ASSEMBLY SUBSTITUTE AMENDMENT 1, TO 2005 ASSEMBLY BILL 1021

March 2, 2006 – Offered by Representative Staskunas.

AN ACT *to create* 904.14 of the statutes; **relating to:** inadmissibility of a statement of apology or sympathy by a health care provider.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Section 1. 904.14 of the statutes is created to read:

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- 904.14 Inadmissibility of statement of sympathy by health care
 provider. (1) In this section:
 - (a) "Health care provider" has the meaning given in s. 153.01 (4t).
 - (b) "Relative" means a spouse, parent, grandparent, stepmother, stepfather, child, grandchild, brother, sister, half brother, half sister, adopted child, or spouse's parents. This relationship may be by blood, marriage, or adoption.
 - (c) "Representative" means a legal guardian, attorney, person designated to make decisions on behalf of a patient under a durable power of attorney or health care proxy, or any person recognized in law or custom as an agent for the plaintiff.

(2) In any medical liability action, any and all statements, affirmations, gestures, or conduct expressing apology, sympathy, commiseration, condolence, compassion, or a general sense of benevolence which are made by a health care provider or an employee of a health care provider to the plaintiff, a relative of the plaintiff, or a representative of the plaintiff and which relate solely to discomfort, pain, suffering, injury, or death as the result of the unanticipated outcome of the medical care shall be inadmissible as evidence of an admission of liability or as evidence of an admission against interest.

SECTION 2. Initial applicability.

(1) This act first applies to statements, writings, or benevolent gestures that occur on the effective date of this subsection.

12 (END)