

which the health care entity is located, if the Board is not such licensing board.

(c) *Sanctions*—(1) *Health care entities*. If the Secretary has reason to believe that a health care entity has substantially failed to report information in accordance with §60.9, the Secretary will conduct an investigation. If the investigation shows that the health care entity has not complied with §60.9, the Secretary will provide the entity with a written notice describing the non-compliance, giving the health care entity an opportunity to correct the non-compliance, and stating that the entity may request, within 30 days after receipt of such notice, a hearing with respect to the noncompliance. The request for a hearing must contain a statement of the material factual issues in dispute to demonstrate that there is cause for a hearing. These issues must be both substantive and relevant. The hearing will be held in the Washington, DC, metropolitan area. The Secretary will deny a hearing if:

- (i) The request for a hearing is untimely,
- (ii) The health care entity does not provide a statement of material factual issues in dispute, or
- (iii) The statement of factual issues in dispute is frivolous or inconsequential.

In the event that the Secretary denies a hearing, the Secretary will send a written denial to the health care entity setting forth the reasons for denial. If a hearing is denied, or if as a result of the hearing the entity is found to be in noncompliance, the Secretary will publish the name of the health care entity in the FEDERAL REGISTER. In such case, the immunity protections provided under section 411(a) of the Act will not apply to the health care entity for professional review activities that occur during the 3-year period beginning 30 days after the date of publication of the entity's name in the FEDERAL REGISTER.

(2) *Board of Medical Examiners*. If, after notice of noncompliance and providing opportunity to correct non-compliance, the Secretary determines that a Board has failed to report information in accordance with paragraph

(b) of this section, the Secretary will designate another qualified entity for the reporting of this information.

(Approved by the Office of Management and Budget under control number 0915-0126)

[54 FR 42730, Oct. 17, 1989, as amended at 59 FR 61555, Dec. 1, 1994]

### Subpart C—Disclosure of Information by the National Practitioner Data Bank

#### § 60.10 Information which hospitals must request from the National Practitioner Data Bank.

(a) *When information must be requested*. Each hospital, either directly or through an authorized agent, must request information from the Data Bank concerning a physician, dentist or other health care practitioner as follows:

- (1) At the time a physician, dentist or other health care practitioner applies for a position on its medical staff (courtesy or otherwise), or for clinical privileges at the hospital; and
- (2) Every 2 years concerning any physician, dentist, or other health care practitioner who is on its medical staff (courtesy or otherwise), or has clinical privileges at the hospital.

(b) *Failure to request information*. Any hospital which does not request the information as required in paragraph (a) of this section is presumed to have knowledge of any information reported to the Data Bank concerning this physician, dentist or other health care practitioner.

(c) *Reliance on the obtained information*. Each hospital may rely upon the information provided by the Data Bank to the hospital. A hospital shall not be held liable for this reliance unless the hospital has knowledge that the information provided was false.

(Approved by the Office of Management and Budget under control number 0915-0126)

#### § 60.11 Requesting information from the National Practitioner Data Bank.

(a) *Who may request information and what information may be available*. Information in the Data Bank will be available, upon request, to the persons or