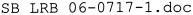
JAN 25 2006

A BILL FOR AN ACT

RELATING TO MEDICAL LIABILITY.

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

- 1 SECTION 1. The legislature recognizes that when health
- 2 care providers, such as physicians, take responsibility for
- 3 medical errors and offer a genuine apology, trust builds and
- 4 patients and family members have less inclination to sue. An
- 5 apology also can lead to open discussion from which the hospital
- 6 may obtain information that will help avoid similar errors in
- 7 the future. A growing number of states have passed laws that
- 8 protect an apology from being used against health care providers
- 9 in court.
- 10 The purpose of this Act is to protect apologies from being
- 11 used against health care providers in medical malpractice
- 12 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 Apologies; medical care. (a) In any civil
- 17 action that is brought against a health care provider, as
- 18 defined in section 671-1, or in any arbitration proceeding that





relates to the civil action, any statement, affirmation, 1 gesture, or conduct expressing apology, responsibility, 2 liability, sympathy, commiseration, condolence, compassion, or a 3 4 general sense of benevolence that: Was made by a health care provider to the patient, a 5 (1) relative of the patient, the patient's survivors, or a 6 health care decision maker for the patient; and 7 (2) Relates to the discomfort, pain, suffering, injury, or 8 death of the patient as the result of the 9 unanticipated outcome of medical care 10 is inadmissible as evidence of an admission of liability or as 11 12 evidence of an admission against interest."

16 SECTION 4. New statutory material is underscored.

17 SECTION 5. This Act shall take effect upon its approval.

that matured, penalties that were incurred, and proceedings that

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INTRODUCED BY:

This Act does not affect the rights or duties

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were begun, before its effective date.

SB LRB 06-0717-1.doc

SECTION 3.

SB. NO. 3179

Report Title:

Evidence; Medical Liability; Apology

Description:

Makes an apology regarding a medical error inadmissible as evidence of an admission of liability or an admission against interest in medical malpractice claims.