

1 AMENDMENT TO SENATE BILL 933

2 AMENDMENT NO. _____. Amend Senate Bill 933 by replacing
3 everything after the enacting clause with the following:

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

1 hospital affiliates to have a medical staff.

2 (2) An independent medical staff committee or an
3 external independent physician reviewer or organization
4 periodically reviews the quality of the medical services
5 provided by the employed physician.

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

23 (4) The employing entity shall establish a
24 confidential peer review process with criteria under
25 which an employed physician, who believes that an
26 employing entity has violated this Section, may seek
27 review of the alleged violation by either a mutually
28 agreed upon medical staff committee of the employing
29 entity, if any, or a mutually agreed upon independent
30 external physician reviewer or organization to assess
31 whether the alleged violation involved the unreasonable
32 exercise, control, direction, or interference with the
33 employed physician's exercise and execution of his or her
34 professional judgment in a manner that adversely affected

1 the employed physician's ability to provide quality care
2 to patients. This review is conducted for the purpose of
3 quality control, for reducing morbidity or mortality, and
4 for improving patient care or the employed physician's
5 services in accordance with Section 5 of the Medical
6 Practice Act of 1987. The medical staff committee or
7 external independent physician peer review shall make
8 findings and recommendations to the employing entity and
9 the employed physician within 30 days of the conclusion
10 of the gathering of the relevant information by the
11 committee or peer review. No action may be taken that
12 affects the ability of a physician to practice during
13 this review, except in circumstances where the medical
14 staff bylaws authorize summary suspension.

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

16 "Employing entity" means a hospital licensed under the
17 Hospital Licensing Act or a hospital affiliate.

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

21 "Hospital" means a hospital licensed under the Hospital
22 Licensing Act.

23 "Hospital affiliate" means a corporation, partnership,
24 joint venture, limited liability company, or similar
25 organization, other than a hospital, that is devoted
26 primarily to the provision, management, or support of health
27 care services and that directly or indirectly controls, is
28 controlled by, or is under common control of the hospital.

29 "Control" means having at least an equal or a majority
30 ownership or membership interest. A hospital affiliate shall
31 be 100% owned or controlled by any combination of hospitals,
32 their parent corporations, or physicians licensed to practice
33 medicine in all its branches in Illinois.

34 "Independent external physician review organization"

1 means an organization of physicians licensed to practice
2 medicine in all its branches that conducts peer review for
3 the purposes of medical study, for reducing mortality or
4 morbidity, or for improving patient care as recognized under
5 Section 5 of the Medical Practice Act of 1987.

6 "Independent medical staff committee" means a committee
7 of the medical staff that is not controlled by physicians
8 employed by an employing entity.

9 "Physician" means an individual licensed to practice
10 medicine in all its branches in Illinois.

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

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

22 (2) supervision of physicians by appropriately
23 licensed medical directors, medical school faculty,
24 department chairpersons or directors, or supervising
25 physicians;

26 (3) written statements of ethical or religious
27 directives; and

28 (4) reasonable referral restrictions that do not,
29 in the reasonable professional judgment of the physician,
30 adversely affect the health or welfare of the patient.

31 (c) Private enforcement. An employed physician aggrieved
32 by a violation of this Act may seek to obtain an injunction
33 or reinstatement of employment with the employing entity as
34 the court may deem appropriate. Nothing in this Section

1 abrogates any common law cause of action.

2 (d) Department enforcement. The Department may enforce
3 the provisions of this Section, but nothing in this Section
4 shall require or permit the Department to license, certify,
5 or otherwise investigate the activities of an employing
6 entity.

7 (e) Retaliation prohibited. No employing entity shall
8 retaliate against any employed physician for requesting a
9 hearing or review under this Section.

10 (f) Physician collaboration. No employing entity shall
11 adopt or enforce, either formally or informally, any
12 policy, rule, regulation, or practice inconsistent with the
13 provision of adequate collaboration, including medical
14 direction of licensed advanced practice nurses or
15 supervision of licensed physician assistants and delegation
16 to other personnel under Section 54.5 of the Medical Practice
17 Act of 1987.

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

23 (h) Physician review. Nothing in this Section shall be
24 construed to prohibit a hospital or hospital affiliate from
25 making a determination not to pay for a particular health
26 care service or to prohibit a medical group, independent
27 practice association, hospital medical staff, or hospital
28 governing body from enforcing reasonable peer review or
29 utilization review protocols or determining whether the
30 employed physician complied with those protocols.

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

1 Section 99. Effective date. This Act takes effect on
2 September 30, 2001."