

**HOUSE . . . . . No. 2344**

---

**The Commonwealth of Massachusetts**

PRESENTED BY:

***John J. Lawn, Jr.***

*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 relative to the definition of disclosure, apology and early offer programs.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>	<i>2/10/2021</i>

**HOUSE . . . . . No. 2344**

By Mr. Lawn of Watertown, a petition (accompanied by bill, House, No. 2344) of John J. Lawn, Jr. relative to the definition of health care adverse outcome disclosure, apology and early offer programs. Public Health.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Second General Court  
(2021-2022)**

An Act relative to the definition of disclosure, apology and early offer programs.

*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 112, Section 5 is hereby amended by adding the following at the  
2 end thereof: For purposes of this section, a disclosure, apology and early offer program also  
3 known as a Communication, Apology and Resolution program (CARE or CRP) is a program  
4 implemented by a physician or healthcare organization providing that when an unanticipated  
5 adverse outcome occurs, the incident is investigated, the patient and family are provided a full  
6 disclosure and ongoing communication about the findings and efforts to prevent a reoccurrence  
7 and improve patient safety, and for avoidable injury a sincere apology and where appropriate, an  
8 offer of fair and timely compensation without the need to litigate. :

9 SECTION 2. Chapter 112, Section 5C is hereby amended by striking said section and  
10 inserting in place thereof the following:

11 Section 5C. Every insurer or risk management organization which provides professional  
12 liability insurance to a registered physician shall report to the board any claim or action for

13 damages for personal injuries alleged to have been caused by error, omission, or negligence  
14 associated with the performance of such physician's professional services provided, however,  
15 that a final judgment or a settlement in any amount made as part of a disclosure, apology and  
16 early offer program, shall not be construed to be reportable to or by the board against a  
17 physician, absent a determination of substandard care rendered on the part of said physician.  
18 Nor shall a final disposition not resulting in payment on behalf of the insured be construed to be  
19 reportable to or by the board absent a determination of substandard care rendered on the part of  
20 said physician.

21 For purposes of this section, a disclosure, apology and early offer program also known as  
22 a Communication, Apology and Resolution program (CARE or CRP) is a program implemented  
23 by a physician or healthcare organization providing that when an unanticipated adverse outcome  
24 occurs, the incident is investigated, the patient and family are provided a full disclosure and  
25 ongoing communication about the findings and efforts to prevent a reoccurrence and improve  
26 patient safety, and for avoidable injury a sincere apology and where appropriate, an offer of fair  
27 and timely compensation without the need to litigate.

28 Reports shall be filed with the board no later than thirty days following the occurrence of  
29 any event deemed reportable under the provisions of this section. Such reports shall be in writing  
30 on a form prescribed by the board and shall contain the following information: (a) the name,  
31 address, specialty coverage, and policy number of the physician against whom the claim is made;  
32 and

33 (b) name, address and age of the claimant or plaintiff; and

34 (c) nature and substance of the claim; and

35 (d) date when and place at which the claim arose; and

36 (e) the amounts paid, if any, and the date and manner of disposition, judgment,  
37 settlement, or otherwise; and

38 (f) the date and reason for final disposition, if no judgment or settlement; and

39 (g) such additional information as the board shall require.

40 No insurer or its agents or employees shall be liable in any cause of action arising from  
41 reporting to the board as required in this section.