

By Mr. Khachadoorian of Arlington, petition of Gregory B. Khachadoorian relative to admissibility in evidence in cases of contract or tort for malpractice of certain statements of fact or opinion contained in published treatises. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Four.

AN ACT RELATIVE TO ADMISSIBILITY IN EVIDENCE IN CASES OF CONTRACT OR TORT FOR MALPRACTICE, OF CERTAIN STATEMENTS OF FACT OR OPINION CONTAINED IN PUBLISHED TREATISES, PERIODICALS, BOOKS AND PAMPHLETS.

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. Chapter 233 of the General Laws is hereby
2 amended by striking out section 79C, inserted by section 1 of
3 chapter 183 of the acts of 1949, and inserting in place thereof
4 the following section:—

5 *Section 79C.* Statements of facts or opinions on a subject of
6 science or art contained in a published treatise, periodical, book
7 or pamphlet shall, in so far as the court shall find that the said
8 statements are relevant and that the writer of such statements
9 is recognized in his profession or calling as an expert on the sub-
10 ject, be admissible in actions of contract or tort for malpractice,
11 error or mistake against physicians, surgeons, dentists, optome-
12 trists, hospitals and sanitarium, as evidence tending to prove said
13 facts or as opinion evidence; provided, however, that the party
14 intending to offer as evidence any such statements shall, not less
15 than thirty days before the trial of the action, give the adverse
16 party or his attorney notice of such intention, stating the name
17 of the writer of the statements, the title of the treatise, peri-
18 odical, book or pamphlet in which they are contained, the date
19 of publication of the same, the name of the publisher of the
20 same, and wherever possible or practicable the page or pages of
21 the same on which the said statements appear. Evidence offered

22 under section seventy-nine B that the writer of such statements
23 is recognized in his profession or calling as an expert on the sub-
24 ject shall not be inadmissible on the grounds of hearsay.

25 Qualifications of said expert may be proved under the pro-
26 visions of section seventy-nine B of this chapter.

1 SECTION 2. This act shall be liberally construed to favor the
2 admissibility of material so offered.