

HOUSE No. 1519

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to causation in professional liability..

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. Section 60K of Chapter 231 of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by inserting after the end thereof the following new section:

3 Section 60L:

4 In any action for malpractice, negligence, error, omission, mistake or unauthorized
5 rendering of professional services, against a provider of health care, the plaintiff shall have the
6 burden of proving the following:

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

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

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

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