

Medical Peer Review

Medical peer review is the process by which a professional review body considers whether a practitioner's clinical privileges or membership in a professional society will be adversely affected by a physician's competence or professional conduct. The foremost objective of the medical peer review process is the promotion of the highest quality of medical care as well as patient safety.

The Health Care Quality Improvement Act of 1986 (HCQIA), 42 USC §11101 *et seq.*, sets out standards for professional review actions. If a professional review body meets these standards, then neither the professional review body, nor any person acting as a member or staff to the body, will be liable in damages under most federal or state laws with respect to the action.

The HCQIA requires that a professional review body provide adequate notice and a hearing to the physician involved. Pursuant to the HCQIA, an appropriate notice must include:

- a statement that a professional review action has been proposed to be taken against the physician;
- the reasons for the action;
- an indication that the physician may request a hearing, and any applicable time limits for making the request; and
- a summary of the physician's rights in the hearing.

If a timely request for a hearing is made, the professional review body must provide the physician notice of the hearing, including a list of witnesses expected to testify on the professional review body's behalf. The hearing cannot be scheduled for less than 30 days after the date of the notice.

The HCQIA permits hearings to be held before an officer, panel or an arbitrator. At the hearing, the physician has the right to:

- representation by an attorney or any other person of the physician's choice;
- call, examine and cross examine witnesses;
- present evidence;
- submit a written statement at the conclusion of the hearing; and
- have a record made of the proceedings

After the hearing, HCQIA requires that the hearing officer, hearing panel or arbitrator advise the physician involved of any recommendation(s) in writing. In the case of determining whether to grant, suspend, or revoke a physician's hospital staff privileges or medical staff membership, a hospital's governing body makes the ultimate determination. However, the recommendations of a peer review body strongly influence the governing body's decision.

In order to provide incentive for physicians and others to participate in medical peer review, federal and state law works to protect peer review participants and processes. In

every state, some combination of the following statutory protections is available to good faith peer review:

- involved individuals and institutions are granted immunity from lawsuits;
- information related to the peer review process is deemed confidential; and
- peer review work product is designated privileged and inadmissible in court.

The American Medical Association (AMA) supports the medical peer review process and recommends that peer review evaluations should be based upon appropriateness, medical necessity, and efficiency of services in order to assure quality medical care. The AMA advises that any system of medical peer review should have established procedures. Furthermore, the AMA advocates that the peer review process should protect the confidentiality of medical information obtained and used in conducting peer review.