



2011 SENATE BILL 103

May 24, 2011 - Introduced by Senators GALLOWAY, COWLES, DARLING, HOLPERIN, SCHULTZ and WANGGAARD, cosponsored by Representatives SEVERSON, NYGREN, STRACHOTA, KAUFERT, BEWLEY, BIES, BROOKS, JACQUE, RIPP, SPANBAUER, TAUCHEN and THIESFELDT. Referred to Committee on Judiciary, Utilities, Commerce, and Government Operations.

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:

SENATE BILL 103**SECTION 1****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.

5 (b) "Relative" has the meaning given in s. 146.34 (1) (j).

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

12 SECTION 2. Initial applicability.

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

15 (END)