



**IN THE GENERAL ASSEMBLY STATE OF \_\_\_\_\_**

**An Act**

**To Enact the Standard of Care Protection Act**

1 Be it enacted by the People of the State of \_\_\_\_\_, represented in the General  
2 Assembly:

3 **Section 1. Title.** This act shall be known as and may be cited as the “Standard of Care  
4 Protection Act.”

5 **Section 2. Purpose.** The Legislature hereby finds and declares that:

6 (a) As health system reform is implemented at both the federal and state levels,  
7 physicians may face additional liability exposure related to federal guidelines in  
8 state civil actions.

9 (b) Such federal guidelines include:

- 10 (i) Health care quality measures;
- 11 (ii) Payment adjustments for health care-acquired conditions;
- 12 (iii) Hospital value-based purchasing;
- 13 (iv) Value-based payment modifier under the physician fee schedule;
- 14 (v) Hospital readmissions;
- 15 (vi) Clinical and community preventive services;
- 16 (vii) Payment adjustments under federal programs, including but not limited to,  
17 the Meaningful Use of electronic health records, Physician Quality  
18 Reporting System, including Maintenance of Certification (MOC) Program,  
19 and e-prescribing.

20 (c) Additional liability exposure could lead to more civil actions against physicians,  
21 increased medical liability insurance premiums, and reduced access to health care  
22 for patients.

23 (d) There are efforts at the federal level to prevent these provisions from leading to  
24 additional physician liability exposure, but the legislation has not been enacted to  
25 date.

26 (e) States have the constitutional authority to amend their statutes to prevent the use  
27 of such provisions in medical liability actions brought under state law and should  
28 do so in order to prevent their liability climate from deteriorating for physicians,  
29 which would have a negative effect for patients.

30 **Section 3. Requirements.** A physician's failure to comply with or a physician's breach  
31 of any federal statute, regulation, program, guideline or other provision shall not:

- 32 (i) Be admissible;
- 33 (ii) Be used to determine the standard of care; or
- 34 (iii) Be the legal basis for a presumption of negligence

35 in any medical liability case in this state.

36 **Section 4. Effective Date.** This Act shall become effective immediately upon being  
37 enacted into law.

38 **Section 5. Severability.** If any provision of this Act is held by a court to be invalid,  
39 such invalidity shall not affect the remaining provisions of this Act, and to this end the  
40 provisions of this Act are hereby declared severable.