

2023 -- H 6434

LC002951

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE -- PROCEDURE GENERALLY --
EVIDENCE

Introduced By: Representatives Craven, and Caldwell

Date Introduced: May 24, 2023

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 by
2 adding thereto the following section:

3 **9-19-45. Statements or conduct expressing apology, regret, condolence by healthcare**
4 **provider; admissibility.**

5 (a) For the purposes of this section, the following words shall have the following meanings:

6 (1) "Healthcare facility" means any institutional health service provider licensed pursuant
7 to the provisions of chapter 17 of title 23.

8 (2) "Healthcare provider" or "provider" means a physician, hospital, pharmacy, laboratory,
9 dentist, or other state licensed or other state recognized provider of health care services or supplies
10 and whose services are recognized pursuant to 213(d) of the Internal Revenue Code, 26 U.S.C. §
11 213(d), that has entered into an agreement to provide these services or supplies to a patient enrolled
12 in a plan with any licensed insurance company, hospital, dental or medical service plan, health
13 maintenance organization or any contractor that:

14 (i) Establishes, operates or maintains a network of participating providers; and/or

15 (ii) Contracts with an insurance company, a hospital or medical or dental service plan, an
16 employer, whether under written or self-insured, and employee organization, or any other entity
17 providing coverage for health care services to administer a plan; and/or

18 (iii) Conducts or arranges for utilization review activities pursuant to chapter 17-12 of this

1 title.

2 (3) "Relative" means a patient's spouse, parent, grandparent, stepparent, child, grandchild,
3 brother, sister, half-brother, half-sister, uncle, aunt, adopted children of parent, or spouse's parents,
4 whether by whole or half blood, adoption or marriage.

5 (4) "Representative" means a legal guardian, attorney, healthcare representative or any
6 person recognized in law or custom as a patient's agent.

7 (5) "Unanticipated outcome" means the outcome of a medical treatment or procedure that
8 differs from an expected result of such medical treatment or procedure.

9 (b) In any claim, complaint or civil action brought against a healthcare facility or provider
10 by or on behalf of a patient allegedly experiencing an unanticipated outcome, or in any arbitration
11 proceeding or other method of alternative dispute resolution that relates to the claim, complaint or
12 civil action, and in any judicial or administrative proceeding against a healthcare facility or
13 provider, the following shall be inadmissible as evidence of an admission of liability or as evidence
14 of an admission against interest:

15 (1) Any and all statements, affirmations, gestures, writings, activities or conduct expressing
16 apology, benevolence, commiseration, condolence, compassion, regret, sympathy, or a general
17 sense of concern which are made by a healthcare facility, a healthcare provider, or an employee or
18 agent of a healthcare facility or provider, to the patient, the patient's relative, or a representative of
19 the patient which relate to any alleged discomfort, pain, suffering, injury, or death of the patient as
20 a result of the unanticipated outcome.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
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1 This act would provide that statements by a healthcare provider to a patient or to the
2 patient's relative or representative regarding the unanticipated outcome of such patient's medical
3 care and treatment, such as an apology or an expression of sympathy, shall be inadmissible as
4 evidence of an admission of liability or as evidence of an admission against interest in a claim or
5 action against the provider.

6 This act would take effect upon passage.

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