

1 AMENDMENT TO HOUSE BILL 377

2 AMENDMENT NO. _____. Amend House Bill 377, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

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

7 (210 ILCS 85/10.8 new)

8 Sec. 10.8. Requirements for employment of physicians.

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

13 (1) The employed physician is a member of the
14 medical staff of either the hospital or hospital
15 affiliate. If a hospital affiliate decides to have a
16 medical staff, its medical staff shall be organized in
17 accordance with written bylaws where the affiliate
18 medical staff is responsible for making recommendations
19 to the governing body of the affiliate regarding all
20 quality assurance activities and safeguarding
21 professional autonomy. The affiliate medical staff
22 bylaws may not be unilaterally changed by the governing

1 body of the affiliate. Nothing in this Section requires
2 hospital affiliates to have a medical staff.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (c) Private enforcement. An employed physician aggrieved
33 by a violation of this Act may seek to obtain an injunction
34 or reinstatement of employment with the employing entity as

1 the court may deem appropriate. Nothing in this Section
2 abrogates any common law cause of action.

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

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

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

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

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

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

1 Health Facilities Planning Act.

2 Section 99. Effective date. This Act takes effect on

3 September 30, 2001."