

1 AMENDMENT TO SENATE BILL 933

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 933, AS AMENDED,  
3 by 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) Independent physicians, who are not employed by  
4 an employing entity, periodically review the quality of  
5 the medical services provided by the employed physician  
6 to continuously improve patient care.

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 mutually  
25 agreed upon independent review process with criteria  
26 under which an employed physician may seek review of the  
27 alleged violation of this Section by physicians who are  
28 not employed by the employing entity. The affiliate may  
29 arrange with the hospital medical staff to conduct these  
30 reviews. The independent physicians shall make findings  
31 and recommendations to the employing entity and the  
32 employed physician within 30 days of the conclusion of  
33 the gathering of the relevant information.

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

1 "Employing entity" means a hospital licensed under the  
2 Hospital Licensing Act or a hospital affiliate.

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

6 "Hospital" means a hospital licensed under the Hospital  
7 Licensing Act, except county hospitals as defined in  
8 subsection (c) of Section 15-1 of the Public Aid Code.

9 "Hospital affiliate" means a corporation, partnership,  
10 joint venture, limited liability company, or similar  
11 organization, other than a hospital, that is devoted  
12 primarily to the provision, management, or support of health  
13 care services and that directly or indirectly controls, is  
14 controlled by, or is under common control of the hospital.

15 "Control" means having at least an equal or a majority  
16 ownership or membership interest. A hospital affiliate shall  
17 be 100% owned or controlled by any combination of hospitals,  
18 their parent corporations, or physicians licensed to practice  
19 medicine in all its branches in Illinois. "Hospital  
20 affiliate" does not include a health maintenance organization  
21 regulated under the Health Maintenance Organization Act.

22 "Physician" means an individual licensed to practice  
23 medicine in all its branches in Illinois.

24 "Professional judgment" means the exercise of a  
25 physician's independent clinical judgment in providing  
26 medically appropriate diagnoses, care, and treatment to a  
27 particular patient at a particular time. Situations in which  
28 an employing entity does not interfere with an employed  
29 physician's professional judgment include, without  
30 limitation, the following:

- 31 (1) practice restrictions based upon peer review of  
32 the physician's clinical practice to assess quality of  
33 care and utilization of resources in accordance with  
34 applicable bylaws;

1           (2) supervision of physicians by appropriately  
2           licensed medical directors, medical school faculty,  
3           department chairpersons or directors, or supervising  
4           physicians;

5           (3) written statements of ethical or religious  
6           directives; and

7           (4) reasonable referral restrictions that do not,  
8           in the reasonable professional judgment of the physician,  
9           adversely affect the health or welfare of the patient.

10          (c) Private enforcement. An employed physician aggrieved  
11          by a violation of this Act may seek to obtain an injunction  
12          or reinstatement of employment with the employing entity as  
13          the court may deem appropriate. Nothing in this Section  
14          limits or abrogates any common law cause of action. Nothing  
15          in this Section shall be deemed to alter the law of  
16          negligence.

17          (d) Department enforcement. The Department may enforce  
18          the provisions of this Section, but nothing in this Section  
19          shall require or permit the Department to license, certify,  
20          or otherwise investigate the activities of a hospital  
21          affiliate not otherwise required to be licensed by the  
22          Department.

23          (e) Retaliation prohibited. No employing entity shall  
24          retaliate against any employed physician for requesting a  
25          hearing or review under this Section. No action may be  
26          taken that affects the ability of a physician to practice  
27          during this review, except in circumstances where the medical  
28          staff bylaws authorize summary suspension.

29          (f) Physician collaboration. No employing entity shall  
30          adopt or enforce, either formally or informally, any  
31          policy, rule, regulation, or practice inconsistent with the  
32          provision of adequate collaboration, including medical  
33          direction of licensed advanced practice nurses or  
34          supervision of licensed physician assistants and delegation

1 to other personnel under Section 54.5 of the Medical Practice  
2 Act of 1987.

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

8 (h) Physician review. Nothing in this Section shall be  
9 construed to prohibit a hospital or hospital affiliate from  
10 making a determination not to pay for a particular health  
11 care service or to prohibit a medical group, independent  
12 practice association, hospital medical staff, or hospital  
13 governing body from enforcing reasonable peer review or  
14 utilization review protocols or determining whether the  
15 employed physician complied with those protocols.

16 (i) Review. Nothing in this Section may be used or  
17 construed to establish that any activity of a hospital or  
18 hospital affiliate is subject to review under the Illinois  
19 Health Facilities Planning Act.

20 (j) Rules. The Department shall adopt any rules  
21 necessary to implement this Section.

22 Section 99. Effective date. This Act takes effect on  
23 September 30, 2001."