HOUSE DOCKET, NO. 1430 FILED ON: 1/16/2019

HOUSE . . . . . No. 1547

The Commonwealth of Massachusetts

PRESENTED BY:

Jeffrey N. Roy

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 amend the medical peer review law.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Jeffrey N. Roy	*10th Norfolk*	*1/16/2019*

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HOUSE . . . . . No. 1547

By Mr. Roy of Franklin, a petition (accompanied by bill, House, No. 1547) of Jeffrey N. Roy relative to the medical peer review law. The Judiciary.

The Commonwealth of Massachusetts

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

An Act to amend the medical peer review law.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 111, Section 204 is hereby amended by deleting paragraph (e) and replacing paragraph (a) through (d) with the following:

Section 204. (a) Except as otherwise provided in this section, the proceedings, reports and records of a medical peer review committee shall be confidential and shall be exempt from the disclosure of public records under section 10 of chapter 66, except reports or records of such proceedings, including any records as to the identities, positions and/or roles of the participants and/or attendees at such proceedings (i) shall be made available upon request by an injured person whose medical care is the subject of such proceedings, by the health care proxy for such injured person; by the next of kin of a deceased person whose medical care is the subject of such proceedings; by a personal representative of such deceased person; and/or by the attorney for the injured person or personal representative of a deceased person; and (ii) shall be subject to subpoena or a discovery request and used to refresh a witness' recollection, in any judicial or administrative proceeding involving a physician or other medical provider who is the subject of

such peer review meeting and/or who is a party to a medical malpractice action. The peer review report shall be inadmissible as evidence in any judicial or administrative proceeding, unless the maker of the statement, or a defense expert witness, when questioned under oath during the litigation about facts and opinions regarding any mistakes or errors that occurred, makes a contradictory or inconsistent statement as to material facts determined or opinions rendered during the peer review process, in which case the statements and opinions made about the mistake or error shall be admissible for all purposes.

(b) A person who testifies before such committee shall not be prevented from testifying in a subsequent action or proceeding as to matters known to such person independent of the committee's proceedings, and/or as to that person's testimony before such committee. Any person who is in attendance at a meeting of a medical peer review committee shall be permitted or required to testify in any subsequent judicial or administrative proceeding or medical malpractice action as to the proceedings of such committee or as to any findings, recommendations, evaluations, opinions, deliberations or other actions of such committee or any members thereof.

(c) Documents, incident reports or records otherwise available from original sources shall not be immune from subpoena, discovery or use in any such judicial or administrative proceeding or medical malpractice action merely because they were presented to such committee in connection with its proceedings. Nor shall the proceedings, reports, findings and records of a medical peer review committee be immune from subpoena, discovery or use as evidence in any proceeding against a member of such committee to establish a cause of action pursuant to section 85N of chapter 231 or to any investigation or administrative proceeding conducted by the boards

of registration in medicine, pharmacy, social work or psychology or by the department of public health pursuant to chapter 111C.

(d) A court may place reasonable restrictions on the use which may be made of the information obtained hereunder so as to maintain, so far as necessary or practicable, the confidentiality of such information or the privacy of the individuals involved, or to preclude such information from disclosure to the public at large.