“I’m Sorry” Can Make a Difference

In long term and post-acute care settings, where healthcare professionals care for the oldest and most vulnerable individuals, and where accidents can and do occur; it is important to say “I’m sorry.” Such an expression of humility and compassion is statutorily protected and not an admission of liability in many states, thanks to the so called “I’m Sorry” laws.

During the 1990’s, in response to trends in increased negligence and malpractice lawsuits and increased malpractice insurance premiums, states began enacting “I’m Sorry” laws, which exclude certain statements, expressions or other evidence from being admissible in a lawsuit. Most of these laws protect only certain expressions of sympathy; but in a few states these laws also protect admissions of fault.

While these laws may help some healthcare professionals feel more comfortable about expressing empathy, they aren’t really necessary to avoid lawsuits. Instead, good patient-family-provider relationships, communication and open disclosure is the key to credibly responding to an unfortunate event. Full disclosure, in the event of a mishap should include:

* Immediately inform the patient and the family of the event
* Express concern and lay out “next steps” for correction
* Notify risk management staff, the insurance company and legal counsel
* Arrange to meet with the family and their legal counsel to fully explain the event and propose a plan to fix this problem and any future problems.[[1]](#footnote-1)

It is important to note that saying “I’m sorry,” and disclosing certain information, is not the same as admitting guilt.

Today only Alabama, Alaska, Arkansas, Illinois, Kansas, Kentucky, Minnesota, Mississippi, Nevada, New Jersey, New Mexico, New York and Rhode Island do not have “I’m Sorry” laws. Below is a list of all the states and the District of Columbia that do have “I’m Sorry” laws. Be sure to check with legal counsel about how to best comply with the law in your state before taking any action:

1. Arizona, [Ariz Rev Stat §12-2605](http://www.azleg.gov/ars/12/02605.htm)
2. California, [Cal Evid Code §1160](http://codes.lp.findlaw.com/cacode/EVID/1/d9/3/s1160)
3. Colorado, [Colo Rev Stat Ann §13-25-135](http://qups.org/med_errors.php?c=internal&id=148)
4. Connecticut, [Conn Gen Stat Ann §52-184d](http://law.justia.com/codes/connecticut/2012/title-52/chapter-899/section-52-184d)
5. Delaware, [Del Code Ann tit 10 §4318](http://codes.lp.findlaw.com/decode/10/43/I/4318)
6. District of Columbia, [DC Code §16-2841](http://law.justia.com/codes/district-of-columbia/2013/division-ii/title-16/chapter-28/subchapter-iii/section-16-2841)
7. Florida, [Fla Stat §90.4026](http://www.flsenate.gov/Laws/Statutes/2011/90.4026)
8. Georgia, [Ga Code Ann §24-3-37.1](http://law.justia.com/codes/georgia/2010/title-24/chapter-3/article-2/24-3-37-1)
9. Hawaii, [Haw Rev Stat §626-1, Rule 409.5](http://law.justia.com/codes/hawaii/2010/division4/title33/chapter626/626-1-409-5)
10. Idaho, [Idaho code Ann §9-207](http://legislature.idaho.gov/idstat/Title9/T9CH2SECT9-207.htm)
11. Indiana, [Ind Code §34-43.5-1-4](http://codes.lp.findlaw.com/incode/34/43.5/1/34-43.5-1-4)
12. Iowa, [Iowa Code §622.31](https://coolice.legis.iowa.gov/Cool-ICE/default.asp?category=billinfo&service=IowaCode&input=622.31)
13. Louisiana, [La Rev Stat §13:3715.5](http://www.legis.la.gov/Legis/Law.aspx?d=320825)
14. Maine, [Me Rev Stat Ann tit. 24 §2907](http://legislature.maine.gov/legis/statutes/24/title24sec2907.html)
15. Maryland, [Md Code Ann, Cts & Jud Proc §10-920](http://mgaleg.maryland.gov/webmga/frmStatutesText.aspx?pid=&tab=subject5&stab=&ys=2015RS&article=gcj&section=10-920&ext=html&session=2015RS)
16. Massachusetts, [Mass Gen Laws Ann ch 233 §79L](https://malegislature.gov/Laws/GeneralLaws/PartIII/TitleII/Chapter233/Section79L) and [Mass Gen Laws Ann ch 233 §23 D](https://malegislature.gov/Laws/GeneralLaws/PartIII/TitleII/Chapter233/Section23D)
17. Michigan, [Mich Comp Laws §600.2155](http://www.legislature.mi.gov/(S(yw1uvkclh3v1mxlqvrclpl25))/mileg.aspx?page=GetObject&objectname=mcl-600-2155)
18. Missouri, [Mo Rev Stat §538.229](http://www.moga.mo.gov/mostatutes/stathtml/53800002291.HTML)
19. Montana, [Mont Code Ann §26-1-814](http://codes.lp.findlaw.com/mtcode/26/1/8/26-1-814)
20. Nebraska, [Neb Rev Stat §27-1201](http://nebraskalegislature.gov/laws/statutes.php?statute=27-1201&print=true)
21. New Hampshire, [NH Rev Stat Ann §507-E:4](http://www.gencourt.state.nh.us/rsa/html/LII/507-E/507-E-4.htm)
22. North Carolina, [NC Gen Stat §8C-1, Rule 413](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_8C/GS_8C-413.html)
23. North Dakota, [ND Cent Code §31-04-12](http://law.justia.com/codes/north-dakota/2013/title-31/chapter-31-04)
24. Ohio, [Ohio Rev Code Ann §2317.43](http://codes.ohio.gov/orc/2317.43)
25. Oklahoma, [Okla Stat tit 63 §1-1708.1 H](http://law.justia.com/codes/oklahoma/2006/os63.html)
26. Oregon, [Or Rev Stat §677.082](http://www.oregonlaws.org/ors/677.082)
27. Pennsylvania, [Pa Act 79](http://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?yr=2013&sessInd=0&act=79)
28. South Carolina, [SC Code Ann §19-1-90](http://www.scstatehouse.gov/code/t19c001.php)
29. South Dakota, [SD Codified Laws §19-12-14](http://law.justia.com/codes/south-dakota/2012/title19/chapter12/19-12-14)
30. Tennessee, [Tenn Code Ann §409.1](https://www.tncourts.gov/rules/rules-evidence/4091)
31. Texas, [Tex Rev Civ Prac & Rem Code Ann §18.061](http://codes.lp.findlaw.com/txstatutes/CP/2/B/18/C/18.061)
32. Utah, [Utah Rules of Evidence, Rule 409](https://www.utcourts.gov/resources/rules/ure/0409.htm)
33. Vermont, [Vt Stat Ann tit 12 §1912](http://legislature.vermont.gov/statutes/section/12/081/01912)
34. Virginia, [Va Code Ann §8.01-52.1](https://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+8.01-52.1) and [Va Code Ann §8.01-581.20:1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+8.01-581.20C1)
35. Washington, [Wash Rev Code Ann §5.64.010](http://apps.leg.wa.gov/rcw/default.aspx?cite=5.64.010) and [Wash Rev Code Ann §5.66.010](http://apps.leg.wa.gov/rcw/default.aspx?cite=5.66.010)
36. West Virginia, [W Va Code §55-7-11a](http://law.justia.com/codes/west-virginia/2012/chapter55/article7/55-7-11a)
37. Wisconsin, [2013 Wis Act 242](http://docs.legis.wisconsin.gov/2013/related/acts/242)
38. Wyoming, [Wyo Stat Ann 1-1-130](http://law.justia.com/codes/wyoming/2011/title1/chapter1/section1-1-130)

Credit:

1. Nicole Saitta, MA, and Samuel D. Hodge, Jr., JD, "Efficacy of a Physician's Words of Empathy: An Overview of State Apology Laws," Journal Am. Osteopath Association 2012, 112(5)302-306
2. National Conference of State Legislatures website at <http://www.ncsl.org/research/financial-services-and-commerce/medical-professional-apologies-statutes.aspxNational>

1. Doug Wojcieszak, Founder of SorryWorks at <http://www.sorryworks.net/>. [↑](#footnote-ref-1)