HOUSE DOCKET, NO. 180 FILED ON: 1/8/2013

HOUSE . . . . . No. 1024

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:
William C. Galvin	*6th Norfolk*
Louis L. Kafka	*8th Norfolk*

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HOUSE . . . . . No. 1024

By Mr. Galvin of Canton, a petition (accompanied by bill, House, No. 1024) of William C. Galvin and Louis L. Kafka for legislation to encourage quality reviews and reduce costs in health care. Health Care Financing.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

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:

Section (1)

Chapter 111 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting at the end of section 204 the following :

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

Section 2

Chapter 231: Section 60K of the General Laws as appearing in the 2012 Official Edition is

hereby amended by its deletion and replacement with the following:

Section 60K. In any action for malpractice, negligence, error, omission, mistake or unauthorized rendering of professional services against a provider of health care, in which a verdict is rendered or a finding made or an order for judgment made for pecuniary damages for personal injuries to the plaintiff or for consequential damages, there shall be added by the clerk of the court to the amount of damages interest thereon, at a rate to be determined as set forth below rather than the rate specified in section 6B of chapter 231, from the date of the

20 commencement of the action even though such interest brings the amount of the verdict or
21 finding beyond the maximum liability imposed by law. For all actions commenced after the
22 effective date of this act, the rate of interest to be applied by the clerk shall be at a rate equal to
23 the weekly average 1-year constant maturity Treasury yield plus 2 per cent, as published by the
24 Board of Governors of the Federal Reserve System for the calendar week preceding the date of
25 judgment. At no point shall the rate of interest established by this section exceed the rate of
26 interest set forth in said section 6B of chapter 231.

27 Section 3

28 Chapter 231: Section 60 of the General Laws, as appearing in the 2012 Official Edition,
29 is

30 hereby amended at the end thereof with the addition of the following new section:

31 Section 60 L:

32 In any action for malpractice, negligence, error, omission, mistake or unauthorized
33 rendering of

34 professional services, against a provider of health care, the plaintiff cannot recover for
35 loss of an

36 opportunity to survive or an opportunity to achieve a better result unless the opportunity
37 was

38 greater than 50%. In addition the plaintiff shall have the burden of proving the following:

39 (1) The recognized standard of acceptable professional practice in the profession and the

40 specialty thereof, if any, that the defendant practices in the community in which he
41 practices or

42 in a similar community at the time the alleged injury or wrongful action occurred;

43 (2) That the defendant acted with less than or failed to act with ordinary and reasonable
44 care in

45 accordance with such standard; and

46 (3) As a direct and proximate result of the defendant's negligent act or omission, the
47 plaintiff

48 ffered injuries which would not otherwise have occurred.

49 (4) The plaintiff was a patient of the defendant and had a professional relationship to the

50 defendant which created a duty of care on the defendant's part or where the plaintiff is a

51 reasonably identifiable victim of the patient of a defendant psychotherapist to whom the
52 patient

53 communicated a serious threat of physical violence against the plaintiff.

54 Section 4

55 Chapter 176 D of the General Laws, as appearing in the 2012 Official Edition, is hereby

56 amended by the addition of the following new section:

57 Section 15

58 No insurance contract shall be construed to include punitive, exemplary, or multiple
59 damages,

60 unless it expressly includes such damages.