



Association of Health Care Journalists
Center for Excellence in Health Care Journalism
Better coverage. Better health.



September 20, 2011

Dear Member of Congress:

We are writing today, as leaders of several national journalism organizations, to seek your assistance in restoring access to a vital government resource used by reporters and others to expose flawed oversight of doctors around the country.

For years, the U.S. Health Resources and Services Administration has made available a Public Use File (PUF) of the National Practitioner Data Bank, a federal database that compiles information on malpractice payouts, hospital discipline and regulatory sanctions against doctors and other health professionals. As required by law, the Public Use File does not identify any practitioner by name.

HRSA officials removed the public file from the data bank website earlier this month because they believe it was used to identify physicians inappropriately. Spokesman Martin Kramer said it will be at least six months before a public file is returned to the website, if that happens at all.

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 holes 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.

Attached to this letter, you will find a list of stories written with the assistance of the data bank Public Use File, as well as descriptions from the reporters involved about how the data bank helped them.

Furthermore, we are deeply concerned that HRSA sent a threatening letter on Aug. 26 to Alan Bavley, a health reporter at the Kansas City Star. The letter, signed by Division of Professional Data Banks director Cynthia Grubbs, said that Bavley could be subject to a civil monetary penalty of up to \$11,000 if he identified a physician based upon confidential information in the data bank.

In news reports, HRSA acknowledged that the letter--and the agency's subsequent decision to remove the Public Use File--was prompted by a single complaint: from the lawyer of a doctor who was the subject of Bavley's story.

Although HRSA said in some news reports that it will not pursue sanctions against Bavley, he has not received an apology.

We believe that HRSA correctly concluded over the years that the Public Use File of the data bank did not identify any health professional, as required by 42 USC 11137 (the Health Care Quality Improvement Act of 1986, section 437). Diligent reporters have used this information responsibly and have done what state regulators often do not--dig through court files, interview hospital officials and look through sanctions taken by neighboring states. After reporters did this shoe-leather reporting, the data bank helped them fill in the blanks about physicians with a lengthy history of malpractice and hospital discipline.

Without stories written by our members, it's fair to say that some unsafe doctors would continue to be practicing with clean licenses and patient protection legislation in several states likely would not have been enacted.

As the leaders of journalism organizations representing more than 15,400 members, we would like your help to restore access to this important government tool and to put patient safety ahead of physician privacy concerns. We believe continued publication of the Public Use File fits squarely within the Obama administration's transparency initiative and that the benefits of disclosure far outweigh the risks.

Finally, if HRSA or members of Congress conclude that the Public Use File in its current form violates the confidentiality requirements of the law, we urge you to help amend the law to allow this vital database to return to public view and be updated on a regular basis.

Attached to this letter, please find a copy of our letter to HRSA, the threatening letter Bavley received, a list of stories made possible because of the Public Use File, and news coverage about HRSA's decision and our organizations' response.

We would welcome a conversation with you on this topic and stand ready to work with Congress on this issue.

Sincerely,

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