

Re: Apology Bill

I support the Apology Bill and suggest it explicitly spell out that making an apology by healthcare practitioners including but not limited to doctors, nurses, therapists, and healthcare institutions in a healthcare or medical dispute is not admissible in applicable proceedings as evidence for determining fault, liability or any other issue in connection with the matter to the prejudice of the person.

Parties involved in alleged adverse healthcare or medical events face a lot of pressure, both in terms of time and resources, be they healthcare practitioners, alleged victims, or their family members. For example, it was reported that health practitioners involved in healthcare litigation may suffer from psychological symptoms like depression and pervasive anger (Poythress and Brodsky 1992, p. 157). In fact, claimants in such disputes may not make claims for money, but for other considerations such as principles (Relis 2007, p. 743), explanations, or apologies (Vincent, Young and Phillips 1994, p. 1609). They may only want a chance to ventilate their grievances, receive explanations, and/or hear apologies from other parties (Health Professions Council 2011, p. 21). In the UK, for instance, the study of Vincent et al. (1994) involved 227 claimants in clinical negligence litigation and they found that more than 70% of them brought their cases to court not only because of the original injury but also owing to insensitive handling and poor communication after the injury – only less than 15% satisfied explanations given to them and 41.4% would not make their claims if the defendants could have done some action after the original injury incident, where they considered explanation and apology the most important and financial compensation was only ranked the third. Other studies have also pointed out similarly that if doctors gave apologies, the opportunity of having clinical negligence legal disputes may be reduced (Jesson and Knapp 2009, p. 1411).

It is my belief that excluding healthcare practitioners' apologies from evidence in litigation will enhance the communications of the parties in dispute, allow healthcare practitioners to truly express their sincere care towards other parties where they may be at present advised by lawyers not to say "sorry", increase the chance of settling potential disputes, and let parties in a dispute go back to normal living earlier if they do not need to spend time and energy in making complaints and/or going through adversarial procedures.

There are others who see otherwise and may not agree to my suggestion above, e.g. Jesson and Knapp (2009) and Irvine (2013). The Bills Committee of the Legislative Council may wish to deliberate this issue thoroughly.

References

Health Professions Council, 'Alternative mechanisms for resolving disputes: a literature review' (2011). < [http://www.hpc-uk.org/assets/documents/10003409Alternative\\_mechanisms\\_for\\_resolving\\_disputes.pdf](http://www.hpc-uk.org/assets/documents/10003409Alternative_mechanisms_for_resolving_disputes.pdf) > accessed 27 April 2017.

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