



MASSACHUSETTS MEDICAL SOCIETY

Every physician matters, each patient counts.

**TESTIMONY IN SUPPORT OF H.1705
AN ACT RELATIVE TO PATIENT CARE ACCESS
BEFORE THE JOINT COMMITTEE ON THE JUDICIARY
July 29, 2025**

The Massachusetts Medical Society (MMS) wishes to be recorded in strong support of H.1705, *An Act relative to patient care access*.

The Massachusetts Medical Society (MMS) is a professional association of over 24,000 physicians, residents, and medical students across all clinical disciplines, organizations, and practice settings. The Medical Society is committed to advocating on behalf of patients, to provide them a better health care system, and on behalf of physicians, to help them provide the best care possible. Accordingly, we support H.1705, which represents a critical step forward in ensuring that our medical liability system is fair, evidence-based, and aligned with the goals of patient safety, access to care, and system sustainability.

For many physicians in Massachusetts, the constant threat of litigation is a daily burden that affects clinical decision-making, professional well-being, and overall health system efficiency. Data from the American Medical Association show that over one-third of physicians have been the subject of a medical liability lawsuit during their careers.¹ The likelihood only increases with years in practice.² While patient safety is paramount and accountability must always be upheld, the current legal environment often encourages excessive and costly litigation that fails to improve outcomes or protect patients in a meaningful way.

H.1705 provides a comprehensive set of reforms that together improve transparency, promote fairness, and support ongoing quality improvement in patient care. The bill modernizes how medical peer review protections are applied, ensuring that health care entities such as Accountable Care Organizations (ACOs) can conduct honest internal evaluations of care delivery without fear that those discussions will be subject

¹ AMA: One in three physicians previously sued in their career. May 2023. [https://www.ama-assn.org/press-center/ama-press-releases/ama-one-three-physicians-previously-sued-their-career#:~:text=The%20widest%20variation%20in%20claim,\(75%20per%20100%20physicians\).](https://www.ama-assn.org/press-center/ama-press-releases/ama-one-three-physicians-previously-sued-their-career#:~:text=The%20widest%20variation%20in%20claim,(75%20per%20100%20physicians).)

² Ibid.

to public disclosure or legal discovery. Encouraging open dialogue among physicians about medical errors and opportunities for improvement is essential to fostering a culture of clinical safety.

Importantly, the bill enhances the integrity of expert witness testimony in medical malpractice cases. By ensuring that expert witnesses are board certified in the same specialty as the defendant physician and authorizing the Board of Registration in Medicine to review potentially false or clinically unsound testimony, the bill promotes fairness and accuracy in the courtroom. Physicians should be evaluated by peers who truly understand the standards of care specific to their field of medical practice.

H.1705 also proposes using data more effectively to improve care. Requiring liability insurers and risk management organizations to report patterns of claims, losses, and high-risk specialties to the Betsy Lehman Center will help identify trends and support the development of targeted safety interventions. This data-driven approach will strengthen the Commonwealth's ability to reduce medical errors and implement best practices system-wide.

The legislation further advances fairness in legal proceedings by clarifying how collateral source payments, particularly future payments, are treated when calculating damages, ensuring compensation is reasonable and not duplicative. It also allows courts to direct the use of periodic payments for large awards, offering flexibility that can benefit both plaintiffs and the broader health system by reducing the need for large, immediate payouts that strain financial resources. Lastly, aligning prejudgment interest rates with prevailing federal benchmarks eliminates the arbitrary and punitive 12% rate currently applied in wrongful death cases, which often inflates awards beyond actual damages.

We believe these reforms are balanced, thoughtful, and urgently needed. H.1705 will help reduce the practice of defensive medicine, lower systemic costs, and most importantly, support a health care environment where providers can focus on patient care, improvement, and innovation without the constant pressure of unfair legal exposure.

This legislation will help strengthen the Commonwealth's ability to maintain a fair and effective health care system that supports both patients and the physicians who care for them. For these reasons, we respectfully request a favorable report on H.1705. Thank you for your consideration of our comments.