

SENATE No. 1010

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 clarifying the reporting of medical liability claims.

PETITION OF:

NAME:

James B. Eldridge

DISTRICT/ADDRESS:

Middlesex and Worcester

SENATE No. 1010

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 1010) of James B. Eldridge for legislation to clarify the reporting of medical liability claims. Public Health.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act clarifying the reporting of medical liability claims.

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 5 of chapter 112 of the General Laws, as appearing in the 2010
2 Official Edition, is hereby amended by inserting after the word “years.”, in line 78, the following
3 sentences:-

4 Provided, however, that payments made as part of a disclosure, apology and early offer
5 program, shall not be construed to be reportable against a physician identified during the root
6 cause analysis conducted as part of a disclosure, apology and early offer program, absent a
7 determination of substandard or unreasonable care rendered on the part of said physician. For
8 purposes of this section a disclosure, apology and early offer program shall be a program that
9 seeks to expedite resolution of incidents of medical injury by disclosure to patients and families
10 when unanticipated adverse outcomes of care occur; investigate and explain what happened;
11 implement systems to avoid recurrence of incidents and improve patient safety; and where
12 appropriate, apologize and offer financial compensation without the patient having to file a
13 lawsuit.

14 SECTION 2. Section 5C of said chapter 112, as so appearing, is hereby amended by
15 inserting after the word “insured.”, in lines 9-10, the following subsection:-

16 (d) Provided, however, that payments made as part of a disclosure, apology and
17 early offer program, shall not be construed to be reportable against a physician identified during
18 the root cause analysis conducted as part of a disclosure, apology and early offer program, absent
19 a determination of substandard or unreasonable care rendered on the part of said physician. For
20 purposes of this section a disclosure, apology and early offer program shall be a program that
21 seeks to expedite resolution of incidents of medical injury by disclosure to patients and families

22 when unanticipated adverse outcomes of care occur; investigate and explain what happened;
23 implement systems to avoid recurrence of incidents and improve patient safety; and where
24 appropriate, apologize and offer financial compensation without the patient having to file a
25 lawsuit.