

1 AN ACT concerning health facilities.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Hospital Licensing Act is amended by
5 adding Section 10.8 as follows:

6 (210 ILCS 85/10.8 new)

7 Sec. 10.8. Requirements for employment of physicians.

8 (a) Physician employment by hospitals and hospital
9 affiliates. Employing entities may employ physicians to
10 practice medicine in all of its branches provided that the
11 following requirements are met:

12 (1) The employed physician is a member of the
13 medical staff of either the hospital or hospital
14 affiliate. If a hospital affiliate decides to have a
15 medical staff, its medical staff shall be organized in
16 accordance with written bylaws where the affiliate
17 medical staff is responsible for making recommendations
18 to the governing body of the affiliate regarding all
19 quality assurance activities and safeguarding
20 professional autonomy. The affiliate medical staff
21 bylaws may not be unilaterally changed by the governing
22 body of the affiliate. Nothing in this Section requires
23 hospital affiliates to have a medical staff.

24 (2) Independent physicians, who are not employed by
25 an employing entity, periodically review the quality of
26 the medical services provided by the employed physician
27 to continuously improve patient care.

28 (3) The employing entity and the employed physician
29 sign a statement acknowledging that the employer shall
30 not unreasonably exercise control, direct, or interfere
31 with the employed physician's exercise and execution of

1 his or her professional judgment in a manner that
2 adversely affects the employed physician's ability to
3 provide quality care to patients. This signed statement
4 shall take the form of a provision in the physician's
5 employment contract or a separate signed document from
6 the employing entity to the employed physician. This
7 statement shall state: "As the employer of a physician,
8 (employer's name) shall not unreasonably exercise
9 control, direct, or interfere with the employed
10 physician's exercise and execution of his or her
11 professional judgment in a manner that adversely affects
12 the employed physician's ability to provide quality care
13 to patients."

14 (4) The employing entity shall establish a mutually
15 agreed upon independent review process with criteria
16 under which an employed physician may seek review of the
17 alleged violation of this Section by physicians who are
18 not employed by the employing entity. The affiliate may
19 arrange with the hospital medical staff to conduct these
20 reviews. The independent physicians shall make findings
21 and recommendations to the employing entity and the
22 employed physician within 30 days of the conclusion of
23 the gathering of the relevant information.

24 (b) Definitions. For the purpose of this Section:

25 "Employing entity" means a hospital licensed under the
26 Hospital Licensing Act or a hospital affiliate.

27 "Employed physician" means a physician who receives an
28 IRS W-2 form, or any successor federal income tax form, from
29 an employing entity.

30 "Hospital" means a hospital licensed under the Hospital
31 Licensing Act, except county hospitals as defined in
32 subsection (c) of Section 15-1 of the Public Aid Code.

33 "Hospital affiliate" means a corporation, partnership,
34 joint venture, limited liability company, or similar

1 organization, other than a hospital, that is devoted
 2 primarily to the provision, management, or support of health
 3 care services and that directly or indirectly controls, is
 4 controlled by, or is under common control of the hospital.
 5 "Control" means having at least an equal or a majority
 6 ownership or membership interest. A hospital affiliate shall
 7 be 100% owned or controlled by any combination of hospitals,
 8 their parent corporations, or physicians licensed to practice
 9 medicine in all its branches in Illinois. "Hospital
 10 affiliate" does not include a health maintenance organization
 11 regulated under the Health Maintenance Organization Act.

12 "Physician" means an individual licensed to practice
 13 medicine in all its branches in Illinois.

14 "Professional judgment" means the exercise of a
 15 physician's independent clinical judgment in providing
 16 medically appropriate diagnoses, care, and treatment to a
 17 particular patient at a particular time. Situations in which
 18 an employing entity does not interfere with an employed
 19 physician's professional judgment include, without
 20 limitation, the following:

21 (1) practice restrictions based upon peer review of
 22 the physician's clinical practice to assess quality of
 23 care and utilization of resources in accordance with
 24 applicable bylaws;

25 (2) supervision of physicians by appropriately
 26 licensed medical directors, medical school faculty,
 27 department chairpersons or directors, or supervising
 28 physicians;

29 (3) written statements of ethical or religious
 30 directives; and

31 (4) reasonable referral restrictions that do not,
 32 in the reasonable professional judgment of the physician,
 33 adversely affect the health or welfare of the patient.

34 (c) Private enforcement. An employed physician aggrieved

1 by a violation of this Act may seek to obtain an injunction
2 or reinstatement of employment with the employing entity as
3 the court may deem appropriate. Nothing in this Section
4 limits or abrogates any common law cause of action. Nothing
5 in this Section shall be deemed to alter the law of
6 negligence.

7 (d) Department enforcement. The Department may enforce
8 the provisions of this Section, but nothing in this Section
9 shall require or permit the Department to license, certify,
10 or otherwise investigate the activities of a hospital
11 affiliate not otherwise required to be licensed by the
12 Department.

13 (e) Retaliation prohibited. No employing entity shall
14 retaliate against any employed physician for requesting a
15 hearing or review under this Section. No action may be
16 taken that affects the ability of a physician to practice
17 during this review, except in circumstances where the medical
18 staff bylaws authorize summary suspension.

19 (f) Physician collaboration. No employing entity shall
20 adopt or enforce, either formally or informally, any
21 policy, rule, regulation, or practice inconsistent with the
22 provision of adequate collaboration, including medical
23 direction of licensed advanced practice nurses or
24 supervision of licensed physician assistants and delegation
25 to other personnel under Section 54.5 of the Medical Practice
26 Act of 1987.

27 (g) Physician disciplinary actions. Nothing in this
28 Section shall be construed to limit or prohibit the governing
29 body of an employing entity or its medical staff, if any,
30 from taking disciplinary actions against a physician as
31 permitted by law.

32 (h) Physician review. Nothing in this Section shall be
33 construed to prohibit a hospital or hospital affiliate from
34 making a determination not to pay for a particular health

1 care service or to prohibit a medical group, independent
2 practice association, hospital medical staff, or hospital
3 governing body from enforcing reasonable peer review or
4 utilization review protocols or determining whether the
5 employed physician complied with those protocols.

6 (i) Review. Nothing in this Section may be used or
7 construed to establish that any activity of a hospital or
8 hospital affiliate is subject to review under the Illinois
9 Health Facilities Planning Act.

10 (j) Rules. The Department shall adopt any rules
11 necessary to implement this Section.

12 Section 99. Effective date. This Act takes effect on
13 September 30, 2001.