

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1843 Session of 2009

INTRODUCED BY GILLESPIE, BENNINGHOFF, BEYER, BOYD, CAUSER, CREIGHTON, CUTLER, DALEY, EVERETT, FLECK, GEIST, GRELL, GROVE, HALUSKA, HARRIS, HENNESSEY, HICKERNELL, HORNAMAN, HUTCHINSON, JOSEPHS, KAUFFMAN, KILLION, MANDERINO, MANN, MILLER, MOUL, PICKETT, PYLE, QUINN, REICHLEY, SAYLOR, SONNEY, STERN, TURZAI, VULAKOVICH AND WATSON, JULY 10, 2009

REFERRED TO COMMITTEE ON JUDICIARY, JULY 10, 2009

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for benevolent
3 gesture or admission by health care provider.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 42 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 § 6145. Benevolent gesture or admission by health care
9 provider.

10 (a) General rule.--In any medical professional liability
11 action, any benevolent gesture or admission of fault made by a
12 health care provider to a patient, or the patient's relative or
13 representative, regarding the patient's discomfort, pain,
14 suffering, injury or death resulting from a medical encounter,
15 treatment or procedure shall be inadmissible as evidence of
16 liability or as an admission against interest if such gesture or

1 admission was made prior to the commencement of the action.

2 (b) Definitions.--As used in this section, the following
3 words and phrases shall have the meanings given to them in this
4 subsection:

5 "Benevolent gesture." Any action that conveys a sense of
6 compassion or commiseration emanating from humane impulses.

7 "Health care provider." As defined by section 103 of the act
8 of March 20, 2002 (P.L.154, No.13), known as the Medical Care
9 Availability and Reduction of Error (Mcare) Act.

10 "Medical professional liability action." As defined by
11 section 103 of the act of March 20, 2002 (P.L.154, No.13), known
12 as the Medical Care Availability and Reduction of Error (Mcare)
13 Act.

14 "Relative." A patient's spouse, parent, stepparent,
15 grandparent, child, stepchild, grandchild, brother, sister,
16 half-brother, half-sister, spouse's parents or any person who
17 has a family-type relationship with a patient.

18 "Representative." A legal guardian, attorney, an agent
19 designated to make medical decisions under a power of attorney
20 over health care matters or a surrogate designated in an advance
21 directive for health care or any person recognized in law or
22 custom as a patient's agent.

23 Section 2. The addition of 42 Pa.C.S. § 6145 shall apply to
24 actions pending on or commencing after the effective date of
25 this section.

26 Section 3. This act shall take effect in 60 days.