

**SENATE . . . . . No. 1010**

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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**

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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.

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The Commonwealth of Massachusetts

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**In the Year Two Thousand Thirteen**  
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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.