

**HOUSE . . . . . No. 1990**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Louis L. Kafka*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to provide for the autonomy of hospital medical staffs.

PETITION OF:

NAME:

*Louis L. Kafka*

DISTRICT/ADDRESS:

*8th Norfolk*

**HOUSE . . . . . No. 1990**

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By Mr. Kafka of Stoughton, a petition (accompanied by bill, House, No. 1990) of Louis L. Kafka for legislation to provide for the autonomy of hospital medical staffs. Public Health.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 1994 OF 2013-2014.]

The Commonwealth of Massachusetts

\_\_\_\_\_  
In the One Hundred and Eighty-Ninth General Court  
(2015-2016)  
\_\_\_\_\_

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 by inserting after section  
2 57D the following new sections: --

3 Section 57E. Definitions.

4 (1) "Governing Board" means the Board of Trustees, the Board of Directors or the  
5 equivalent, of an individual hospital. A governing board of a corporation owning or controlling  
6 multiple hospitals may not serve as a governing board for the purposes of this section.

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

8 (3) "Medical staff" means those physicians and other health care professionals who are  
9 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 individual hospitals in the Commonwealth depends  
13 on the mutual accountability, interdependence, and responsibility of the medical staff and the  
14 hospital governing board for the proper performance of their respective obligations;

15 (2) The final authority of a hospital's governing board may be exercised for the  
16 responsible governance of the hospital or for the hospital's business, but this final authority may  
17 only be exercised with a reasonable belief that the medical staff has failed to fulfill a substantive  
18 responsibility in matters pertaining to the quality of patient care;

19 (3) It would be a violation of the medical staff's self-governance and independent rights  
20 for the hospital's governing board to assume a duty or responsibility of the medical staff  
21 precipitously, unreasonably, or in bad faith;

22 (4) The specific actions that would constitute bad faith or unreasonable action on the part  
23 of either the medical staff or the hospital's governing board will always be fact-specific and  
24 cannot be precisely described in statute;

25 (5) The provisions set forth in this section and sections 57E to 57G inclusive do nothing  
26 more than provide for the basic independent rights and responsibilities of a self-governing  
27 medical staff;

28 (6) Ultimately, a successful relationship between a hospital's medical staff and its  
29 governing board depends on the mutual respect of each for the rights and responsibilities of the  
30 other.

31 Section 57G. Requirements.

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

34 (a) Establishing, in medical staff bylaws, rules, or regulations, criteria and standards,  
35 consistent for medical staff membership and privileges, and enforcing those criteria and  
36 standards;

37 (b) Establishing, in medical staff bylaws, rules, or regulations, clinical criteria and  
38 standards to oversee and manage quality assurance, utilization review, and other medical staff  
39 activities including, but not limited to, periodic meetings of the medical staff and its committees  
40 and departments and review and analysis of patient medical records;

41 (c) Selecting and removing medical staff officers;

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

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

46 (f) Initiating, developing, and adopting medical staff bylaws, rules, and regulations, and  
47 amendments thereto, subject to the approval of the hospital's governing board, which approval  
48 shall not be unreasonably withheld.

49 (2) The medical staff bylaws shall not interfere with the independent rights of the  
50 medical staff to do any of the following, but shall set forth the procedures for:

- 51 (a) Selecting and removing medical staff officers;
- 52 (b) Assessing medical staff dues and utilizing the medical staff dues as appropriate for  
53 the purposes of the medical staff;
- 54 (c) Establishing the ability to retain and be represented by independent legal counsel at  
55 the expense of the medical staff.
- 56 (d) Establishing the ability of an existing med staff to reorganize and redefine its own  
57 governance structure as appropriate.
- 58 (e) Establishing the ability of all properly licensed and hospital credentialed physicians  
59 involved in patient care to be eligible for a voice and vote in organized medical staff self-  
60 governance.
- 61 (f) The formation of the medical staff as a representative democracy where members  
62 personally participate with voice and vote in the decision making and election of their  
63 representatives.
- 64 (3) With respect to any dispute arising under this section, the medical staff and the  
65 hospital's governing board shall meet and confer in good faith to resolve the dispute. Whenever  
66 any person or entity has engaged in or is about to engage in any acts or practices that hinder,  
67 restrict, or otherwise obstruct the ability of the medical staff to exercise its rights, obligations, or  
68 responsibilities under this section, the Superior Court, on application of the medical staff, and  
69 after determining that reasonable efforts, including reasonable administrative remedies provided  
70 in the medical staff bylaws, rules, or regulations, have failed to resolve the dispute, may issue  
71 appropriate relief, including but not limited to injunctive relief while the matter is under dispute.

Section 2: This Act shall take effect on October 1, 2015.