

HOUSE No. 1927

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 relative to hospital medical staffs.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>

HOUSE No. 1927

By Mr. Kafka of Stoughton, a petition (accompanied by bill, House, No. 1927) of Louis L. Kafka, John H. Rogers and James K. Hawkins relative to hospital governing boards and medical staff. Public Health.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to 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 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" as used in section 57F means any hospital licensed under section 51 of this
8 chapter.

9 (3) "Medical staff" as used in section 57F means those physicians and other health care
10 professionals who are privileged to attend patients in a hospital.

11 Section 57F. Purpose.

12 The Legislature hereby finds and declares that:

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

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

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

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

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

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

32 Section 57G. Requirements.

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

35 (a) Establishing, in medical staff bylaws, rules, or regulations, criteria and standards,
36 consistent for medical staff membership and privileges, and enforcing those criteria and
37 standards, including but not limited to the right to ensure that a medical staff member's financial
38 relationships, including employment or contractual relationships, or lack thereof, with a hospital
39 or health care delivery system should not determine the physician's eligibility for: election or
40 appointment to medical staff leadership positions; voting on medical staff matters; or otherwise
41 participating in the self-governance activities of the medical staff;

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

46 (c) Selecting and removing medical staff officers;

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

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

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

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

56 (a) Selecting and removing medical staff officers;

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

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

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

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

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

69 (3) With respect to any dispute arising under this section, the medical staff and the
70 hospital's governing board shall meet and confer in good faith to resolve the dispute. Whenever
71 any person or entity has engaged in or is about to engage in any acts or practices that hinder,
72 restrict, or otherwise obstruct the ability of the medical staff to exercise its rights, obligations, or
73 responsibilities under this section, the Superior Court, on application of the medical staff, and
74 after determining that reasonable efforts, including reasonable administrative remedies provided

75 in the medical staff bylaws, rules, or regulations, have failed to resolve the dispute, may issue
76 appropriate relief, including but not limited to injunctive relief while the matter is under dispute.

77 (4) All personal and financial information disclosed by members of a hospital medical
78 staff, or, by physicians or other health care professionals seeking to join a hospital's medical
79 staff pursuant to hospital conflict of interest policies shall not be used for other purposes or
80 disclosed to other parties. This section does not relieve any individual or hospital of the duty to
81 comply with requirements of any applicable general or special law regarding the protection and
82 privacy of personal information.

83 (5) Any person who has been injured by a violation of section 57F of this chapter may
84 bring an action in the superior court for damages and such equitable relief as the court deems
85 necessary and proper.