



IN THE GENERAL ASSEMBLY STATE OF

An Act

To provide for the autonomy of hospital medical staffs

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

3 **Section 1. Title.** This Act shall be known and may be cited as the “Act to Ensure the
4 Autonomy of Hospital Medical Staffs.”

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

6 (a) Providing quality medical care in hospitals depends on the mutual accountability,
7 interdependence, and responsibility of the medical staff and the hospital
8 governing board for the proper performance of their respective obligations;

9 (b) The final authority of a hospital governing board may be exercised for the
10 responsible governance of the hospital or for the hospital’s business, but this final
11 authority may only be exercised with a reasonable belief that the medical staff has
12 failed to fulfill a substantive responsibility in matters pertaining to the quality of
13 patient care;

14 (c) It would be a violation of the medical staff’s self-governance and independent
15 rights for the hospital governing board to assume a duty or responsibility of the
16 medical staff precipitously, unreasonably, or in bad faith;

- 1 (d) The specific actions that would constitute bad faith or unreasonable action on the
2 part of either the medical staff or the hospital governing board will always be fact-
3 specific and cannot be precisely described in statute;
- 4 (e) The provisions set forth in this act do nothing more than provide for the basic
5 independent rights and responsibilities of a self-governing medical staff;
- 6 (f) Ultimately, a successful relationship between a hospital’s medical staff and the
7 governing board depends on the mutual respect of each for the rights and
8 responsibilities of the other.

9 **Section 3. Definitions.**

10 (a) “Governing Board” means the Board of Trustees, the Board of Directors or the
11 equivalent, of a hospital.

12 “Hospital” means any hospital licensed in this state.

13 (b) “Medical staff” means those physicians and other health care professionals who
14 are privileged to attend patients in a hospital.

15 **Section 4. Requirements.**

16 (a) The medical staff’s right to self-governance shall include, but not be limited to, all
17 of the following:

18 i. Establishing, in medical staff bylaws, rules, or regulations, criteria and
19 standards, consistent for medical staff membership and privileges, and
20 enforcing those criteria and standards;

21 ii. Establishing, in medical staff bylaws, rules, or regulations, clinical criteria
22 and standards to oversee and manage quality assurance, utilization review,
23 and other medical staff activities including, but not limited to, periodic

- 1 meetings of the medical staff and its committees and departments and
2 review and analysis of patient medical records;
- 3 iii. Selecting and removing medical staff officers;
- 4 iv. Assessing medical staff dues and utilizing the medical staff dues as
5 appropriate for the purposes of the medical staff;
- 6 v. The ability to retain and be represented by independent legal counsel at the
7 expense of the medical staff;
- 8 vi. Initiating, developing, and adopting medical staff bylaws, rules, and
9 regulations, and amendments thereto, subject to the approval of the hospital
10 governing board, which approval shall not be unreasonably withheld.

11 (b) The medical staff bylaws shall not interfere with the independent rights of the
12 medical staff to do any of the following, but shall set forth the procedures for:

- 13 i. Selecting and removing medical staff officers;
- 14 ii. Assessing medical staff dues and utilizing the medical staff dues as
15 appropriate for the purposes of the medical staff;
- 16 iii. The ability to retain and be represented by independent legal counsel at the
17 expense of the medical staff.

18 (c) With respect to any dispute arising under this section, the medical staff and the
19 hospital governing board shall meet and confer in good faith to resolve the
20 dispute. Whenever any person or entity has engaged in or is about to engage in
21 any acts or practices that hinder, restrict, or otherwise obstruct the ability of the
22 medical staff to exercise its rights, obligations, or responsibilities under this
23 section, the _____(court having jurisdiction), on application

1 of the medical staff, and after determining that reasonable efforts, including
2 reasonable administrative remedies provided in the medical staff bylaws, rules, or
3 regulations, have failed to resolve the dispute, may issue an injunction, writ of
4 mandate, or other appropriate order.

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

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