

Apology Inadmissibility Laws: Summary of State Legislation

States	Statute or Bill	What it relates to	What is inadmissible	Made to whom	Miscellaneous provisions
Alabama	None.				
Alaska	None.				
Arizona	A.R.S. § 12-2605 (West 2005).	Discomfort, pain, suffering, injury, or death as a result of an unanticipated outcome of medical care.	Any statement, affirmation, gesture, or conduct expressing apology, responsibility, liability, sympathy, commiseration, condolence, compassion, or a general sense of benevolence.	Patient, relative of the patient, patient's survivors, or a health care decision maker for the patient.	
Arkansas	None.				
California	CAL. GOV'T CODE § 11440.45 (West 2003).	Pain, suffering, or death.	Statements, writings or benevolent gestures.	That person or family of that person.	
Colorado	COLO. REV. STAT. ANN. § 13-25-135 (West 2003).	Discomfort, pain, suffering, injury or death as the result of the unanticipated outcome of medical care.	Statements, affirmations, gestures, or conduct expressing apology, fault, sympathy, commiseration, condolence, compassion, or a general sense of benevolence.	Alleged victim, relative of the alleged victim, or representative of the alleged victim.	
Connecticut	CONN. GEN. STAT. ANN. § 52-184d (West 2006).	Discomfort, pain, suffering, injury or death as the result of the unanticipated outcome of medical care.	Statements, affirmations, gestures or conduct expressing apology, fault, sympathy, commiseration, condolence, compassion or a general sense of benevolence.	Alleged victim, relative of the alleged victim, or representative of the alleged victim.	

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Delaware	DEL. CODE ANN. tit. 10 § 4318 (West 2006).	Pain, suffering, or death of a person as a result of the unanticipated outcome of medical care.	Statements, writings, gestures or affirmations expressing apology (<i>other than an expression or admission of liability or fault</i>), sympathy, compassion, condolence, or benevolence.	That person, family of that person, or a friend of that person.	
District of Columbia	D.C. CODE § 16-2841 (West 2007).	Alleged medical malpractice.	Expressions of sympathy or regret made in writing, orally, or by conduct.	Alleged victim, alleged victim's family, or any individual who claims damages by or through that victim.	
Florida	FLA. STAT. ANN. § 90.4026 (West 2001).	Pain, suffering or death of a person involved in an accident.	Statements, writings or benevolent gestures expressing sympathy or a general sense of benevolence other than a statement of fault.	That person or the family of that person.	
Georgia	GA. CODE ANN. § 24-3-37.1 (West 2006).	An unanticipated medical outcome.	Statements, affirmations, gestures, activities, or conduct expressing benevolence, regret, apology, sympathy, commiseration, condolence, compassion, mistake, error, or a general sense of benevolence.	Patient, relative of that patient, or a representative of that patient.	
Hawaii	HAW. REV. STAT. § 626-1 (West 2007).	The consequences of an event in which the declarant was a participant.	Statements or gestures that express sympathy, commiseration, or condolence.	Silent.	

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Idaho	IDAHO CODE ANN. § 9-207 (West 2006).	The care provided to the patient, or anything related to the discomfort, pain, suffering, injury, or death of the patient as the result of the unanticipated outcome of medical care.	Statements and affirmations, whether in writing or oral, and all gestures or conduct expressing apology, sympathy, commiseration, condolence, compassion, or a general sense of benevolence, including any accompanying explanation and/or statements of fault.	The patient, a family member of the patient, or a friend of the patient.	
Illinois	None.				
Indiana	IND. CODE ANN. § 34-43.5-1-1 to 34-43.5-1-5 (West 2006).	A loss, an injury, pain, suffering, death, or damage to property.	A communication of sympathy, as defined as a statement, gesture, act, conduct, or a writing that expresses sympathy, an apology; or a general sense of benevolence. Statements of fault are admissible.	Silent.	
Iowa	IOWA CODE ANN. § 622.31 (West 2007).	Discomfort, pain, suffering, injury, or death of the plaintiff as a result of an alleged breach of the applicable standard of care.	Any statement, affirmation, gesture, or conduct expressing sorrow, sympathy, commiseration, condolence, compassion, or a general sense of benevolence.	The plaintiff, a relative of the plaintiff, or a decision maker for the plaintiff.	
Kansas	None.				
Kentucky	None.				

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Louisiana	LA. REV. STAT. ANN. § 3715.5 (West 2005).	Silent.	Any communication, including but not limited to an oral or written statement, gesture, or conduct expressing or conveying apology, regret, grief, sympathy, commiseration, condolence, compassion, or a general sense of benevolence.	The patient, a relative of the patient, or a representative of the patient.	
Maine	ME. REV. STAT. ANN. tit. 24 § 2907 (West 2005).	Discomfort, pain, suffering, injury or death of the alleged victim as the result of the unanticipated outcome.	Any statement, affirmation, gesture or conduct expressing apology, sympathy, commiseration, condolence, compassion or a general sense of benevolence. Statements of fault are admissible.	The alleged victim, a relative of the alleged victim, or a representative of the alleged victim.	
Maryland	MD. CODE ANN., CTS. & JUD. PROC. § 10-920 (West 2005).	Silent.	An expression of regret or apology made by or on behalf of the health care provider, including an expression of regret or apology made in writing, orally, or by conduct. Statements or admissions of fault are admissible.	Silent.	
Massachusetts	MASS. GEN. LAWS ANN. CH. 233, § 23D (West 1986). MASS. GEN. LAWS ANN. CH. 233, § 79L (West 1986).	The pain, suffering or death of a person involved in an accident. An unanticipated outcome of medical care.	Statements, writings or benevolent gestures expressing sympathy or a general sense of benevolence. Statements, writings, affirmations, gestures, activities or conduct expressing benevolence,	That person or the family of that person. The patient, a relative of the patient, or the patient's representative.	

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Massachusetts (cont'd)	MASS. GEN. LAWS ANN. CH. 233, § 79L (West 1986).		regret, apology, sympathy, commiseration, condolence, compassion, mistake, error or a general sense of concern.		
Michigan	MICH. COMP. LAWS ANN. § 600.2155 (West 2011).	The pain, suffering, or death of an individual.	A statement, writing, or action that expresses sympathy, compassion, commiseration, or a general sense of benevolence. Statements of fault, negligence or culpable conduct are admissible.	That person or the family of that person.	
Minnesota	2009 MN H.F. 468 (eff. Jan. 1, 2010).	Discomfort, pain, suffering, injury, or death of the alleged victim as a result of the unanticipated outcome of medical care.	Statements, affirmations, gestures, or conduct expressing apology, sympathy, commiseration, condolence, compassion, or a general sense of benevolence. Admissions of fault are admissible.	The alleged victim, a relative of the alleged victim, or a representative of the alleged victim.	
Mississippi	None.				
Missouri	MO. ANN. STAT. § 538.229 (West 2005).	Pain, suffering, or death of a person.	Statements, writings, or benevolent gestures expressing sympathy or a general sense of benevolence. Statements of fault are admissible.	That person or the family of that person.	
Montana	MONT. CODE ANN. § 26-1-814 (2005).	The pain, suffering, or death of a person in a civil action for medical malpractice.	A statement, affirmation, gesture, or conduct expressing apology, sympathy, commiseration, condolence, compassion, or a general sense of benevolence.	That person, family of that person, or a friend of that person or that person's family.	

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Nebraska	NEB. REV. STAT. § 27-1201 (2009).	Discomfort, pain, suffering, injury, or death of the alleged victim as a result of the unanticipated outcome of medical care.	Any and all statements, affirmations, gestures, or conduct expressing apology, sympathy, commiseration, condolence, compassion, or a general sense of benevolence.	The alleged victim, a relative of the alleged victim, or a representative of the alleged victim.	
Nevada	None.				
New Hampshire	N.H. REV. STAT. ANN. § 507-E:4 (2011).	The pain, suffering, or death of an individual in a medical injury action.	A statement, writing, or action that expresses sympathy, compassion, commiseration, or a general sense of benevolence. Statements of fault, negligence or culpable conduct are admissible.	That individual or that individual's family.	
New Jersey	None.				
New Mexico	None.				
New York	None.				
North Carolina	N.C. GEN. STAT. ANN. § 8C-1, Rule 413 (West 2004).	Adverse outcomes in medical treatment.	Statements by a health care provider apologizing for an adverse outcome in medical treatment, offers to undertake corrective or remedial treatment or actions, and gratuitous acts.	Silent.	
North Dakota	N.D. CENT. CODE ANN. § 31-04-12 (West 2007).	Any civil action, arbitration or proceeding against a health care provider.	A statement, affirmation, gesture, or conduct of a health care provider, or health care provider's employee or agent, that expresses apology, sympathy, commiseration, condolence, compassion, or benevolence.	The patient, a relative of the patient, or a representative of the patient.	

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Ohio	OHIO REV. CODE ANN. § 2317.43 (West 2004).	Discomfort, pain, suffering, injury, or death of the alleged victim as the result of an unanticipated outcome of medical care.	Any and all statements, affirmations, gestures, or conduct expressing apology, sympathy, commiseration, condolence, compassion, or a general sense of benevolence.	The alleged victim, a relative of the alleged victim, or a representative of the alleged victim.	
Oklahoma	OKLA. STAT. ANN. tit. 63 § 1-1708.1H (West 2004).	Discomfort, pain, suffering, injury, or death as the result of the unanticipated outcome of medical care.	Any and all statements, affirmations, gestures, or conduct expressing apology, sympathy, commiseration, condolence, compassion, or a general sense of benevolence.	The plaintiff, a relative of the plaintiff, or a representative for the plaintiff.	
Oregon	OR. REV. STAT. ANN. § 677.082 (West 2003).	Silent.	Any expression of regret or apology made by or on behalf of the person, including those made in writing, orally or by conduct.	Silent.	
Pennsylvania	None.				
Rhode Island	None.				
South Carolina	S.C. CODE ANN. § 19-1-190 (2006).	Any unanticipated outcome resulting from their medical care.	Conduct, statements, or activity constituting voluntary offers of assistance or expressions of benevolence, regret, mistake, error, sympathy, or apology.	Patient, relative of the patient, or patient's legal representative.	The defendant in a medical malpractice action may waive the inadmissibility of the statements defined.
Tennessee	Tenn. R. Evid. 409.1 (2003).	Pain, suffering or death of a person involved in an accident (i.e. absence of willful action).	Statements, writings, or benevolent gestures expressing sympathy or a general sense of benevolence. Statements of fault are admissible.	That person or the family of that person.	

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Texas	TEX. CIV. PRAC. & REM. CODE ANN. § 18.061 (West 1999).	Pain, suffering, or death of an individual involved in an accident.	A statement, writing or gesture that conveys a sense of compassion or commiseration emanating from humane impulses expressing sympathy or a general sense of benevolence.	That person or the family of that person within the second degree.	A communication, including an excited utterance as defined by Rule 803(2) of the Texas Rules of Evidence, which also includes a statement or statements concerning negligence or culpable conduct pertaining to an accident or event, is admissible to prove liability of the communicator.
Utah	UTAH R. EVID. RULE 409 (2011).	An unanticipated outcome of medical care.	(a) Evidence of furnishing, promising to pay, or offering to pay medical, hospital, or similar expenses resulting from an injury is not admissible to prove liability for the injury. (b) Evidence of unsworn statements, affirmations, gestures, or conduct made to a patient or a person associated with the patient by a defendant that expresses the following is not admissible in a malpractice action against a health care provider or an employee of a health care provider to prove liability for an injury: (1) apology, sympathy, commiseration, condolence, compassion, or general sense of benevolence; or (2) a description of the sequence of events relating to the unanticipated outcome of medical care or the significance of events.	The patient or any person associated with the patient.	

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Vermont	VT. STAT. ANN. tit. 12, § 1912 (West 2005).	A medical error.	An oral expression of regret or apology, including any oral good faith explanation of how a medical error occurred, that is provided within 30 days of when the provider or facility knew or should have known of the consequences of the error.	Silent.	The provider or facility may not be examined by deposition or otherwise with respect to the expression of regret, apology, or explanation.
Virginia	VA. CODE ANN. § 8.01-52.1 (West 2005).	The death of the patient as a result of the unanticipated outcome of health care.	Statements, writings, affirmations, benevolent conduct, or benevolent gestures expressing sympathy, commiseration, condolence, compassion, or a general sense of benevolence, together with apologies made by a health care provider or facility. Statements of fault are admissible.	A relative of the patient or a representative of the patient.	
Washington	WASH. REV. CODE ANN. § 5.66.010 (West 2002).	Pain, suffering, or death of a person involved in an accident.	Statements, writings, or benevolent gestures expressing sympathy or a general sense of benevolence. Statements of fault are admissible.	That person or the family of that person.	

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West Virginia	W. VA. CODE ANN. § 55-7-11a (West 2005).	Discomfort, pain, suffering, injury or death of the patient.	Any statement, affirmation, gesture or conduct of a healthcare provider who provided healthcare services to a patient, expressing apology, sympathy, commiseration, condolence, compassion or a general sense of benevolence in any civil action, <i>including arbitration, mediation or alternative dispute resolution proceeding.</i>	Patient, relative of the patient, or patient’s legal representative.	
Wisconsin	None.				
Wyoming	WYO. STAT. ANN. § 1-1-130 (West 2004).	Discomfort, pain, suffering, injury or death of the alleged victim as the result of the unanticipated outcome of medical care.	Any and all statements, affirmations, gestures or conduct expressing apology, sympathy, commiseration, condolence, compassion or a general sense of benevolence.	Alleged victim or to the family or representative of the alleged victim.	