

SENATE No. 1020

By Mr. Walsh, a petition (accompanied by bill, Senate, No. 1020) of Joseph B. Walsh for legislation relative to the qualification of witnesses as experts in certain actions involving medical specialists. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Six.

AN ACT RELATIVE TO THE QUALIFICATION OF WITNESSES AS EXPERTS IN CERTAIN ACTIONS INVOLVING SPECIALISTS.

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 231 of the General Laws is hereby
2 amended by inserting therein the following new section: —

3 Section 60H. In an action in contract or tort for the recovery of
4 damages based upon injury to or death of a person in which it is
5 alleged that such injury or death resulted from an act or omission in
6 the furnishing or failure to furnish professional services by a physi-
7 cian holding himself out as a specialist, no person shall be compe-
8 tent to give testimony on the standard of care applicable or any
9 deviation therefrom unless such person (1) is a diplomate of the
10 appropriate specialty board recognized by the American Medical
11 Association or, in the case of osteopathic specialties, the American
12 Osteopathic Association or (2) has devoted at least three-quarters
13 of his professional time to active clinical practice of the appropriate
14 specialty in the United States for the three years immediately
15 preceding the commencement of the action or (3) has devoted a
16 substantial portion of his professional time both to active clinical
17 practice of the appropriate specialty and to instruction at a medical
18 school accredited by the liaison committee on medical education.

19 Nothing in this section shall be deemed to limit the discretion of
20 the trial judge to find a person incompetent to testify as an expert
21 on any other ground.

1 SECTION 2. If any provision of this act or the application of
2 such provision to any person or circumstances shall be invalid, the
3 validity of the remainder of this act and the applicability of such
4 provision to other persons or circumstances shall not be affected
5 thereby.

1 SECTION 3. The provisions hereof shall apply to all actions
2 commenced on or after the effective date of this act.