

*Webinar on*

# **The Healthcare Quality Improvement Act: The Quest for Immunity in Your Peer Review Process**

# Areas Covered

- The Health Care Quality Improvement Act*
- The legislative history of the Act*
- Immunity under the Act*
- Standards required to achieve immunity under the Act.*
- Review of the Act by the courts.*



You will learn how to facilitate the frank exchange of information among professionals conducting peer review inquiries without the fear of reprisals in civil lawsuits.

**PRESENTED BY:**

*William Mack Copeland, MS, JD, Ph.D, LFACHE, practices health care law in Cincinnati at the firm of Copeland Law, LLC and often serves as hearing officer in medical staff disciplinary proceedings. A graduate of Northern Kentucky University Salmon P. Chase College of Law, Bill is a frequent author and speaker on health law topics.*

On-Demand Webinar

Duration : 60 Minutes

Price: \$200

# Webinar Description

This webinar will discuss the Health Care Quality Improvement Act (HCQIA) in detail, including the standards that must be met to achieve immunity under the act. The HCQIA itself will be reviewed, including a detailed look at the Congressional purpose for the act. The legislative history of the act will be reviewed to gain an understanding of the intent of Congress in passing the act.

Next will be a review of the standards under the act. We will conduct a detailed review of each of the standards and the actions that are required to meet the intent of the standards. Specifically, there are four standards under the act that must be met. We will review each of these with an eye toward court interpretation of what actions an organization must take to achieve the protections granted by the act. First, the action must be taken “in the reasonable belief that the action was in the furtherance of quality health care.” We will examine what this means and what is required for the entity taking the action to have a “reasonable belief.”

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Second, the action must be taken “after a reasonable effort to obtain the facts of the matter.” The webinar will discuss in some depth what is required to conduct an adequate investigation. Before any definitive action is taken, there must be an adequate investigation to determine the facts of the matter. This seems like simple common sense, but one would be surprised at how often the investigation is found to be less than what is expected. The focus of this portion of the webinar is to review what constitutes an adequate investigation, particularly one that will withstand the scrutiny of the court when the hospital or other professional review body is asking for immunity under the Health Care Quality Improvement Act (HCQIA).

Third, the action must be taken, “after adequate notice and hearing procedures are afforded to the physician involved or after such other procedures as are fair to the physician under the circumstances.” The act sets forth the "safe harbor" conditions that a health care entity must meet regarding adequate notice and hearing procedures. We will examine these safe harbor conditions and discuss in detail what must be done to achieve immunity under this standard. In addition, we will discuss what actions must be taken when a practitioner asks for a hearing but it is not possible to provide one.



Fourth, the action must be taken, “in the reasonable belief that the action was warranted by the facts known after such reasonable effort to obtain facts and after meeting the [notice and hearing] requirement.” While the analysis of this standard generally tracts the analysis of the first standard, “in the reasonable belief,” there is a considerable interpretation by the courts of exactly what this standard means and what must be done to accomplish it. We will review that court review and analyze the actions required to meet it.

We will also review cases that discuss the situation where the peer review committee reached incorrect conclusions and the implications that such a conclusion has for immunity under the act.



# Who Should Attend ?

*Hospital executives, particularly those involved with medical staff activities*

*Medical staff officers*

*Physicians who serve on peer review committees*

*Medical staff support staff*

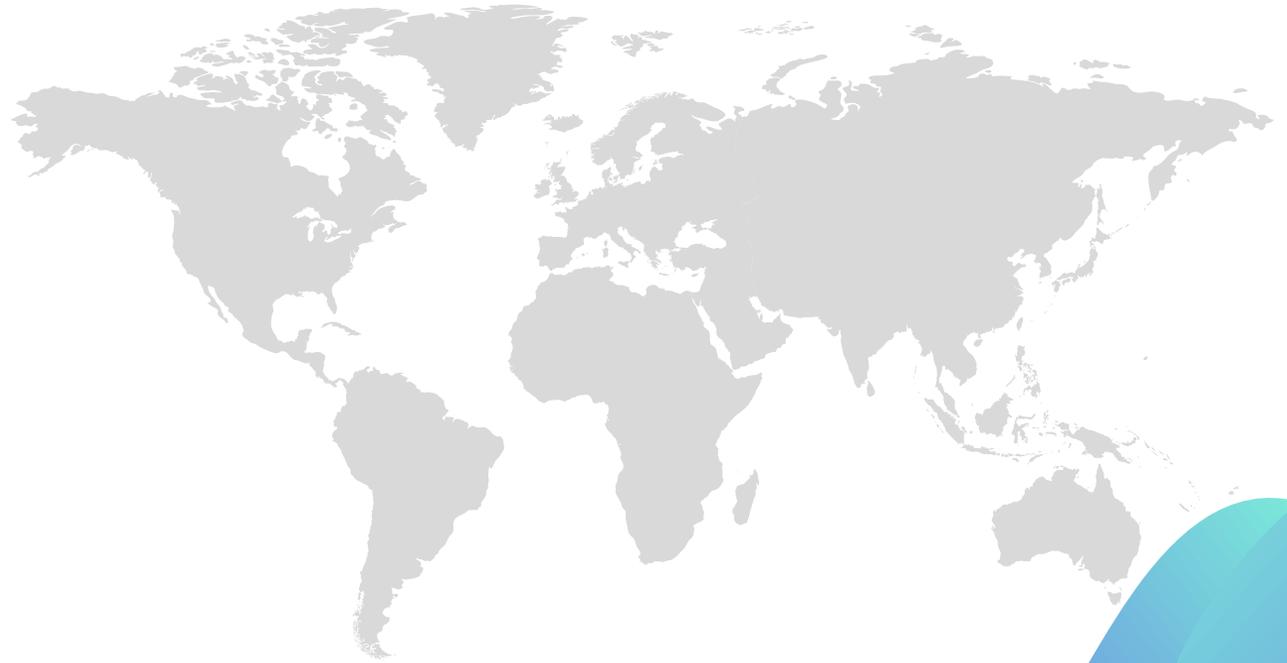


# Why Should Attend ?

*You should attend this webinar to gain an understanding of how the HCQIA protects your organization and those who participate in the peer review process in your organization, as well as gain an appreciation of the actions that are required to perfect the HCQIA immunity. Failure to take the appropriate actions and to follow the correct protocol can result in a disastrous situation.*

*You will learn how to facilitate the frank exchange of information among professionals conducting peer review inquiries without the fear of reprisals in civil lawsuits. The statute attempts to balance the chilling effect of litigation on peer review with concerns for protecting physicians improperly subjected to disciplinary action; accordingly, Congress granted immunity from monetary damages to participants in properly conducted peer review proceedings while preserving causes of action for injunctive or declaratory relief for aggrieved physicians. Not only will you gain an understanding of the immunity provisions, but you will also gain an appreciation of the standards that professional review actions must satisfy to entitle the participants to such protection.*

*We will discuss what is required to provide a “fair” hearing, including the actions that must be taken before and during the hearing process. You will gain an understanding of how to conduct an investigation of the allegations that form the basis of the professional review action and the standards that the courts review to ensure that the investigation was adequate. You will learn how the courts interpret the mandate in the HCQIA that the action was taken “in the reasonable belief that the action was in the furtherance of quality health care.” You will also gain an understanding of what is required to meet the standard, “after adequate notice and hearing procedures are afforded to the physician involved or after such other procedures as are fair to the physician under the circumstances.”*



# Topic Background

*The Federal Health Care Quality Improvement Act of 1986 (HCQIA) was passed by Congress partially in response to Patrick v. Burget, et al., but also in response to what was perceived to be a tremendous malpractice crisis in the country. Medical malpractice lawsuits were rising significantly during the years leading up to the passage of the Act. It was claimed that physicians with a history of malpractice suits could move easily from state to state with no mechanism of interstate reporting available. The substantial rise in the number of malpractice suits during the 1970s and 1980s created what has been referred to as the “malpractice crisis.” In fact, the number of malpractice cases filed during the period ending in 1987 was more than "the entire previous history of American tort law."*

*The HCQIA was designed to address two problems that were considered endemic to the medical community: honest peer review by physicians and the ability of practitioners to move from hospital to hospital and state to state without any record of their previous misdeeds. To further this goal, HCQIA grants limited immunity, in suits brought by physicians who have been the subject of peer review proceedings, from liability for money damages to those who participate in professional peer review activities.*



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