

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 373

Introduced by Schimek, 27; Adams, 24; Johnson, 37; Nelson, 6;
Pedersen, 39; Wightman, 36;

Read first time January 12, 2007

Committee: Judiciary

A BILL

- 1 FOR AN ACT relating to public health and welfare; to provide for
- 2 inadmissibility of apologies regarding medical care as
- 3 evidence; and to define terms.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) In any civil action brought by an alleged
 2 victim of an unanticipated outcome of medical care, or in any
 3 arbitration proceeding related to such civil action, any and
 4 all statements, affirmations, gestures, or conduct expressing
 5 apology, fault, sympathy, commiseration, condolence, compassion,
 6 or a general sense of benevolence which are made by a health care
 7 provider or an employee of a health care provider to the alleged
 8 victim, a relative of the alleged victim, or a representative
 9 of the alleged victim and which relate to the discomfort, pain,
 10 suffering, injury, or death of the alleged victim as a result of
 11 the unanticipated outcome of medical care shall be inadmissible
 12 as evidence of an admission of liability or as evidence of an
 13 admission against interest.

14 (2) For purposes of this section, unless the context
 15 otherwise requires:

16 (a) Health care provider means any person licensed or
 17 certified by the State of Nebraska to deliver health care under
 18 the Uniform Licensing Law and any health care facility licensed
 19 under the Health Care Facility Licensure Act. Health care provider
 20 includes any professional corporation or other professional entity
 21 comprised of such health care providers;

22 (b) Relative means a patient's spouse, parent,
 23 grandparent, stepfather, stepmother, child, grandchild, brother,
 24 sister, stepbrother, stepsister, half brother, half sister, or
 25 spouse's parents. Relative includes persons related to the patient

1 through adoptive relationships. Relative also includes any person
2 who has a family-type relationship with the patient;

3 (c) Representative means a legal guardian, attorney,
4 person designated to make health care decisions on behalf of a
5 patient under a power of attorney, or any person recognized in law
6 or custom as a patient's agent; and

7 (d) Unanticipated outcome means the outcome of a medical
8 treatment or procedure that differs from the expected result.