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Client Alert: Health Care Quality Improvement Act Immunity: How Thorough Peer Review Protects Hospitals from Damages Claims

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When a hospital revokes a physician's privileges, a lawsuit often follows. However, the Health Care Quality Improvement Act (HCQIA) provides powerful immunity for hospitals that follow fair, well-documented peer review processes, and recent cases confirm just how protective that shield can be.

The Immunity Framework: Four Requirements, One Standard

The HCQIA, codified at 42 U.S.C. § 11111(a), provides immunity from damages for hospitals and individuals who participate in professional review actions, provided that the action meets the four requirements set forth in 42 U.S.C. § 11112(a). Specifically, the professional review action must have been taken:

- (1) In the reasonable belief that it furthered quality health care;
- (2) After a reasonable effort to obtain the facts of the matter;
- (3) After adequate notice and hearing procedures, or after such other procedures as are fair under the circumstances; and
- (4) In the reasonable belief that the action was warranted by the facts known after such reasonable effort.

Critically, the standard is *objective*. A physician's allegations of bad-faith, personal animus, or anti-competitive motivation are legally irrelevant if the hospital can demonstrate that the process met the four statutory requirements. This objective framework has proven to be remarkably resilient in litigation, as two recent cases illustrate.

HCQIA Immunity in Practice: Substandard Oncology Care

In a 2025 case before the Montana Supreme Court, a medical oncologist at a community hospital had his medical staff membership and clinical privileges revoked following a series of external peer reviews. The reviews uncovered concerning patterns of care, including prescribing chemotherapy for over a decade to a patient who had never received a confirmed cancer diagnosis and ultimately resulting in the patient's death from drug toxicity. Additional findings included excessive opioid prescribing, altering patients' do-not-resuscitate status without consent, and pervasive documentation failures.

The hospital initially imposed a summary suspension based on concerns about imminent harm to patients, then convened a formal hearing process consistent with its medical staff bylaws. After a thorough evidentiary hearing, the hearing panel recommended revocation, and the hospital's governing board upheld that recommendation on appeal.

The physician sued, alleging breach of contract, breach of implied covenant of good-faith and fair dealing, and wrongful termination, among other claims. He challenged both the summary suspension and the revocation, seeking substantial damages.

The Montana Supreme Court affirmed HCQIA immunity in full. The court found that all four statutory requirements were satisfied:

- **Reasonable belief in furthering quality care:** The external peer reviews documented egregious departures from accepted medical practice, supporting the hospital's decision to summarily suspend the oncologist and start an investigation. The court concluded that the professional review actions taken against the physician were in the furtherance of quality of health care.
- **Reasonable effort to obtain facts:** The hospital engaged independent, external peer reviewers precisely because it did not employ other medical oncologists and could not conduct the review internally. The court found this approach not only reasonable but compelling.
- **Adequate notice and hearing procedures:** The physician received formal notice, a multi-day evidentiary hearing, written findings, and a full appellate process through the governing board.
- **Reasonable belief action was warranted:** Given the severity of the documented care deficiencies, including a patient death attributable to unnecessary chemotherapy, the decision to revoke was amply supported.

The court also addressed the "imminent harm" exception, holding that summary suspension without a pre-deprivation hearing is permissible when patient safety is at immediate risk. The court emphasized that requiring a full hearing before acting in the face of serious patient safety concerns would undermine the very purpose of the HCQIA. *Weiner v. St. Peter's Health*, 420 Mont. 293 (2025).

HCQIA Immunity and Professional Misconduct Investigations

HCQIA immunity is not limited to clinical competence cases. In a 2024 decision from the Eastern District of Pennsylvania, a physician at a university hospital had his privileges revoked following an investigation into allegations of sexual harassment and professional misconduct. The hospital convened an ad hoc investigation committee, which gathered evidence, interviewed witnesses, and issued findings. The physician received formal notice, a hearing before a multi-member panel, written recommendations, and appeal rights through the institution's Board of Governors.

The physician challenged the adequacy of the hearing procedures, alleging various procedural deficiencies.

The court granted summary judgment to the hospital under the HCQIA. It found that the hospital had a reasonable belief that removing a physician credibly accused of sexual harassment furthered quality health care, a determination consistent with the growing recognition that professional misconduct directly impacts the clinical environment. The court also found that the investigation committee's fact-finding efforts were thorough and that the hearing procedures, including a formal hearing panel, written recommendations, and appellate review, were fully consistent with the hospital's bylaws and satisfied the statutory requirements.

Notably, the court held that HCQIA immunity extends not only to the peer review action itself but also to the mandatory NPDB reporting that follows. This is an important point for hospitals: a properly immunized peer review action insulates the subsequent NPDB report from damages claims as well. *Weinik v. Temple Univ. of the Commonwealth Sys. of Higher Educ.*, No. 19-35032024 U.S. Dist. LEXIS 89853 (E.D. Pa. May 20, 2024).

Building an Immunity-Ready Peer Review Process

These cases offer a roadmap for hospitals seeking to ensure their peer review processes will withstand judicial scrutiny:

- **Engage external reviewers when necessary.** Small hospitals and specialty departments that lack in-house expertise should not hesitate to retain independent, external peer reviewers. Courts recognize this as a strength, not a weakness, in the fact-finding process.
- **Follow your bylaws to the letter.** The cases consistently emphasize compliance with the hospital's own medical staff bylaws. Deviations from established procedures, even well-intentioned ones, can undermine immunity arguments. Ensure bylaws are current, comprehensive, and consistently applied.
- **Provide layered procedural protections.** Multi-layered review processes, including committee investigation, formal hearing, written recommendations, and appellate review, create a robust procedural record that strongly supports HCQIA immunity.
- **Document the patient safety rationale.** Every step of the peer review process should be documented with reference to patient safety. This creates a clear record that the action was taken in the reasonable belief that it furthered quality health care, and the first and most important statutory requirement.

Key Takeaways

- **The HCQIA immunity standard is objective.** Subjective allegations of bad-faith, personal animus, or competitive retaliation by the affected physician are legally irrelevant if the hospital demonstrates compliance with the four statutory requirements of 42 U.S.C. § 11112(a).
- **Hospitals may rely on external peer reviewers when in-house expertise is unavailable.** This is particularly important for community hospitals and specialty departments. Courts view external review as evidence of a reasonable effort to obtain the facts.
- **The 'imminent harm' exception permits summary suspension without a pre-suspension hearing.** When patient safety is at immediate risk, hospitals may act first and provide hearing procedures afterward. Document the basis for the imminent harm determination at the time it is made.
- **Follow bylaws procedures closely.** Multi-layered committee review, formal hearings, and documented appeal rights strongly support HCQIA immunity. Consistency in applying these procedures across all cases is equally important.
- **HCQIA immunity also protects mandatory NPDB reporting.** When a peer review action qualifies for HCQIA immunity, the mandatory NPDB report that follows is similarly protected from damages claims. This dual protection underscores the importance of getting the peer review process right from the outset.

If you have questions or would like more information on how the HCQIA can protect hospitals from lawsuits

after a physician's privileges are revoked, please contact Grant Dearborn.