

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 280
Judiciary

(Delegates Frank and Morhaim)

Health Care Malpractice - Expression of Regret or Apology - Inadmissibility

This bill classifies evidence of any expression of regret or apology made by, or on behalf of, a health care provider to certain individuals as inadmissible in a civil action or arbitration proceeding against the health care provider as evidence of an admission of liability or statement against interest.

The bill applies prospectively and does not apply to any cause of action arising before October 1, 2009.

Fiscal Summary

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

Local Effect: Altering evidentiary rules does not materially affect the finances or operations of local government.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: 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 a statement against interest. Evidence of an expression of regret or apology includes a written statement, oral statement, and any apologetic conduct.

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.

Additional Information

Prior Introductions: Identical bills were introduced in the 2007 session as HB 147, and its cross file SB 84, as well as in the 2006 session as HB 790. HB 147 of 2007 received an unfavorable report from the House Judiciary Committee and SB 84 of 2007 was withdrawn in the Senate Judicial Proceedings Committee. HB 790 of 2006 passed the House, but no further action was taken in the Senate.

Cross File: None.

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

Fiscal Note History: First Reader - February 10, 2009
ncs/ljm

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