

2024 -- S 2229 SUBSTITUTE A

LC003945/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

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

Introduced By: Senators Lauria, DiMario, Miller, Euer, Murray, Valverde, Ujifusa,  
LaMountain, Cano, and Gallo

Date Introduced: January 24, 2024

Referred To: Senate 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 health care**  
4 **provider; admissibility.**

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

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

8 (2) "Health care provider" or "provider" shall have the same meaning as the meaning  
9 contained in § 5-37.3-3.

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

13 (4) "Representative" means a legal guardian, attorney, health care representative or any  
14 person recognized in law or custom as a patient's agent.

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

17 (b) In any claim, complaint or civil action brought against a health care facility or provider  
18 by or on behalf of a patient allegedly experiencing an unanticipated outcome, or in any arbitration

1 proceeding or other method of alternative dispute resolution that relates to the claim, complaint or  
2 civil action, and in any judicial or administrative proceeding against a health care facility or  
3 provider, the following shall be inadmissible as evidence of an admission of liability or as evidence  
4 of an admission against interest:

5 (1) Any and all statements, affirmations, gestures, writings, activities or conduct expressing  
6 apology, benevolence, commiseration, condolence, compassion, regret, sympathy, or a general  
7 sense of concern which are made by a health care facility, a health care provider, or an employee  
8 or agent of a health care facility or provider, to the patient, the patient's relative, or a representative  
9 of the patient which relate to any alleged discomfort, pain, suffering, injury, or death of the patient  
10 as a result of the unanticipated outcome.

11 (2) This section shall not apply to a statement of fault, liability, negligence, or culpable  
12 conduct that is part of or made in addition to a statement, affirmation, gesture, writing, activity, or  
13 conduct described in subsection (b)(1) of this section, and only the expression of apology,  
14 benevolence, commiseration, condolence, compassion, regret, sympathy, or a general sense of  
15 concern made under subsection (b)(1) of this section is inadmissible.

16 (3) Any statement, affirmation, gesture, writing, activity, or conduct described in  
17 subsection (b)(1) of this section is admissible for any other purpose.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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1           This act would provide that statements by a health care 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 any claim  
5 or action against the provider.

6           This act would take effect upon passage.

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