

MEDICAL BOARD STAFF REPORT

May 3, 2012

ATTENTION: Members, Medical Board of California  
 SUBJECT: Data Bank Query for Physicians Renewal Candidates  
 STAFF CONTACT: Letitia Robinson, Research Specialist

**Recommended Action**

Staff recommends the Board review the analysis and recommend that staff not pursue either a continuous query or a one-time query of the Data Bank for physician renewal candidates.

**Background**

At the February 3<sup>rd</sup> Board Meeting, during "Public Comment on Items not on the Agenda" a suggestion was made to the Board. The suggestion encouraged the Board to look into the cost benefit analysis of querying the Data Bank every two years at the time of a physician's renewal.

This recommendation stemmed from a complaint made by Public Citizen, a Washington, D.C. consumer advocacy group, to the Governor of California. The complaint alleged the Board failed to take disciplinary action against 672 of its licensed physician and surgeons (alleged 710 physicians but 38 represent osteopathic physicians), all of whom were disciplined by California health care organizations, mainly hospitals. This information was based on an analysis of the Data Bank Public Use Data File from September 1990 through the end of 2009.

**Analysis**

Data Bank Information

The Data Bank, consisting of the National Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB), is a confidential information clearinghouse created by Congress to improve health care quality. The Data Bank does not disclose information on a specific practitioner to the general public. Authorized entities may query NPDB, HIPDB, or both.

The Data Bank offers two types of queries: one-time or continuous. For a one-time query, the name of the practitioner is provided to the Data Bank Web site and a query response is received within four hours. The report is available for about 45 days after the query. The current fee for each one-time query is \$4.75 per practitioner for each report per year. If both the NPDB and the HIPDB were queried, the cost would be \$9.50 per physician per year. For a continuous query, the initial query is processed; then continuous query automatically send alerts on any new reports or changes to reports on all enrolled practitioners for a 12-month period. The current fee for each continuous query is \$3.25 per practitioner for each report per year. If both the NPDB and the HIPDB were queried, the cost would be \$6.50 per physician per year.

Board's current use of Data Bank reports

Currently, the Board only conducts queries to the Data Bank for some at the initial licensing process (those licensed in another state), in some cases during an enforcement investigation,

## Data Bank Query for Physicians Renewal Candidates

May 3, 2012

Page 2

and on all reinstatement cases. Most of the information that is provided by the Data Bank is already acquired by the Board through the fingerprinting process for criminal record query, Federation of State Medical Boards query, American Medical Association, and through reporting requirements by California law.

Existing California law, Business and Professions (B&P) Code §801.01, requires reporting to the Board of arbitration awards, civil judgments and settlements over \$30,000 when a claim or action is based on a licensee's alleged negligence, error, or omission in rendering services. The Data Bank requires all such awards, judgments, or settlements of any amount be reported.

B&P Code §805 requires a peer review body to provide a written report (805 reports) to the Board when privileging actions have been taken against its licensees including terminations or revocations, suspensions for 15 days or more, restrictions on staff privileges for 30 days or more, etc. The Data Bank requires Health Care Entities to report privileging actions affecting clinical privileges for a period longer than 30 days. Board staff did a comparison of the Data Bank Public Use Data from September 1990 through the end of 2009 and found that approximately 20 reports of privileging actions were submitted to the Data Bank but an 805 report was not filed with the Board. This amounts to about one Data Bank report per year where an organization failed to provide the Board with an 805 report.

### Board Options for Querying the Data Bank

The Board was encouraged to look into the cost benefit analysis of querying the Data Bank every two years at the time of a physician's renewal. If the Board decides to query the Data Bank and increase physician's renewal fee to cover the cost, this would require a change in law.

The Board processes approximately 61,735 physician renewals each year. If the Board decided to do a one-time query for both Data Bank reports (\$9.50) at the time of renewal, the fiscal impact would be:

<b>Board Cost</b>	<b>FY 1</b>	<b>FY 2</b>	<b>Ongoing</b>
Staff Services	\$190,207	\$180,207	\$180,207
Data Bank Reports	586,482	586,482	586,482
Supplies/Equipment	123,470	123,470	123,470
Total	\$900,159	\$890,159	\$890,159

FY 1 Staff Services is a higher amount because of the work involved in setting up the initial program. Staff would be required to request, print, and review each report. In reviewing the report, staff would determine if it is necessary to open an enforcement case. Reports would be filed and maintained according to an adopted retention schedule.

If the Board decided to conduct continuous query for both Data Bank reports (\$6.50), the fiscal impact would be:

<b>Board Cost</b>	<b>FY 1</b>	<b>FY 2</b>	<b>Ongoing</b>
Staff Services	\$ 360,414	\$ 60,069	\$ 60,069
Data Bank Reports	849,395	849,395	849,395
Supplies/Equipment	261,340	20,000	20,000
Total	\$1,471,149	\$929,464	\$929,464

In FY 1 Staff Services is a higher amount because of the work involved in setting up the initial program. Staff would be required to request, print, and review each report. In reviewing the report, staff would determine if it is necessary to open an enforcement case. Reports would be filed and maintained according to an adopted retention schedule. In FY 2 the cost would decline for staff services and supplies/equipment because the Board would only receive subsequent reports.

Based upon this initial analysis of the information provided by the Data Bank to the Board, the benefit for obtaining data at renewal or on a continuous basis may not be cost effective. An analysis of the data provided by the Data Bank pursuant to the Public Citizen report shows that less than five additional reports per year might be received, and these may not rise to the level of discipline. The cost effectiveness of this option is not supported.

As an alternative, staff has already initiated an annual request to the Data Bank of reports filed from peer review bodies to determine if the Board has received all of those reports and to pursue an investigation if it has not received the reports.