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3 **Title: Michigan Physician "Apology" Law**  
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5 **Introduced by: Shruti Sevak, Medical Student Section**  
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7 **Original Authors: Misty Stafford, Dana Irrer & Alisan Fathalizadeh, MSU**  
8 **College of Human Medicine**  
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10 **Referred to: Reference Committee B**  
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12 **House Action: Adopted as Amended**  
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15 **Whereas, there are currently 36 states that have passed legislation that**  
16 **protects physicians who apologize to patients for errors/adverse events, and**  
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18 **Whereas, there are five states that have passed mandatory disclosure**  
19 **laws, and**  
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21 **Whereas, there are eight states with apology laws that protect the**  
22 **admissions of fault as well as expressions of sympathy, and**  
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24 **Whereas, the implementation of medical disclosure laws would**  
25 **encourage more physicians to remain and practice in the state of Michigan,**  
26 **and**  
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28 **Whereas, the American Medical Association has taken the stance that**  
29 **"the physician is ethically required to inform the patient of all the facts**  
30 **necessary to ensure understanding of what has occurred and that liability**  
31 **concerns should not impede disclosure", and**  
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33 **Whereas, physicians are often reluctant to claim responsibility for an**  
34 **adverse event or express sympathy for fear of admission of liability and**  
35 **malpractice litigation, and**  
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37 **Whereas, a physician who apologizes may actually violate some**  
38 **conditions in certain malpractice insurance policies, leaving the physician to**  
39 **pay for judgments and fees, and**  
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41 **Whereas, research has demonstrated that apologies for medical errors**  
42 **result in fewer law suits, less money spent on court cases, and an increase in**  
43 **trust in the health care system, and**  
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45 **Whereas, ethicists and physicians agree that disclosure and apology**  
46 **are ethically indicated, and**

47           Whereas, legal counsel advised the MSMS Board in 2002 that there was  
48 evidence that indicates malpractice cases may be reduced by as much as one-  
49 third if physicians were to be allowed to apologize or express sympathy, and  
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51           Whereas, the reduction in litigation costs associated with the  
52 implementation of medical disclosure laws leaves more health care resources  
53 to be promoted for the delivery of care, and  
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55           Whereas, protected voluntary incident reporting systems have led to  
56 reduced errors in other industries, and  
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58           Whereas, a 2006 study by Walling and Ackerman states that since  
59 initiating such a program in 2002, the University of Michigan Health System's  
60 attorney fees have dropped from \$3 million to \$1 million annually and cut  
61 litigation costs in half and new claims have fallen by more than 40 percent,  
62 and  
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64           Whereas, after the Lexington Veterans Administration Medical Center  
65 adopted a full disclosure and fair-settlement approach, the hospital had more  
66 settled claims, fewer plaintiffs' verdicts, and reduced payments per claim, thus  
67 leading to the adoption of the full-disclosure policy across all hospitals in the  
68 Veterans Administration System, and  
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70           Whereas, in 2005, Senators Hillary Rodham Clinton (D, New York) and  
71 Barack Obama (D, Illinois) proposed the National Medical Error Disclosure and  
72 Compensation (MEDiC) Act that emphasized open disclosure of medical errors  
73 to patients, apology and early compensation, and a comprehensive analysis of  
74 the events on a nationwide basis, and  
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76           Whereas, a 2006 article by Clinton and Obama states that malpractice  
77 suits are more likely to occur when patients learn from an outside source of an  
78 unexpected adverse event in medical practice or if the revelation of such an  
79 event is not expressed with empathy from the physician, and  
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81           Whereas, there is evidence that patients and their families benefit from a  
82 physician having the unrestricted ability to apologize when appropriate such  
83 that the patient is able to hear about a possible medical error from the  
84 physician first rather than a second source, which is more frequently  
85 associated with patient's initiating legal action, and  
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87           Whereas, full disclosure increases patient satisfaction, trust, and the  
88 likelihood of a positive emotional experience and reduces the likelihood of  
89 disrupting the patient-physician relationship, and  
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91           Whereas, MSMS has passed Resolution 13-01A to seek legislation in  
92 Michigan that would allow physicians the ability to express sympathy without  
93 an admission of liability and no progress has been made to date; therefore be  
94 it

95           **RESOLVED: That MSMS support the passage of legislation in Michigan**  
96 **that would allow physicians to apologize and express sympathy for errors and**  
97 **adverse events without having such apology used against them in a**  
98 **malpractice suit or as evidence of liability in unexpected adverse events.**  
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101 **WAYS AND MEANS COMMITTEE FISCAL NOTE: NONE**