public Use File. Mr. Bavley subsequently informed HRSA that he had not used the NPDB, but had instead conducted research using data from the PUF.

2. *Please provide all records relating to communications between HRSA officials and Dr. Tenny (or his representatives) who is copied on the letter to Mr. Bavley.*

Please see the attached documents.

3. *Please provide all records related to alleged breaches of confidentiality of the NPDB within the last 2 years.*

Please see the attached documents.

4. *Who at HRSA made the decision to remove public access to the PUF?*

The decision to temporarily remove access to the PUF was made by HRSA leadership, in consultation with the Department of Health and Human Services' (HHS) Office of General Counsel.

5. *What steps is HRSA taking to further de-identify information within the PUF?*

HRSA is working with experts in HHS and across the government on a solution that balances the need to protect confidentiality under the Data Bank statute with our strong commitment to facilitate important research that can advance health care safety and quality in this country.

6. *How will you ensure that the further de-identified information is in keeping with both the letter of the law and congressional intent to keep the data public?*

As noted above, HRSA is working towards a solution that meets its responsibilities regarding confidentiality under the Data Bank statute while reflecting its commitment to facilitating important research. On October 13, 2011, in keeping with its commitment to facilitate research, HRSA held a dialogue with researchers and other users to gain their insights on the PUF and to discuss what information and format is most useful to them in their work.

7. *What is your timeline for getting the database up and running again?*

Although the PUF is temporarily down, the NPDB is still active and can be queried by authorized users including hospitals, health plans, and others. In addition, researchers and journalists can still submit requests to HRSA to obtain non-identifiable data. HRSA has already responded to several such requests.

Our goal is to make as much information available as soon as we can, but we do not have a specific timeline at this point. HRSA is working with data experts in HHS on a solution to best provide research data and minimize the risk of disclosure of confidential information in accordance with the applicable statutes and regulations.

Responses to Questions in Senator Grassley's October 17 Letter:

1. *Copies of any letters or other communications that your office has had with Kansas area hospitals with respect to Dr. Robert Tenny.*

As noted above, HRSA sent standard letters to the 28 hospitals and health plans that queried on the physician described above since 2005. These letters were identical. An example is attached.

2. *Copies of any letter or other communications that your office has had with any outside facility, entity, report or news outlet regarding possible republication of information from the NPDB.*

Please see the attached documents.