

HOUSE No. 1145

By Ms. Khan of Newton, petition of Kay Khan and Cleon H. Turner for legislation to provide for the autonomy of hospital medical staffs. Health Care Financing.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT TO PROVIDE FOR THE AUTONOMY OF HOSPITAL MEDICAL STAFFS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 111 of the General Laws is hereby amended
2 by inserting after section 57D the following new sections: —

3 Section 57E. Definitions.

4 (1) “Governing Board” means the Board of Trustees, the Board of
5 Directors or the equivalent, of a hospital.

6 (2) “Hospital” means any hospital licensed under section 51 of
7 this chapter.

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

10 Section 57F. Purpose.

11 The Legislature hereby finds and declares that:—

12 (1) Providing quality medical care in hospitals depends on the
13 mutual accountability, interdependence, and responsibility of the
14 medical staff and the hospital governing board for the proper perfor-
15 mance of their respective obligations;

16 (2) The final authority of a hospital governing board may be exer-
17 cised for the responsible governance of the hospital or for the hospi-
18 tal’s business, but this final authority may only be exercised with a
19 reasonable belief that the medical staff has failed to fulfill a substan-
20 tive responsibility in matters pertaining to the quality of patient care;

21 (3) It would be a violation of the medical staff’s self-governance
22 and independent rights for the hospital governing board to assume a
23 duty or responsibility of the medical staff precipitously, unreason-
24 ably, or in bad faith;

25 (4) The specific actions that would constitute bad faith or unrea-
26 sonable action on the part of either the medical staff or the hospital
27 governing board will always be fact-specific and cannot be precisely
28 described in statute;

29 (5) The provisions set forth in this section and sections 57E to
30 57G inclusive do nothing more than provide for the basic indepen-
31 dent rights and responsibilities of a self-governing medical staff;

32 (6) Ultimately, a successful relationship between a hospital's med-
33 ical staff and the governing board depends on the mutual respect of
34 each for the rights and responsibilities of the other.

35 Section 57G. Requirements.

36 (1) The medical staff's right of self-governance shall include, but
37 not be limited to, all of the following:

38 (a) Establishing, in medical staff bylaws, rules, or regulations, cri-
39 teria and standards, consistent for medical staff membership and
40 privileges, and enforcing those criteria and standards;

41 (b) Establishing, in medical staff bylaws, rules, or regulations,
42 clinical criteria and standards to oversee and manage quality assur-
43 ance, utilization review, and other medical staff activities including,
44 but not limited to, periodic meetings of the medical staff and its
45 committees and departments and review and analysis of patient med-
46 ical records;

47 (c) Selecting and removing medical staff officers;

48 (d) Assessing medical staff dues and utilizing the medical staff
49 dues as appropriate for the purposes of the medical staff;

50 (e) The ability to retain and be represented by independent legal
51 counsel at the expense of the medical staff;

52 (f) Initiating, developing, and adopting medical staff bylaws,
53 rules, and regulations, and amendments thereto, subject to the
54 approval of the hospital governing board, which approval shall not
55 be unreasonably withheld.

56 (2) The medical staff bylaws shall not interfere with the indepen-
57 dent rights of the medical staff to do any of the following, but shall
58 set forth the procedures for:—

59 (a) Selecting and removing medical staff officers;

60 (b) Assessing medical staff dues and utilizing the medical staff
61 dues as appropriate for the purposes of the medical staff;

62 (c) The ability to retain and be represented by independent legal
63 counsel at the expense of the medical staff.

64 (3) With respect to any dispute arising under this section, the
65 medical staff and the hospital governing board shall meet and confer
66 in good faith to resolve the dispute. Whenever any person or entity
67 has engaged in or is about to engage in any acts or practices that
68 hinder, restrict, or otherwise obstruct the ability of the medical staff
69 to exercise its rights, obligations, or responsibilities under this
70 section, the Superior Court, on application of the medical staff, and
71 after determining that reasonable efforts, including reasonable
72 administrative remedies provided in the medical staff bylaws, rules,
73 or regulations, have failed to resolve the dispute, may issue appro-
74 priate relief, including but not limited to injunctive relief while the
75 matter is under dispute.

1 SECTION 2. This Act shall take effect on January 1, 2008.