

**2013 Assembly Bill 120 (LRB -0119)**

An Act to create 904.14 of the statutes; relating to: inadmissibility of a statement of apology or condolence by a health care provider.

**2013**

04-04.	A.	Introduced by Representatives <b>Severson, Nygren, Bernier, Bies, Brooks, Czaja, Honadel, Jacque, Kaufert, Kestell, Kleefisch, Knodl, LeMahieu, Marklein, Murphy, Nass, A. Ott, Petersen, Pridemore, Schraa, Stone, Strachota, Titti, Craig and Ballweg</b> ; cosponsored by Senators <b>Vukmir, Cowles and Farrow</b> .	101
04-04.	A.	Read first time and referred to Committee on Judiciary	101
05-13.	A.	Withdrawn from committee on Judiciary and referred to committee on Health pursuant to Assembly Rule 42 (3)(c)	165
05-29.	A.	Public hearing held	
05-31.	A.	Assembly Amendment 1 offered by Representative Severson ( <b>LRB a0502</b> )	194
06-05.	A.	Executive action taken	
06-20.	A.	Report Assembly Amendment 1 adoption recommended by Committee on Health, Ayes 7, Noes 4	244
06-20.	A.	Report passage as amended recommended by Committee on Health, Ayes 7, Noes 4	244
06-20.	A.	Referred to Committee on Rules	244

**2014**

02-13.	A.	Placed on calendar 2-18-2014 by Committee on Rules	
02-18.	A.	Rules suspended to withdraw from calendar and take up	663
02-18.	A.	Read a second time	663
02-18.	A.	Assembly Substitute Amendment 1 offered by Representatives Pasch, Wright, C. Taylor, Wachs, Doyle, Hesselbein, Shankland, Genrich, Sargent and Bernard Schaber ( <b>LRB s0304</b> )	663
02-18.	A.	Assembly Substitute Amendment 1 laid on table, Ayes 58, Noes 38	663
02-18.	A.	<b>Assembly Amendment 1 adopted</b>	664
02-18.	A.	Ordered to a third reading	664
02-18.	A.	Rules suspended	664
02-18.	A.	Read a third time and <b>passed</b>	664
02-18.	A.	Representatives Petryk and Kulp added as coauthors	664
02-18.	A.	Ordered immediately messaged	664
02-19.	S.	Received from Assembly	694
02-19.	S.	Read first time and referred to committee on Health and Human Services	695
03-06.	S.	Public hearing held	
03-07.	S.	Executive action taken	
03-07.	S.	Report concurrence recommended by Committee on Health and Human Services, Ayes 3, Noes 2	742
03-07.	S.	Available for scheduling	
03-31.	S.	Placed on calendar 4-1-2014 pursuant to Senate Rule 18(1)	822
04-01.	S.	Senate Substitute Amendment 1 offered by Senators Risser and Grothman ( <b>LRB s0404</b> )	
04-01.	S.	Read a second time	
04-01.	S.	Senate Substitute Amendment 1 laid on table, Ayes 19, Noes 14	
04-01.	S.	Senate Amendment 1 offered by Senator Risser ( <b>LRB f0008</b> )	
04-01.	S.	Senate Amendment 1 laid on table, Ayes 19, Noes 14	
04-01.	S.	Ordered to a third reading	
04-01.	S.	Rules suspended	
04-01.	S.	Read a third time and <b>concurred in</b> , Ayes 19, Noes 14	
04-01.	S.	Ordered immediately messaged	
04-02.	A.	Received from Senate concurred in	

SB

**2013**  
**ENROLLED BILL**

13en A B-120

**ADOPTED DOCUMENTS:**

**Orig**     **Engr**     **SubAmdt**

13-0119,1

Amendments to above (if none, write "NONE"): AA1 — 20502/1

Corrections - show date (if none, write "NONE"): None

Topic Rel

4-2-14      JR Miller  
Date                      Enrolling Drafter



## 2013 ASSEMBLY BILL 120

April 4, 2013 – Introduced by Representatives SEVERSON, NYGREN, BERNIER, BIES, BROOKS, CZAJA, HONADEL, JACQUE, KAUFERT, KESTELL, KLEEFISCH, KNODL, LEMAHIEU, MARKLEIN, MURPHY, NASS, A. OTT, PETERSEN, PRIDEMORE, SCHRAA, STONE, STRACHOTA, TITTL, CRAIG and BALLWEG, cosponsored by Senators VUKMIR, COWLES and FARROW. Referred to Committee on Judiciary.

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

---

### *Analysis by the Legislative Reference Bureau*

Under current law, certain types of evidence are not allowed to be admitted in a court action for various policy reasons. For example, evidence of remedial measures taken after an event occurred that would have made the event less likely is not admissible to prove negligence or culpable conduct in connection with the event. As another example, no written or oral communication relating to a dispute in mediation is admissible or subject to discovery in any judicial proceeding or administrative action.

This bill provides that a statement or conduct of a health care provider that expresses apology, benevolence, compassion, condolence, fault, liability, remorse, responsibility, or sympathy to a patient or patient's relative or representative is not admissible into evidence or subject to discovery in any civil action or administrative hearing regarding the health care provider as evidence of liability or as an admission against interest.

---

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

3             **SECTION 1.** 904.14 of the statutes is created to read:

**ASSEMBLY BILL 120**

1 **904.14 Inadmissibility of statement by health care provider of apology**

2 **or condolence. (1) In this section:**

3 (a) "Health care provider" has the meaning given in s. 146.81 (1) and includes  
4 an ambulatory surgery center, an adult family home as defined in s. 50.01 (1), and  
5 a residential care apartment complex, as defined in s. 50.01 (6d), that is certified or  
6 registered by the department of health services.

7 (b) "Relative" has the meaning given in s. 106.50 (1m) (q).

8 (2) A statement, a gesture, or the conduct of a health care provider, or a health  
9 care provider's employee or agent, that expresses apology, benevolence, compassion,  
10 condolence, fault, liability, remorse, responsibility, or sympathy to a patient or to his  
11 or her relative or representative is not admissible into evidence or subject to  
12 discovery in any civil action or administrative hearing regarding the health care  
13 provider as evidence of liability or as an admission against interest.

INS AA 1

14 **SECTION 2. Initial applicability.**

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

17 (END)



**ASSEMBLY AMENDMENT 1,  
TO ASSEMBLY BILL 120**

May 31, 2013 – Offered by Representative SEVERSON.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 8: delete lines 8 to 13 and substitute:

3 **(2)** A statement, a gesture, or the conduct of a health care provider, or a health  
4 care provider's employee or agent, that satisfies all of the following is not admissible  
5 into evidence in any civil action, administrative hearing, disciplinary proceeding,  
6 mediation, or arbitration regarding the health care provider as evidence of liability  
7 or as an admission against interest:

8 (a) The statement, gesture, or conduct is made or occurs before the  
9 commencement of the civil action, administrative hearing, disciplinary proceeding,  
10 mediation, or arbitration.

AA1

1 (b) The statement, gesture, or conduct expresses apology, benevolence,  
2 compassion, condolence, fault, liability, remorse, responsibility, or sympathy to a  
3 patient or his or her relative or representative.

4 (END)