

1                                   **JOINT RESOLUTION ON HOSPITAL CLAIMS**

2   **MANAGEMENT**

3   2010 GENERAL SESSION

4   STATE OF UTAH

5   **Chief Sponsor: Bradley G. Last**

6   Senate Sponsor: Stephen H. Urquhart

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8                   **LONG TITLE**

9                   **General Description:**

10                   This joint resolution amends a rule of evidence relating to expressions of apology in  
11                   medical malpractice actions.

12                   **Highlighted Provisions:**

13                   This resolution:

- 14                   ▶ amends Rule 409 of the Utah Rules of Evidence; and
- 15                   ▶ makes expressions of apology, sympathy, condolences, and the like inadmissible

16                   against the health care provider.

17                   **Special Clauses:**

18                   This resolution provides an immediate effective date.

19                   **Utah Rules of Evidence Affected:**

20                   AMENDS:

21                   **Rule 409**, Utah Rules of Evidence

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23                   *Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to*  
24                   *each of the two houses voting in favor thereof:*

25                   As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend  
26                   rules of procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of  
27                   all members of both houses of the Legislature:

28                   Section 1. **Rule 409**, Utah Rules of Evidence is amended to read:

29                   **Rule 409. Payment of medical and similar expenses; expressions of apology.**

30            (a) Evidence of furnishing or offering or promising to pay medical, hospital, or similar  
31 expenses occasioned by an injury is not admissible to prove liability for the injury.

32            (b) Statements, expressions, or conduct that express apology, sympathy,  
33 commiseration, condolence, compassion, or general sense of benevolence, or describe the  
34 sequence of events relating to the unanticipated outcome of medical care or the significance of  
35 events or both are not admissible against a health care provider or an employee of a health care  
36 provider to prove liability for an injury.

37            **Section 2. Effective date.**

38            This resolution takes effect upon approval by a constitutional two-thirds vote of all  
39 members elected to each house.