SENATE BILL No. 32

By Committee on Public Health and Welfare

AN ACT concerning evidence in civil actions; expression of apology, sympathy, compassion or benevolent acts by health care providers not admissible as evidence of an admission of liability or as evidence of an admission against interest.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) No oral or written statements or notations, affirmations, gestures, conduct or benevolent acts including waiver of charges for medical care provided, expressing apology, fault, sympathy, compassion, condolence or compassion which are made by a health care provider or an employee of a health care provider to a patient, a relative of the patient or a representative of the patient and which relate to the discomfort, pain, suffering, injury or death of the patient as the result of the unanticipated outcome of medical care shall be admissible as evidence of an admission of liability or as evidence of an admission against interest.

(b) As used in this section:

(1) "Health care provider" has the meaning prescribed in K.S.A. 65-4915, and amendments thereto.

(2) "Relative" means a patient's spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half-brother, half-sister or spouse's parents. The term includes such relationships that are created as a result of adoption and any person who has a family-type relationship with a patient.

(3) "Representative" means a legal guardian, attorney, person designated to make decisions on behalf of a patient under a medical power of attorney or any person recognized in law or custom as a patient's agent.

(4) "Unanticipated outcome" means the outcome that differs from the anticipated outcome of a treatment or procedure.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.