

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 279
Judiciary

(Delegates Frank and Morhaim)

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 an 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, 2009.

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: Potential 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 607 of 2008 received an unfavorable report from the House Judiciary Committee.

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, Department of Legislative Services

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

Analysis by: Jason F. Weintraub

Direct Inquiries to:
(410) 946-5510
(301) 970-5510