



2009 ASSEMBLY BILL 710

February 9, 2010 – Introduced by Representatives BENEDICT, NYGREN, JORGENSEN, VOS, BERCEAU, VAN ROY, A. OTT, KNODL, ZEPNICK, TOWNSEND, BALLWEG, STEINBRINK, BIES and PASCH, cosponsored by Senators TAYLOR, LEHMAN, SCHULTZ, HOLPERIN, VINEHOUT, DARLING and OLSEN. Referred to Committee on Judiciary and Ethics.

1 **AN ACT** *to create* 904.14 of the statutes; **relating to:** inadmissibility of a
2 statement, a gesture, or conduct expressing apology or condolence by a health
3 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 measures taken after damage occurred that would have made the damage less likely is not admissible to prove negligence or culpable conduct in connection with the damage. 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, a gesture, or conduct of a health care provider that expresses apology, condolence, compassion, benevolence, 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:

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

ASSEMBLY BILL 710**SECTION 1****904.14 Inadmissibility of statement by health care provider of apology**

or condolence. (1) In this section:

(a) “Health care provider” has the meaning given in s. 146.81 (1).

(b) “Relative” has the meaning given in s. 146.34 (1) (j).

(2) A statement, a gesture, or conduct of a health care provider or a health care provider’s employee or agent, that expresses apology, benevolence, compassion, condolence, or sympathy to a patient or to his or her 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.

SECTION 2. Initial applicability.

(1) This act first applies to a statement, a gesture, or conduct that occurs on the effective date of this subsection.

(END)