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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE -- EVIDENCE

Introduced By: Senators Perry, Miller, Crowley, and Ottiano

Date Introduced: February 16, 2011

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. The legislature hereby finds and declares that:

2 (1) Open communication between patients and health care providers is essential to
3 ensuring optimal health care outcomes;

4 (2) Fear of lawsuits can impede such open communication between health care providers
5 and patients; and

6 (3) Protecting statements by health care providers that express sympathy, condolence,
7 fault, or a general sense of benevolence to a patient after an unanticipated health care outcome
8 fosters open communication between the health care provider and the patient.

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

11 **9-19-45. Admissibility of health care providers' reports of medical and health care**
12 **errors. -- (a) For the purposes of this section:**

13 (1) "Family" means the spouse, parent, grandparent, stepparent, child, grandchild,
14 brother, sister, half brother, half sister, uncle, aunt, adopted children of parent, or spouse's
15 parents, whether by whole or half blood, adoption or marriage, of a patient;

16 (2) "Health care facility" means any institutional health service provider licensed
17 pursuant to the provisions of chapter 17 of title 23;

18 (3) "Health care provider" or "provider" shall have the same meaning as the meaning
19 contained in subdivision 23-17.13-2(1);

1 (4) "JCAHO's standards" means the patient safety and medical/health care error reduction
2 standards of the joint commission on accreditation of health care organizations effective July 1,
3 2001;

4 (5) "Medical/health care errors" means the events and conditions required to be reported
5 to a health care facility's error reporting system under JCAHO's standards; and

6 (6) "Representative" means a legal guardian, attorney, person designated to make
7 decisions on behalf of a patient under a health power of attorney, or any person recognized in law
8 or custom as a patient's agent.

9 (b) In any claim or civil action against a health care provider or health care facility, or in
10 any arbitration proceeding or other method of alternative dispute resolution that relates to the
11 claim or civil action, and in any civil or administrative proceeding against a health care provider
12 or health care facility, the following shall be inadmissible as evidence of an admission of liability
13 or as evidence of an admission against interest, or in any way to prove negligence or culpable
14 conduct:

15 (1) Statements or writings of a health care provider made to a patient, or to the family or
16 representative of such patient, regarding the outcome of such patient's medical care and treatment,
17 including reports of medical/health care errors or unanticipated outcomes as required by or in
18 accordance with the JCAHO's standards or similar standards.

19 (2) Statements or writings of a health care provider made to a patient, or to the family or
20 representative of such patient, expressing or conveying sympathy, apology, responsibility,
21 commiseration, condolence, compassion, regret, grief, mistake, error or a general sense of
22 benevolence (including the word "sorry") relating to the pain, suffering or death of such patient in
23 connection with or relating to the patient's condition or the outcome of such patient's medical care
24 and treatment.

25 (3) Any offers made by a health care provider to a patient, or to the family or
26 representative of such patient, to undertake corrective or remedial treatment, or gratuitous acts to
27 assist the patient in connection with or relating to the patient's condition or the outcome of such
28 patient's medical care and treatment.

29 SECTION 3. 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 expressions of sympathy, statements by a health care
2 provider to a patient or to the patient's family regarding the outcome of such patient's medical
3 care and treatment, including reports of medical/health care errors or unanticipated outcomes as
4 required by or in accordance with JCAHO's standards, and any offers by a health care provider to
5 undertake corrective action to assist the patient would be inadmissible as evidence or an
6 admission of liability in any claim, action or proceeding against the provider.

7 This act would take effect upon passage.

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