



**IN THE GENERAL ASSEMBLY STATE OF**

**An Act<sup>i\*</sup>**

**To Prohibit the Criminalization of Health Care Decision-Making**

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 and may be cited as the "Act to Prohibit the  
4 Criminalization of Health Care Decision-Making."

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

6 (a) There is a current trend among prosecutors and courts to subject physicians to  
7 criminal prosecution in cases of medical liability;

8 (b) A physician's exercise of clinical judgment is already subject to peer review  
9 processes, regulation by the state licensing board, including license revocation,  
10 and civil liability for cases of medical liability;

11 (c) The state also has the authority under the state penal code to prosecute physicians  
12 whose acts or omissions reflect sufficient criminal intent and cause sufficient  
13 injury; and

14 (d) Subjecting physicians to criminal prosecution for clinical decisions made based  
15 on their professional judgment would have a serious detrimental impact on their  
16 ability to exercise that judgment, which is contrary to the interests of the public.

1     **Section 3. Definitions.**

2           (a) “Criminal intent” means the intent to commit a crime.

3           (b) “Health care services” means acts of diagnosis, treatment, medical evaluation or  
4           advice or such other acts as may be permissible under the health care licensing  
5           statutes of this state.

6           (c) “Physician” is an individual who has received a “Doctor of Medicine” or “Doctor  
7           of Osteopathy” degree following successful completion of a prescribed course  
8           of study from a school of medicine or osteopathy.

9     **Section 4. Requirements.** Any physician licensed to provide health care services in the  
10    state who, in the absence of criminal intent, renders or fails to render health care services,  
11    shall not be subject to criminal liability resulting from any act or omission related to such  
12    rendering of or failure to render health care services.

13    **Section 5. Effective Date.** This Act shall become effective immediately upon being  
14    enacted into law.

15    **Section 6. Severability.** If any provision of this Act is held by a court to be invalid,  
16    such invalidity shall not affect the remaining provisions of this Act, and to this end the  
17    provisions of this Act are hereby declared severable.

Revised 11-2007

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\*This model bill may be used by states in several ways: (1) as a separate enactment or (2) as an amendment to the state penal code.