

## 2013 DRAFTING REQUEST

### Senate Substitute Amendment (SSA-AB120)

Received: 4/1/2014 Received By: tkuczens  
Wanted: As time permits Same as LRB:  
For: Chris Larson (608) 266-7505 By/Representing: Sarah Barry  
May Contact: Drafter: tkuczens  
Subject: Courts - immunity liability Addl. Drafters:  
Extra Copies:

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

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#### Pre Topic:

No specific pre topic given

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#### Topic:

Inadmissibility of statement of health care provider

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#### Instructions:

See attached

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#### 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>
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FE Sent For:

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/?	tkuczens	1/4 jld	jld	 4/1/14			

FE Sent For:

<END>

**Kuczenski, Tracy**

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**From:** Barry, Sarah  
**Sent:** Monday, March 31, 2014 5:01 PM  
**To:** Kuczenski, Tracy  
**Subject:** Drafting Request re: AB 120

**Importance:** High

Tracy,

Earlier this month I asked you to draft a substitute amendment to AB 120 to match the one offered by Assembly Dems on the floor. Could you draft a new substitute that includes LRBS0372/1 AND the amendment that the Assembly adopted on the floor: [https://docs.legis.wisconsin.gov/2013/related/amendments/ab120/aa1\\_ab120](https://docs.legis.wisconsin.gov/2013/related/amendments/ab120/aa1_ab120)

In other words, we would like our sub to look identical to the final bill except for the removal of the words liability, fault and responsibility.

Let me know if that works. We will need it by 10:00 AM tomorrow.

Thank you,

**Sarah Barry**  
Legislative Director  
Office of Senator Chris Larson  
Senate Democratic Leader  
206 South, State Capitol  
Office: 608-266-7505  
Cell: 608-216-4355



State of Wisconsin  
2013 - 2014 LEGISLATURE

50404/1

LRB-0119/1  
TKK/ldrs  
RANIR  
insert  
keep

SENATE SUBSTITUTE AMENDMENT,

2013 ASSEMBLY BILL 120

TO

4/1/14  
Now

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.

LX

Regen

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:





State of Wisconsin  
2013 - 2014 LEGISLATURE



LRBa0502/1  
TKK-jld:rs

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

*Inser 2-8*

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 *e* (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.



INS 2-8  
cont

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)

(end ins)