

2012 -- H 7290

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LC00871
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE - EVIDENCE

Introduced By: Representatives McNamara, and Bennett

Date Introduced: January 31, 2012

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 9-19 of the General Laws entitled "Evidence" is hereby amended
2 by adding thereto the following section:

3 **9-19-45. Admissibility of health care providers' reports of medical and health care**
4 **errors.** – (a) For the purposes of this section:

5 (1) “Family” means the spouse, parent, grandparent, step-parent, child, grandchild,
6 brother, sister, half-brother, half-sister, uncle, aunt, adopted children of parent, or spouse’s
7 parents, whether by whole or half blood, adoption or marriage, of a patient;

8 (2) “Health care facility” means any institutional health service provider licensed
9 pursuant to the provisions of chapter 17 of title 23;

10 (3) “Health care provider” or “provider” shall have the same meaning as the meaning
11 contained in subdivision 23-17.13-2(9); and

12 (4) “Unanticipated outcome” means the outcome of a medical treatment or procedure that
13 differs from an expected result.

14 (b) In any claim or civil action against a health care provider or health care facility, or in
15 any arbitration proceeding or other method of alternative dispute resolution that relates to the
16 claim or civil action, and in any civil or administrative proceeding against a health care provider
17 or health care facility, the following shall be inadmissible as evidence of an admission of liability
18 or in any way to prove negligence or culpable conduct;

19 (1) Any and all statements, writings, gestures, or affirmations made by a health care

1 provider or an employee of a health care provider that express apology, sympathy, compassion,
2 condolence, or benevolence relating to the pain, suffering, or death of a patient as a result of an
3 unanticipated outcome of medical care, that is made to the patient, the patient's family, or a friend
4 of the patient or the patient's family, with the exception of the admission of liability or fault; and
5 (2) Any offers made by a health care provider to the patient, the patient's family, or a
6 friend of the patient or the patient's family, to undertake corrective actions to assist the patient in
7 connection with or relating to the patient's condition or the unanticipated outcome of such
8 patient's medical care and treatment.

9 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO COURTS AND CIVIL PROCEDURE - EVIDENCE

1 This act would provide that statements by a health care provider to a patient or to the
2 patient's family regarding the outcome of such patient's medical care and treatment such as an
3 apology or expression of sympathy, and any offers by a health care provider to undertake
4 corrective action to assist the patient shall be inadmissible as evidence or an admission of liability
5 in any claim or action against the provider.

6 This act would take effect upon passage.

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