

Department of Legislative Services  
Maryland General Assembly  
2007 Session

**FISCAL AND POLICY NOTE**

Senate Bill 84 (Senator Zirkin)  
Judicial Proceedings

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

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This bill provides that for the purpose of any civil action or arbitration proceeding against a health care provider, an expression of regret or apology made by or on behalf of a health care provider to a victim of alleged health care malpractice, any member of the victim's family, or any individual who claims damages by or through that victim is inadmissible as an admission of liability or as evidence of an admission against interest. This applies to an expression of regret or apology made in writing, orally, or by conduct. The bill repeals the provision authorizing admissibility of an admission of liability or fault under specified circumstances.

The bill applies only prospectively and does not apply to any cause of action arising before October 1, 2007.

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**Fiscal Summary**

**State Effect:** Altering evidentiary rules would not materially affect the finances or operations of the Judiciary.

**Local Effect:** See above.

**Small Business Effect:** Minimal.

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**Analysis**

**Current Law:** In a proceeding brought under the provisions governing a health care malpractice action or a civil action against a health care provider, an apology or an expression of regret made by or on behalf of a health care provider is inadmissible as

evidence of an admission of liability or as evidence of an admission against interest. An admission of liability or fault that is part of or in addition to an apology or expression of regret is admissible as evidence of an admission of liability or as evidence of an admission against interest.

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### **Additional Information**

**Prior Introductions:** An identical bill, HB 790 of 2006, passed the House and was referred to the Judicial Proceedings Committee in the Senate. It received a hearing in Judicial Proceedings, but no further action was taken. A similar bill, HB 114 of 2005, was amended and passed the House. HB 114 was referred to the Rules Committee in the Senate, where no further action was taken.

**Cross File:** HB 147 (Delegate Morhaim, *et al.*) – Judiciary.

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

**Fiscal Note History:** First Reader - January 29, 2007  
ncs/jr

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