

HOUSE No. 1346

The Commonwealth of Massachusetts

PRESENTED BY:

Christine P. Barber

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 removing the liability cap for malpractice resulting in serious injury or death.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---------------------------------|---------------------------------------|
| <i>Christine P. Barber</i> | <i>34th Middlesex</i> |
| <i>Carmine Lawrence Gentile</i> | <i>13th Middlesex</i> |
| <i>Mike Connolly</i> | <i>26th Middlesex</i> |
| <i>Marjorie C. Decker</i> | <i>25th Middlesex</i> |
| <i>Paul J. Donato</i> | <i>35th Middlesex</i> |
| <i>Sean Garballey</i> | <i>23rd Middlesex</i> |
| <i>James K. Hawkins</i> | <i>2nd Bristol</i> |
| <i>Jonathan Hecht</i> | <i>29th Middlesex</i> |
| <i>Patricia D. Jehlen</i> | <i>Second Middlesex</i> |
| <i>Bradley H. Jones, Jr.</i> | <i>20th Middlesex</i> |
| <i>Kay Khan</i> | <i>11th Middlesex</i> |
| <i>Jay D. Livingstone</i> | <i>8th Suffolk</i> |
| <i>Rebecca L. Rausch</i> | <i>Norfolk, Bristol and Middlesex</i> |
| <i>David M. Rogers</i> | <i>24th Middlesex</i> |
| <i>Jeffrey N. Roy</i> | <i>10th Norfolk</i> |
| <i>Daniel J. Ryan</i> | <i>2nd Suffolk</i> |
| <i>Theodore C. Speliotis</i> | <i>13th Essex</i> |
| <i>Steven Ultrino</i> | <i>33rd Middlesex</i> |

HOUSE No. 1346

By Ms. Barber of Somerville, a petition (accompanied by bill, House, No. 1346) of Christine P. Barber and others relative to the liability cap for malpractice resulting in serious injury or death. The Judiciary.

The Commonwealth of Massachusetts

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

An Act removing the liability cap for malpractice resulting in serious injury or death.

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 85K of chapter 231 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by adding after the figure “costs”, in line 12, the following:-
3 “unless, in actions against a provider of health care for claims brought under section 2 of
4 chapter 229, or sections 60B to 60I of chapter 231, the jury determines that there is a substantial
5 or permanent loss or impairment of a bodily function or substantial disfigurement, wrongful
6 death, or other special circumstances in the case which warrant a finding that imposition of such
7 a limitation would deprive the plaintiff of just compensation for the injuries sustained. In any
8 such action which is tried without a jury, the court shall not award the plaintiff more than
9 \$100,000 for pain and suffering, loss of companionship, embarrassment and other items of
10 general damages unless the aforesaid findings are made specially by the court and stated
11 separately in the judgment entered by the court”

12 SECTION 2. Section 2 of chapter 258 of the General Laws, as so appearing, is hereby
13 amended by adding after the figure “\$100,000”, in line 9, the following:-

14 “unless, in actions against a provider of health care for claims brought under section 2 of
15 chapter 229, or sections 60B to 60I of chapter 231, the jury determines that there is a substantial
16 or permanent loss or impairment of a bodily function or substantial disfigurement, wrongful
17 death, or other special circumstances in the case which warrant a finding that imposition of such
18 a limitation would deprive the plaintiff of just compensation for the injuries sustained. In any
19 such action which is tried without a jury, the court shall not award the plaintiff more than
20 \$100,000 for pain and suffering, loss of companionship, embarrassment and other items of
21 general damages unless the aforesaid findings are made specially by the court and stated
22 separately in the judgment entered by the court”