

HOUSE BILL 280

D3
HB 147/07 – JUD

9lr1911

By: **Delegates Frank and Morhaim**

Introduced and read first time: January 29, 2009

Assigned to: Judiciary

A BILL ENTITLED

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 expression of
4 regret or apology 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 (2006 Replacement Volume and 2008 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 §
18 3–2A–01 of this article.

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

21 ~~[(b)]~~ **(C)** [(1) Except as provided in paragraph (2) of this subsection, in]
22 **IN** a proceeding subject to Title 3, Subtitle 2A of this article or a civil action against a
23 health care provider, an expression of regret or apology made by or on behalf of the
24 health care provider[, including an expression of regret or apology made in writing,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 orally, or by conduct,] **TO A VICTIM OF ALLEGED HEALTH CARE MALPRACTICE,**
2 **ANY MEMBER OF THE VICTIM'S FAMILY, OR ANY INDIVIDUAL WHO CLAIMS**
3 **DAMAGES BY OR THROUGH THAT VICTIM, OUTSIDE THE PRESENCE OF ANY**
4 **OTHER INDIVIDUAL,** is inadmissible as evidence of an admission of liability or as
5 evidence of an admission against interest.

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

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

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2009.