I.R.E. 414. Inadmissibility of Expressions of Condolence or Sympathy.

Idaho Rules of Evidence Rule 414. Inadmissibility of Expressions of Condolence or Sympathy.

(1) In any civil action brought by or on behalf of a patient who experiences an unanticipated outcome of medical care, or in any arbitration proceeding related to, or in lieu of, such civil action, all statements and affirmations, whether in writing or oral, and all gestures or conduct expressing sympathy, commiseration, condolence, or compassion, made by a health care professional or an employee of a health care professional to a patient or family member or friend of a patient, which relate to the care provided to the patient, or which relate to the discomfort, pain, suffering, injury, or death of the patient as the result of the unanticipated outcome of medical care shall be inadmissible as evidence of an admission of liability or on the issue of damages.

(2) Notwithstanding subsection (1) of this rule, a statement of fault which is otherwise admissible and is part of or in addition to a statement identified in subsection (1) shall be admissible.

(3) For purposes of this rule:

(a) "Health care professional" means any person licensed, certified, or registered by the state of Idaho to deliver health care and any clinic, hospital, nursing home, ambulatory surgical center or other place in which health care is provided. The term also includes any professional corporation or other professional entity comprised of such health care professionals as permitted by the laws of Idaho.

(b) "Unanticipated outcome" means the outcome of a medical treatment or procedure that differs from an expected, hoped for or desired result.

(Adopted March 21, 2007, effective July 1, 2007.)

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