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By: **Delegates Zirkin, Barve, Jones, and Morhaim**

Introduced and read first time: February 8, 2006

Assigned to: Judiciary

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Committee Report: Favorable

House action: Adopted

Read second time: March 21, 2006

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CHAPTER\_\_\_\_\_

1 AN ACT concerning

2 **Health Care Malpractice - Expression of Regret or Apology - Inadmissibility**

3 FOR the purpose of altering a certain evidentiary rule concerning an apology or  
4 expression of regret in certain civil actions and proceedings against health care  
5 providers; making a stylistic change; providing for the application of this Act;  
6 and generally relating to the admissibility of an expression of regret or apology  
7 in certain health care malpractice proceedings or actions.

8 BY repealing and reenacting, with amendments,  
9 Article - Courts and Judicial Proceedings  
10 Section 10-920  
11 Annotated Code of Maryland  
12 (2002 Replacement Volume and 2005 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Courts and Judicial Proceedings**

16 10-920.

17 (a) In this section, "health care provider" has the meaning stated in § 3-2A-01  
18 of this article.

19 (B) THIS SECTION APPLIES TO AN EXPRESSION OF REGRET OR APOLOGY  
20 MADE IN WRITING, ORALLY, OR BY CONDUCT.

1        [(b)]    (C)    [(1)    Except as provided in paragraph (2) of this subsection, in] IN a  
2 proceeding subject to Title 3, Subtitle 2A of this article or a civil action against a  
3 health care provider, an expression of regret or apology made by or on behalf of the  
4 health care provider TO A VICTIM OF ALLEGED HEALTH CARE MALPRACTICE, ANY  
5 MEMBER OF THE VICTIM'S FAMILY, OR ANY INDIVIDUAL WHO CLAIMS DAMAGES BY  
6 OR THROUGH THAT VICTIM, OUTSIDE THE PRESENCE OF ANY OTHER INDIVIDUAL,  
7 [including an expression of regret or apology made in writing, orally, or by conduct,]  
8 is inadmissible as evidence of an admission of liability or as evidence of an admission  
9 against interest.

10                    [(2)    An admission of liability or fault that is part of or in addition to a  
11 communication made under paragraph (1) of this subsection is admissible as evidence  
12 of an admission of liability or as evidence of an admission against interest in an action  
13 described under paragraph (1) of this subsection.]

14        SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
15 construed to apply only prospectively and may not be applied or interpreted to have  
16 any effect on or application to any cause of action arising before the effective date of  
17 this Act.

18        SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
19 October 1, 2006.