

2013 DRAFTING REQUEST

Assembly Amendment (AA-AB120)

Received: 5/24/2013 Received By: tkuczens
Wanted: As time permits Same as LRB:
For: Erik Severson (608) 267-2365 By/Representing: AJ Scholz
May Contact: Drafter: tkuczens
Subject: Courts - evidence Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Rep.Severson@legis.wisconsin.gov
Carbon copy (CC) to: tracy.kuczenski@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Prohibit statements made before commencement of certain actions from being admissible

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tkuczens 5/24/2013	jdye 5/24/2013		_____			
/1			rschluet 5/24/2013	_____	lparisi 5/24/2013	lparisi 5/24/2013	

FE Sent For:

<END>

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/?	tkuczens			_____			

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<END>

Kuczenski, Tracy

From: Scholz, AJ
Sent: Friday, May 17, 2013 10:10 AM
To: Kuczenski, Tracy
Subject: Amendment to LRB 0119 - AB 120

Hello Tracy,

I was wondering if you could put together an additional preliminary amendment for LRB 0119 – AB 120. I appreciate the other one you did but I want to have two for the Representative to use as a comparison before deciding what course of action to take.

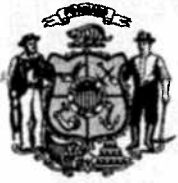
For this one we would want to draw a line at the filing of the action, stating that all qualifying statements made before a suit is filed are inadmissible. For the draft, I think it would look something like this:

(2) A statement, gesture, or the conduct of a health care provider, or a health care provider's employee or agent, that expresses apology, benevolence, compassion, condolence, fault, liability, remorse, responsibility, or sympathy to a patient or to his or her relative or representative, made prior to the commencement of a medical professional liability action, liability action, administrative action, mediation or arbitration, 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.

My only question for you is would this allow a lawyer to ask, did you make a statement saying, "I apologize for....". Would we need to keep the subject to discovery portion that I highlighted in red above in in order to cover that scenario?

Thanks for your help

AJ Scholz
Office of Representative Erik Severson
608-267-2365
221 North, State Capitol



~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

ASSEMBLY AMENDMENT,
TO ASSEMBLY BILL 120

5/24/13 Today or by Tuesday

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.[✓]

