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'Apology' legislation could inhibit medical malpractice suits

Recently passed legislation in the Pennsylvania General Assembly that would prohibit malpractice plaintiffs from using apologies in lawsuits could hurt victims of malpractice seeking restitution in the courts. If the bill becomes law, it would make inadmissible “any benevolent gesture or admission of fault made prior to the commencement of a medical professional liability action” concerning an “unexpected outcome.”

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Republican State Rep. Keith Gillespie, the main sponsor of the bill, says words like “I’m sorry” can come back to haunt medical professionals when used to allege that a physician has admitted fault. Gillespie maintains that the bill does nothing to prevent lawsuits from being filed, and simply allows medical professionals in hospitals and nursing homes to have “frank, open conversation” after a bad outcome. Similar “apology” legislation has already been passed in 35 other states.

But Harrisburg attorney Scott Cooper, vice president of the trial lawyers organization Pennsylvania Association for Justice, warns that the legislation could take away power from people pursuing a legitimate claim in court. "It's the devil in the details," Cooper said.

For example, it's one thing to bar the patient from using a mere apology by the doctor. But what if the doctor admits exactly what went wrong? And what if the patient has no other way to prove what happened other than what the doctor said in the apology?

The legislation is part of an overall tort reform package pushed by Pennsylvania Gov. Tom Corbett, who also is proposing a cap on non-economic damages in malpractice suits.

Source: [York Daily Record](#)

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