

US patients may gain access to doctors' disciplinary data

Deborah Josefson *San Francisco*

Patients in the United States may soon be able to access currently protected information about their doctors, including malpractice data, if a bill about to be introduced through Congress is passed.

Representative Tom Bliley, chairman of the House commerce committee, is spearheading controversial legislation that will allow the public to have access to the National Practitioner Data Bank. The legislation enters delicate territory, as it must balance the consumer's right to knowledge against a doctor's right to privacy and protection against libel.

The data bank was set up by Congress in 1986. Its aim was to facilitate both peer review and the process for licensing doctors. Access to the database has been limited to hospitals, insurance companies, state medical boards, and doctors seeking information about themselves.

Currently, the database collects information such as adverse disciplinary actions taken by state medical and dental boards, suspensions of clinical privileges by hospitals, medical malpractice liabilities, exclusions

from participating in Medicaid and Medicare programmes and actions taken by the Drug Enforcement Agency against the practitioner.

In the United States permission to practice medicine is granted on a state by state basis, not a national one. Doctors must apply to and be approved by each state in which they want to practise.

Doctors who lose their licence in one state can cross state lines and practise in another state. The data bank allows states to find out if a licence to practise has been revoked by another state and thus facilitates the licensing process. Although access to the bank is restricted, over 30 state medical boards allow consumers to query them on the status of doctors practising in their states.

The drive to make the national database public comes on the heels of several recent well publicised exposures of disturbed or incompetent doctors who were still practising.

Chief among these was the case of a neurosurgeon who operated on the wrong patient and removed healthy tissue



US representative Tom Bliley, who wants patients to have access to doctors' disciplinary and malpractice records

instead of the patient's tumour. Another case was that of Dr Alan Zarkin, an obstetrician and gynaecologist, who carved his initials on a patient's abdomen after performing a caesarean section and continued to practise for five months afterwards despite dismissal from his hospital.

Proponents of a public database argue that it will allow consumers to make more informed decisions when choosing their doctors. Doctors' groups, such as the American Medical Association

and the American Osteopathic Association, however, point out that the information in the database is useless for this purpose as it is out of context.

Three quarters of the information in the data bank concerns malpractice suits. Malpractice information can be misleading as the number and size of settlements does not necessarily reflect a doctor's competence. □

Full story in News Extra at bmj.com

Patients' group to publish names of negligent doctors

Xavier Bosch *Barcelona*

The Spanish patients' association El Defensor del Paciente (Adepa), has announced that it plans to publish on its website a list of doctors who have been found guilty of medical negligence by Spain's Supreme Court.

The announcement prompted an immediate warning from the Agency for Data Protection

that publishing such a list could lead to a fine of up to 100 million pesetas (£380 000; \$570 000).

Carmen Flores, president of the association, said that her organisation would go ahead, despite the warning. It would publish the names of the doctors along with the entire text of the judgment.

She also announced that the association's bulletin was going to publish pictures of the results of plastic surgery. The association would not comment on the results but would "leave the evaluation to the people who look at the photos," she said.

Ms Flores said that the association's aim in publishing the list of negligent doctors was to provide information for patients before they took the decision to put themselves in someone's hands.

The association's lawyer, Carlos Sardinero, added: "The medical profession is not fairly punished [in Spain] when found

guilty of negligence since in most instances, the doctor is suspended for only two months and has to pay a ... fine which will be covered by a medical insurance company."

The association is going to await the final decision of the Agency for Data Protection, and if that is negative it will appeal to public opinion for support.

The patients' association has been criticised by several medical organisations. The Spanish Organisation of Medical Colleges said that if it went ahead with its plan to publish, it did not rule out the possibility of suing. □