

**HOUSE . . . . . No. 1151**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*William C. Galvin*

*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 encourage quality reviews and reduce costs in health care.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>William C. Galvin</i>	<i>6th Norfolk</i>	<i>1/9/2019</i>

**HOUSE . . . . . No. 1151**

By Mr. Galvin of Canton, a petition (accompanied by bill, House, No. 1151) of William C. Galvin for legislation to encourage quality reviews and reduce costs in health care. Health Care Financing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 605 OF 2017-2018.]

**The Commonwealth of Massachusetts**

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

An Act to encourage quality reviews and reduce costs in health care.

*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)

2           Chapter 111 of the General Laws is hereby amended by inserting at the end of section  
3 204 the following :

4           (f) The provisions of this section shall apply to any committee formed by an individual  
5 health care provider, physician group practice, licensed health care facility or any combination  
6 thereof to perform the duties or functions of medical peer review as set forth in section one of  
7 this chapter, notwithstanding the fact that the formation of the committee is not required by law  
8 or regulation or that the individual, group or facility is not solely affiliated with a public hospital  
9 or licensed hospital or nursing home or health maintenance organization.

10           Section 2

11           Chapter 231: Section 60K of the General Laws is hereby amended by its deletion and  
12 replacement with the following: Section 60K. In any action for malpractice, negligence, error,  
13 omission, mistake or unauthorized rendering of professional services against a provider of health  
14 care, in which a verdict is rendered or a finding made or an order for judgment made for  
15 pecuniary damages for personal injuries to the plaintiff or for consequential damages, there shall  
16 be added by the clerk of the court to the amount of damages interest thereon, at a rate to be  
17 determined as set forth below rather than the rate specified in section 6B of chapter 231, from the  
18 date of the commencement of the action even though such interest brings the amount of the  
19 verdict or finding beyond the maximum liability imposed by law. For all actions commenced  
20 after the effective date of this act, the rate of interest to be applied by the clerk shall be at a rate  
21 equal to the weekly average 1-year constant maturity Treasury yield plus 2 per cent, as published  
22 by the Board of Governors of the Federal Reserve System for the calendar week preceding the  
23 date of judgment. At no point shall the rate of interest established by this section exceed the rate  
24 of interest set forth in said section 6B of chapter 231.

25           Section 3

26           Chapter 231: Section 60 of the General Laws, is  
27 hereby amended at the end thereof with the addition of the following new section:

28           Section 60 M:

29           In any action for malpractice, negligence, error, omission, mistake or unauthorized  
30 rendering of professional services, against a provider of health care, the plaintiff cannot recover

31 for loss of an opportunity to survive or an opportunity to achieve a better result unless the  
32 opportunity was greater than 50%. In addition the plaintiff shall have the burden of proving the  
33 following:

34 (1) The recognized standard of acceptable professional practice in the profession and the  
35 specialty thereof, if any, that the defendant practices in the community in which he practices or  
36 in a similar community at the time the alleged injury or wrongful action occurred;

37 (2) That the defendant acted with less than or failed to act with ordinary and reasonable  
38 care in accordance with such standard; and

39 (3) As a direct and proximate result of the defendant's negligent act or omission, the  
40 plaintiff suffered injuries which would not otherwise have occurred.

41 (4) The plaintiff was a patient of the defendant and had a professional relationship to the  
42 defendant which created a duty of care on the defendant's part or where the plaintiff is a  
43 reasonably identifiable victim of the patient of a defendant psychotherapist to whom the patient  
44 communicated a serious threat of physical violence against the plaintiff.

#### 45 Section 4

46 Chapter 93A Section 9 paragraph 3 of the General Laws is hereby amended by the  
47 deletion of the following sentence : "For the purposes of this chapter, the amount of actual  
48 damages to be multiplied by the court shall be the amount of the judgment on all claims arising  
49 out of the same and underlying transaction or occurrence, regardless of the existence or  
50 nonexistence of insurance coverage available in payment of the claim." and the insertion of the  
51 following in its place: "For the purposes of this chapter, the amount of actual damages to be

52 multiplied by the court shall not be the judgment on the underlying claims but shall be the  
53 judgment interest applied to the judgment by the courts, regardless of the existence or  
54 nonexistence of insurance coverage available in payment of the claim."