

Reasonableness: The Foundation of Federal Immunity for Medical Professional Review Committees, Reuters, article by Abbye E. Alexander, Christopher J. Tellner , Henry E. Norwood

November 23, 2021 - Providing quality health care is the primary goal of health care organizations and physicians. When internal allegations are made that a physician or other provider has failed to provide quality care, organizations may initiate medical review actions in which a medical review committee will review the basis for the allegations and determine if the action against the provider is necessary.

In response to these actions, providers will often bring lawsuits against the organization or committee, alleging a range of causes of action, from defamation to antitrust suits. In response to these lawsuits and in furtherance of providing for quality medical care, Congress passed federal legislation — the Health Care Quality Improvement Act ("HCQIA") — providing, in part, for immunity on behalf of organizations and committees for their actions during reviews.

The requirements to obtain this immunity and the specific standards organizations must establish in court have been a significant subject of litigation, and organizations can gain insights from understanding how courts have addressed these cases. The HCQIA is divided into three sections: (1) the professional review section; (2) the National Practitioner Data Bank reporting section; and (3) the section establishing requirements for health care organizations to request information regarding physicians from the National Practitioner Data. The first section of the HCQIA, regarding immunity for actions involved in professional review activities, has resulted in the majority of HCQIA-based litigation.

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A professional review action is an action or recommendation by a professional review committee, which is based on the competence or professional conduct of a medical staff member. When professional review committees make recommendations that result in an adverse impact on the privileges of a medical staff member, they have faced liability from the physicians who are the subject of the committee's recommendations.

The HCQIA provides immunity to these professional review committees against liability for their actions related to their professional review when certain requirements are satisfied. HCQIA provides immunity for what are referred to as "professional review actions."

To be entitled to HCQIA protection, four elements must be met:

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