

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 358

(Senators Muse and Brochin)

Judicial Proceedings

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Health Care Malpractice - Expression of Regret or Apology - Inadmissibility

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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 a 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, 2010.

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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.

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Analysis

**Current Law:** 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.

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## **Additional Information**

**Prior Introductions:** Identical bills were introduced in the 2009 and 2008 sessions. SB 906 of 2009 was referred to the Senate Rules Committee, but no further action was taken. HB 279 of 2009 was withdrawn after a hearing, and HB 607 of 2008 received unfavorable reports from the House Judiciary Committee.

**Cross File:** None.

**Information Source(s):** Office of the Attorney General, 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 12, 2010  
mlm/ljm

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