

SENATE No. 01095

The Commonwealth of Massachusetts

PRESENTED BY:

Susan C. Fargo

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 passage of the accompanying bill:

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

PETITION OF:

NAME:

Susan C. Fargo

DISTRICT/ADDRESS:

Third Middlesex

SENATE No. 01095

By Ms. Fargo, petition (accompanied by bill, Senate, No. 1095) of Fargo for legislation to provide for the autonomy for hospital medical staffs [Joint Committee on Public Health].

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ SENATE
□ , NO. 814 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to provide for the autonomy for 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
- 2 section 57D the following new sections: -
- 3 Section 57E. Definitions.
- 4 (1) "Governing Board" means the Board of Trustees, the Board of Directors or the equivalent, of
- 5 a hospital.
- 6 (2) "Hospital" means any hospital licensed under section 51 of this chapter.
- 7 (3) "Medical staff" means those physicians and other health care professionals who are
- 8 privileged to attend patients in a hospital.

9 Section 57F. Purpose.

10 The Legislature hereby finds and declares that:

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

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

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

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

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

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

29 Section 57G. Requirements.

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

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

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

39 (c) Selecting and removing medical staff officers;

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

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

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

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

49 (a) Selecting and removing medical staff officers;

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

52 (c) Establishing the ability to retain and be represented by independent legal counsel at
53 the expense of the medical staff.

54 (d) Establishing the ability of an existing med staff to reorganize and redefine its own
55 governance structure as appropriate.

56 (e) Establishing the ability of all properly licensed and hospital credentialed physicians
57 involved in patient care to be eligible for a voice and vote in organized medical staff self-
58 governance.

59 (f) The formation of the medical staff as a representative democracy where members
60 personally participate with voice and vote in the decision making and election of their
61 representatives.

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

70 SECTION 2. This Act shall take effect on October 1, 2011.