

SENATE No. 1095

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 adoption of the accompanying bill:

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

PETITION OF:

NAME:

Susan C. Fargo

DISTRICT/ADDRESS:

SENATE No. 1095

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

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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
5 equivalent, of 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
15 responsible governance of the hospital or for the hospital's business, but this final authority may
16 only be 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
19 for the hospital governing board to assume a duty or responsibility of the medical staff
20 precipitously, unreasonably, or in bad faith;

21 (4) The specific actions that would constitute bad faith or unreasonable action on the part
22 of 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
25 more than provide for the basic independent rights and responsibilities of a self-governing
26 medical staff;

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

30 Section 57G. Requirements.

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

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

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

40 (c) Selecting and removing medical staff officers;

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

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

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

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

50 (a) Selecting and removing medical staff officers;

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

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

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

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

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

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

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