

Department of Legislative Services
2014 Session

FISCAL AND POLICY NOTE

House Bill 635
Judiciary

(Delegate George, *et al.*)

Health Care Malpractice - Expression of Regret or Apology - Inadmissibility

This bill amends current law prohibiting the admission of an expression of regret or apology made by or on behalf of a health care provider as evidence of an admission of liability or a statement against interest. The bill repeals the exception to the prohibition that permits evidentiary use of an admission of liability or fault that is part of, or in addition to, communication of an expression of regret or apology.

The bill applies prospectively and does not apply to any cause of action arising before October 1, 2014.

Fiscal Summary

State Effect: The bill does not directly affect State finances or operations.

Local Effect: The bill does not directly affect local finances or operations.

Small Business Effect: Minimal.

Analysis

Current Law/Background: State law currently prohibits the evidentiary use of an admission of regret or apology made by or on behalf of a health care provider in a civil action against the provider. This prohibition applies to expressions made orally, in writing, or by conduct, and it bars the use of the expression as evidence of an admission of liability or an admission against interest. Under the current law's single exception, admissions of liability or fault that are made as part of or in addition to an admission of regret or apology *are* admissible as evidence.

Additional Information

Prior Introductions: HB 279 of 2009 and HB 607 of 2008 received an unfavorable report in the House Judiciary Committee. SB 906 of 2009 was referred to the Senate Rules Committee; no further action was taken on the bill.

Cross File: None.

Information Source(s): Maryland Health Claims Alternative Dispute Resolution Office, Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - March 4, 2014
mm/ljm

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