IN THE GENERAL ASSEMBLY
STATE OF

An Act

To Prohibit the Criminalization of Health Care Decision-Making

Be it enacted by the People of the State of ______________, represented in the General
Assembly:

Section 1. Title. This Act shall be known and may be cited as the "Act to Prohibit the
Criminalization of Health Care Decision-Making."

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

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

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

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

(d) Subjecting physicians to criminal prosecution for clinical decisions made based
on their professional judgment would have a serious detrimental impact on their
ability to exercise that judgment, which is contrary to the interests of the public.
Section 3. Definitions.

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

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

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

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

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

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

Revised 11-2007

*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.