

**HOUSE . . . . . No. 1519**

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By Ms. Malia of Boston, a petition (accompanied by bill, House, No. 1519) of Elizabeth A. Malia relative to liability for malpractice, negligence, error, omission, mistake or unauthorized rendering of professional services by a provider of health care. The Judiciary.

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Elizabeth A. Malia**

*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 passage of the accompanying bill:

An Act relative to causation in professional liability.

PETITION OF:

NAME:

Elizabeth A. Malia

DISTRICT/ADDRESS:

11th Suffolk

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT RELATIVE TO CAUSATION IN PROFESSIONAL LIABILITY.

*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 60K of Chapter 231 of the General Laws, as appearing in the 2006 Official  
2 Edition, is hereby amended by inserting after the end thereof the following new section:

3 Section 60L:

4 In any action for malpractice, negligence, error, omission, mistake or unauthorized rendering of  
5 professional services, against a provider of health care, the plaintiff shall have the burden of proving the  
6 following:

7 (1) The recognized standard of acceptable professional practice in the profession and the specialty  
8 thereof, if any, that the defendant practices in the community in which he practices or in a similar  
9 community at the time the alleged injury or wrongful action occurred;

10 (2) That the defendant acted with less than or failed to act with ordinary and reasonable care in  
11 accordance with such standard; and

12 (3) As a direct and proximate result of the defendant's negligent act or omission, the plaintiff suffered  
13 injuries which would not otherwise have occurred.

14 (4) The plaintiff was a patient of the defendant and had a professional relationship to the defendant  
15 which created a duty of care on the defendant's part or where the plaintiff is a reasonably identifiable  
16 victim of the patient of a defendant psychotherapist to whom the patient communicated a serious threat of  
17 physical violence against the plaintiff.