
A BILL FOR AN ACT

RELATING TO THE HAWAII RULES OF EVIDENCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature recognizes that when healthcare
2 providers, such as physicians, take responsibility for medical
3 errors and offer expressions of sympathy or benevolence, trust
4 builds, and patients and family members have less inclination to
5 sue. Such a communication can also lead to open discussion from
6 which the hospital may obtain information that will help avoid
7 similar errors in the future. A growing number of states have
8 passed laws that protect such communications from being used
9 against healthcare providers in court as evidence of liability.

10 The purpose of this Act is to protect such communications
11 from being used against healthcare providers in medical
12 malpractice actions.

13 SECTION 2. Section 626-1, Hawaii Revised Statutes, is
14 amended by adding to article IV a new rule to be appropriately
15 designated and to read as follows:

16 "Rule Admissibility of expressions of sympathy or
17 benevolence. (a) In any civil action that is brought against a
18 healthcare provider, as defined in section 671-1, or in any



1 arbitration proceeding that relates to the civil action, any
2 statements, writings, or benevolent gestures that:

3 (1) Express sympathy or a general sense of benevolence
4 relating to the pain, suffering, or death of the
5 patient involved in the incident with the healthcare
6 provider; and

7 (2) Are made to the patient or to the family of the
8 patient;

9 are inadmissible as evidence of an admission of liability. A
10 statement of fault, however, which is part of, or in addition
11 to, any of the above shall not be inadmissible pursuant to this
12 section.

13 (b) For purposes of this section:

14 "Benevolent gestures" means actions which convey a sense of
15 compassion or commiseration emanating from human impulses.

16 "Family" means the spouse, parent, grandparent, stepmother,
17 stepfather, child, grandchild, brother, sister, half brother,
18 half sister, adopted children of parent, or spouse's parent of
19 the injured party."

20 SECTION 3. This Act does not affect the rights or duties
21 that matured, penalties that were incurred, and proceedings that
22 were begun, before its effective date.



- 1 SECTION 4. New statutory material is underscored.
- 2 SECTION 5. This Act shall take effect on January 1, 2112.



Report Title:

Evidence; Medical Liability; Benevolent Gestures

Description:

Makes benevolent gestures regarding a medical error inadmissible as evidence of an admission of liability in medical malpractice claims. (HB1253 HD1)

