

(including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or interstate body.

**(8) Release**

The term “release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any hazardous chemical, extremely hazardous substance, or toxic chemical.

**(9) State**

The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, and any other territory or possession over which the United States has jurisdiction.

**(10) Toxic chemical**

The term “toxic chemical” means a substance on the list described in section 11023(c) of this title.

(Pub. L. 99-499, title III, §329, Oct. 17, 1986, 100 Stat. 1757.)

**§ 11050. Authorization of appropriations**

There are authorized to be appropriated for fiscal years beginning after September 30, 1986, such sums as may be necessary to carry out this chapter.

(Pub. L. 99-499, title III, §330, Oct. 17, 1986, 100 Stat. 1758.)

**CHAPTER 117—ENCOURAGING GOOD FAITH PROFESSIONAL REVIEW ACTIVITIES**

Sec.

11101. Findings.

**SUBCHAPTER I—PROMOTION OF PROFESSIONAL REVIEW ACTIVITIES**

- 11111. Professional review.
- 11112. Standards for professional review actions.
- 11113. Payment of reasonable attorneys' fees and costs in defense of suit.
- 11114. Guidelines of Secretary.
- 11115. Construction.

**SUBCHAPTER II—REPORTING OF INFORMATION**

- 11131. Requiring reports on medical malpractice payments.
- 11132. Reporting of sanctions taken by Boards of Medical Examiners.
- 11133. Reporting of certain professional review actions taken by health care entities.
- 11134. Form of reporting.
- 11135. Duty of hospitals to obtain information.
- 11136. Disclosure and correction of information.
- 11137. Miscellaneous provisions.

**SUBCHAPTER III—DEFINITIONS AND REPORTS**

- 11151. Definitions.
- 11152. Reports and memoranda of understanding.

**§ 11101. Findings**

The Congress finds the following:

(1) The increasing occurrence of medical malpractice and the need to improve the qual-

ity of medical care have become nationwide problems that warrant greater efforts than those that can be undertaken by any individual State.

(2) There is a national need to restrict the ability of incompetent physicians to move from State to State without disclosure or discovery of the physician's previous damaging or incompetent performance.

(3) This nationwide problem can be remedied through effective professional peer review.

(4) The threat of private money damage liability under Federal laws, including treble damage liability under Federal antitrust law, unreasonably discourages physicians from participating in effective professional peer review.

(5) There is an overriding national need to provide incentive and protection for physicians engaging in effective professional peer review.

(Pub. L. 99-660, title IV, §402, Nov. 14, 1986, 100 Stat. 3784.)

**SHORT TITLE**

Pub. L. 99-660, title IV, §401, Nov. 14, 1986, 100 Stat. 3784, provided that: “This title [enacting this chapter and provisions set out as a note under section 11111 of this title] may be cited as the ‘Health Care Quality Improvement Act of 1986.’”

**SUBCHAPTER I—PROMOTION OF PROFESSIONAL REVIEW ACTIVITIES**

**§ 11111. Professional review**

**(a) In general**

**(1) Limitation on damages for professional review actions**

If a professional review action (as defined in section 11151(9) of this title) of a professional review body meets all the standards specified in section 11112(a) of this title, except as provided in subsection (b) of this section—

(A) the professional review body,

(B) any person acting as a member or staff to the body,

(C) any person under a contract or other formal agreement with the body, and

(D) any person who participates with or assists the body with respect to the action,

shall not be liable in damages under any law of the United States or of any State (or political subdivision thereof) with respect to the action. The preceding sentence shall not apply to damages under any law of the United States or any State relating to the civil rights of any person or persons, including the Civil Rights Act of 1964, 42 U.S.C. 2000e, et seq. and the Civil Rights Acts, 42 U.S.C. 1981, et seq. Nothing in this paragraph shall prevent the United States or any Attorney General of a State from bringing an action, including an action under section 15c of title 15, where such an action is otherwise authorized.

**(2) Protection for those providing information to professional review bodies**

Notwithstanding any other provision of law, no person (whether as a witness or otherwise) providing information to a professional review

body regarding the competence or professional conduct of a physician shall be held, by reason of having provided such information, to be liable in damages under any law of the United States or of any State (or political subdivision thereof) unless such information is false and the person providing it knew that such information was false.

**(b) Exception**

If the Secretary has reason to believe that a health care entity has failed to report information in accordance with section 11133(a) of this title, the Secretary shall conduct an investigation. If, after providing notice of noncompliance, an opportunity to correct the noncompliance, and an opportunity for a hearing, the Secretary determines that a health care entity has failed substantially to report information in accordance with section 11133(a) of this title, the Secretary shall publish the name of the entity in the Federal Register. The protections of subsection (a)(1) of this section shall not apply to an entity the name of which is published in the Federal Register under the previous sentence with respect to professional review actions of the entity commenced during the 3-year period beginning 30 days after the date of publication of the name.

**(c) Treatment under State laws**

**(1) Professional review actions taken on or after October 14, 1989**

Except as provided in paragraph (2), subsection (a) of this section shall apply to State laws in a State only for professional review actions commenced on or after October 14, 1989.

**(2) Exceptions**

**(A) State early opt-in**

Subsection (a) of this section shall apply to State laws in a State for actions commenced before October 14, 1989, if the State by legislation elects such treatment.

**(B) Effective date of election**

An election under State law is not effective, for purposes of,<sup>1</sup> for actions commenced before the effective date of the State law, which may not be earlier than the date of the enactment of that law.

(Pub. L. 99-660, title IV, § 411, Nov. 14, 1986, 100 Stat. 3784; Pub. L. 100-177, title IV, § 402(c), as added Pub. L. 101-239, title VI, § 6103(e)(6)(A), Dec. 19, 1989, 103 Stat. 2208.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (a)(1), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended, which is classified principally to subchapters II to IX (§2000a et seq.) of chapter 21 of this title. Title VII of this Act relates to equal employment opportunities, and is classified generally to subchapter VI (§2000e et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Civil Rights Acts, referred to in subsec. (a)(1), are classified generally to chapter 21 (§1981 et seq.) of this title.

<sup>1</sup> So in original. Probably should be "for purposes of subparagraph (A)."

AMENDMENTS

1989—Subsec. (c)(2)(B), (C). Pub. L. 101-239 added Pub. L. 100-177, § 402(c), see 1987 Amendment note below.

1987—Subsec. (c)(2)(B), (C). Pub. L. 100-177, § 402(c), as added by Pub. L. 101-239, redesignated subpar. (C) as (B), struck out "subparagraphs (A) and (B)" after "for purposes of", and struck out former subpar. (B) which read as follows: "Subsection (a) of this section shall not apply to State laws in a State for actions commenced on or after October 14, 1989, if the State by legislation elects such treatment."

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-177 effective Nov. 14, 1986, see section 402(d) of Pub. L. 100-177, as renumbered and amended, set out as a note under section 11137 of this title.

EFFECTIVE DATE

Pub. L. 99-660, title IV, § 416, Nov. 14, 1986, 100 Stat. 3788, provided that: "This part [part A (§§ 411-416) of title IV of Pub. L. 99-660, enacting this subchapter] shall apply to professional review actions commenced on or after the date of the enactment of this Act [Nov. 14, 1986]."

**§ 11112. Standards for professional review actions**

**(a) In general**

For purposes of the protection set forth in section 11111(a) of this title, a professional review action must be taken—

- (1) in the reasonable belief that the action was in the furtherance of quality health care,
- (2) after a reasonable effort to obtain the facts of the matter,
- (3) 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, and
- (4) in the reasonable belief that the action was warranted by the facts known after such reasonable effort to obtain facts and after meeting the requirement of paragraph (3).

A professional review action shall be presumed to have met the preceding standards necessary for the protection set out in section 11111(a) of this title unless the presumption is rebutted by a preponderance of the evidence.

**(b) Adequate notice and hearing**

A health care entity is deemed to have met the adequate notice and hearing requirement of subsection (a)(3) of this section with respect to a physician if the following conditions are met (or are waived voluntarily by the physician):

**(1) Notice of proposed action**

The physician has been given notice stating—

- (A)(i) that a professional review action has been proposed to be taken against the physician,
- (ii) reasons for the proposed action,
- (B)(i) that the physician has the right to request a hearing on the proposed action,
- (ii) any time limit (of not less than 30 days) within which to request such a hearing, and
- (C) a summary of the rights in the hearing under paragraph (3).

**(2) Notice of hearing**

If a hearing is requested on a timely basis under paragraph (1)(B), the physician involved must be given notice stating—