MHA
MICHIGAN HEALTH & HOSPITAL ASSOCIATION
Advocating for hospitals and the patients they serve.

TO: Members of the Senate Judiciary Committee

FROM: Chris Mitchell, Director, Government Relations

DATE: January 25, 2011

SUBJECT: Senate Bill 53 – "I'm Sorry" Legislation

MHA Position: **SUPPORT**

The Michigan Health & Hospital Association (MHA) supports Senate Bill (SB) 53 sponsored by Senate James Marleau (R-Lake Orion). This bill, known as the "I'm Sorry" Legislation would add a new section to the Revised Judicature Act to allow a statement, prose or action to express sympathy, compassion or a general demonstration of benevolence regarding the pain, suffering or death of an individual, to the individual themselves or the family of the individual. If passed, HB 4259 would designate this demonstration as inadmissible as evidence of liability in proceedings for medical malpractice.

Physician apology laws are growing in popularity with approximately 35 states now having laws in place. The apology legislation has had noticeable effects with most states reporting reduced lawsuits and settlement and defense costs. In 1986, Massachusetts became the first state to pass an Act of Apology and Regret, while most other state legislative action on this issue has occurred since 2003.

Pinnacle Actuarial Resources, a national actuarial consulting firm, has reported that "I'm Sorry" programs led to a reduction in legal defense costs of 30% to 67%. This reduction translates into claims reduction savings of 3.5% to 5.9%. Encouraging physicians to apologize for undesirable outcomes during treatment has also lowered the cost to hospital administrations. Since 2002, the University of Michigan Health System has experienced a decline in annual attorney fees from $3 million to $1 million. The U of M Health System has also reported that medical liability lawsuits and notices of intent to sue have dropped from 262 filed in 2001, to approximately 130 per year. Efforts in several Kentucky hospitals have displayed similar results.

In addition to the monetary and legal benefits, the MHA believes "I'm Sorry" laws promote communication, reporting and investigation of errors, thus presenting opportunities to catch and prevent mistakes in the future. **We urge you to support SB 53 and permit a statement or action to express sympathy to individuals and their families.**

Please contact Chris Mitchell (cmitchell@mha.org) at (517) 703-8622 at the MHA if you have further questions on this issue.

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