IN THE GENERAL ASSEMBLY STATE OF ____________

An Act

To Enact the Standard of Care Protection Act

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

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

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

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

(b) Such federal guidelines include:

(i) Health care quality measures;

(ii) Payment adjustments for health care-acquired conditions;

(iii) Hospital value-based purchasing;

(iv) Value-based payment modifier under the physician fee schedule;

(v) Hospital readmissions;

(vi) Clinical and community preventive services;

(vii) Payment adjustments under federal programs, including but not limited to, the Meaningful Use of electronic health records, Physician Quality Reporting System, including Maintenance of Certification (MOC) Program, and e-prescribing.
(c) Additional liability exposure could lead to more civil actions against physicians, increased medical liability insurance premiums, and reduced access to health care for patients.

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

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

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

(i) Be admissible;

(ii) Be used to determine the standard of care; or

(iii) Be the legal basis for a presumption of negligence in any medical liability case in this state.

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

Section 5. 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.