

# Expressions of Apology, Condolences and Sympathy by Health Care Professionals

This Act makes statements of apology and explanation made by a health care professional following an unintended outcome of medical care inadmissible in a malpractice action.

Submitted as:

Idaho

HB 634

Status: Enacted into law in 2006.

## Suggested State Legislation

(Title, enacting clause, etc.)

1           Section 1. [*Short Title.*] This Act is entitled “An Act to Address the Admissibility of  
2 Expressions of Apology, Condolence and Sympathy by Health Care Professionals.”

3

4

Section 2. [*Definitions.*]

5

For the purposes of this Act:

6

(1) “Health care professional” means any person licensed, certified, or registered by this  
7 state to deliver health care and any clinic, hospital, nursing home, ambulatory surgical center or  
8 other place in which health care is provided. The term also includes any professional corporation  
9 or other professional entity comprised of such health care professionals as permitted by the laws  
10 of this state.

11

(2) “Unanticipated outcome” means the outcome of a medical treatment or procedure that  
12 differs from an expected, hoped for, or desired result.

13

14

Section 3. [*Admissibility of Expressions of Apology, Condolence and Sympathy.*]

15

(1) In any civil action brought by or on behalf of a patient who experiences an  
16 unanticipated outcome of medical care, or in any arbitration proceeding related to, or in lieu of,  
17 such civil action, all statements and affirmations, whether in writing or oral, and all gestures or  
18 conduct expressing apology, explanation, sympathy, commiseration, condolence, compassion, or  
19 a general sense of benevolence which are made by a health care professional or an employee of a  
20 health care professional, which relate to the care provided to the patient, or which relate to the  
21 discomfort, pain, suffering, injury, or death of the patient as the result of the unanticipated  
22 outcome of medical care shall be inadmissible as evidence for any reason including, but not  
23 limited to, as an admission of liability or as evidence of an admission against interest.

24

(2) A statement of fault which is part of or in addition to a statement identified in  
25 subsection (1) of this section shall not be inadmissible pursuant to this section.

26

27

Section 4. [*Severability.*] [Insert severability clause.]

28

29

Section 5. [*Repealer.*] [Insert repealer clause.]

30

31

Section 6. [*Effective Date.*] [Insert effective date.]