



## 93RD GENERAL ASSEMBLY

### State of Illinois

### 2003 and 2004

Introduced 2/6/2004, by Tom Cross

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/8-1901

from Ch. 110, par. 8-1901

Amends the Code of Civil Procedure. Provides that any expression of grief, apology, remedial action, or explanation provided by a health care provider to a patient, the patient's family, or the patient's legal representative about an inadequate or unanticipated treatment or care outcome that is made within 72 hours of when the provider knew or should have known of the potential cause of such outcome is not admissible as evidence, nor discoverable in any action of any kind in any court or before any tribunal, board, agency, or person. Provides that the disclosure of any such information, whether proper or improper, shall not waive or have any effect upon its confidentiality, nondiscoverability, or inadmissibility. Provides that any person who discloses the information for the purpose of bringing a claim for damages against a provider commits a Class A misdemeanor.

LRB093 15735 LCB 46426 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning civil procedure.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by  
5 changing Section 8-1901 as follows:

6 (735 ILCS 5/8-1901) (from Ch. 110, par. 8-1901)

7 Sec. 8-1901. Admission of liability - Effect.

8 (a) The providing of, or payment for, medical, surgical,  
9 hospital, or rehabilitation services, facilities, or equipment  
10 by or on behalf of any person, or the offer to provide, or pay  
11 for, any one or more of the foregoing, shall not be construed  
12 as an admission of any liability by such person or persons.  
13 Testimony, writings, records, reports or information with  
14 respect to the foregoing shall not be admissible in evidence as  
15 an admission of any liability in any action of any kind in any  
16 court or before any commission, administrative agency, or other  
17 tribunal in this State, except at the instance of the person or  
18 persons so making any such provision, payment or offer.

19 (b) Any expression of grief, apology, remedial action, or  
20 explanation provided by a health care provider, including, but  
21 not limited to, a statement that the health care provider is  
22 "sorry" for the outcome to a patient, the patient's family, or  
23 the patient's legal representative about an inadequate or  
24 unanticipated treatment or care outcome that is provided within  
25 72 hours of when the provider knew or should have known of the  
26 potential cause of such outcome shall not be admissible as  
27 evidence, nor discoverable in any action of any kind in any  
28 court or before any tribunal, board, agency, or person. The  
29 disclosure of any such information, whether proper or improper,  
30 shall not waive or have any effect upon its confidentiality,  
31 nondiscoverability, or inadmissibility. The disclosure of the  
32 information for the purpose of bringing a claim for damages

1 against a provider is unlawful and any person convicted of  
2 violating any of the provisions of this Section is guilty of a  
3 Class A misdemeanor. As used in this Section, a "health care  
4 provider" is any hospital, nursing home or other facility, or  
5 employee or agent thereof, a physician, or other licensed  
6 health care professional. Nothing in this Section precludes the  
7 discovery or admissibility of any other facts regarding the  
8 patient's treatment or outcome as otherwise permitted by law.

9 (Source: P.A. 82-280.)