Rule 409. Payment of Medical and Similar Expenses

Evidence of furnishing or offering or promising to pay medical, hospital, or similar expenses occasioned by an injury is not admissible to prove liability for the injury.

Committee Comment - 1977

The rule is based on many of the same considerations that give rise to Rule 408. Unlike Rule 408 there is no requirement that there be an actual dispute at the time the medical payments are made or offered. In addition, the rule does not preclude the admissibility of statements that accompany the payments or offers to pay. Consistent with Rule 408 the rule only precludes such an offer of evidence when offered to prove liability for the injury. Subject to the provisions of Rules 401-403 such evidence may be admissible to prove other issues of consequence to the litigation.