



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/5/2004, by Kirk W. Dillard

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 15733 LCB 46427 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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
30 improper, shall not waive or have any effect upon its
31 confidentiality, nondiscoverability, or inadmissibility. The
32 disclosure of the information for the purpose of bringing a

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

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