HOUSE DOCKET, NO. 660 FILED ON: 1/18/2011

HOUSE . . . . . No. 494

The Commonwealth of Massachusetts

PRESENTED BY:

Tom Sannicandro

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:

An Act relative to adverse event management.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Tom Sannicandro	*7th Middlesex*
Carl M. Sciortino, Jr.	*34th Middlesex*
Bruce E. Tarr	*[District]*
William N. Brownsberger	*[District]*
Sal N. DiDomenico	*Middlesex, Suffolk, and Essex*
Kay Khan	*11th Middlesex*
Patricia D. Jehlen	*[District]*
Cory Atkins	*14th Middlesex*
Jason M. Lewis	*31st Middlesex*
Martha M. Walz	*8th Suffolk*
Elizabeth A. Malia	*11th Suffolk*
Mark C. Montigny	

	[District]
Brian M. Ashe	*2nd Hampden*

HOUSE DOCKET, NO. 660 FILED ON: 1/18/2011

HOUSE . . . . . No. 494

By Mr. Sannicandro of Ashland, a petition (accompanied by bill, House, No. 494) of Tom Sannicandro and others relative to the admissibility of evidence in judicial or administrative proceeding pertaining to adverse health care management. The Judiciary.

The Commonwealth of Massachusetts

An Act relative to adverse event management.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 233 of the General Laws is hereby amended by inserting after section 23D the following section:–

Section 23 D ½. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Family", the spouse, parent, grandparent, stepmother, stepfather, child, grandchild, brother, sister, half brother, half sister, adopted children of parent, or spouse's parents of an injured party.

"Representative", a legal guardian, attorney, person designated to make decisions on behalf of a patient under a medical power of attorney, or any person recognized in law or custom as a patient's agent.

"Unanticipated outcome" means the outcome of a medical treatment or procedure, whether or not resulting from an intentional act, that differs from an intended result of such medical treatment or procedure.

(b) In any claim, complaint or civil action brought by or on behalf of a patient allegedly experiencing an unanticipated outcome of medical care, any and all statements, affirmations, writings, gestures, activities, or conduct expressing apology, regret, sympathy, commiseration, condolence, compassion, or a general sense of benevolence which are made by a health care provider, an employee or agent of a health care provider, or by a health care facility to the patient, family of the patient, or a representative of the patient and which relate to the unanticipated outcome shall be inadmissible as evidence in any judicial or administrative proceeding.

22 Section 2. Chapter 111 of the General Laws is hereby amended by inserting after section
23 53G the following new section:-

24 Section 53H. As used in this section the following words shall, unless the context clearly
25 requires otherwise, have the following meanings:-

26 "Adverse event," injury to a patient resulting from medical management rather than the
27 patient's underlying condition.

28 The department shall promulgate regulations for the development of Adverse Event
29 Management Plans that hospitals shall use following the occurrence of an adverse event that
30 causes harm to a patient. The department shall develop best practices for an Adverse Event
31 Management Plan. Facilities shall develop and implement their plans independently, with the
32 guidance of the department.

33 Facilities shall send copies of their Adverse Event Management Plans to the department.
34 The department shall issue an annual report on hospitals' plans.