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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 468

February 2, 2009

Authored by Abeler and Lesch

The bill was read for the first time and referred to the Committee on Civil Justice

1.1 A bill for an act
1.2 relating to civil actions; regulating medical liability actions; providing for the
1.3 inadmissibility of certain health care provider statements, gestures, or conduct;
1.4 proposing coding for new law in Minnesota Statutes, chapter 604.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[604.111] MEDICAL LIABILITY; USE OF PROVIDER'S APOLOGY.**

1.7 Subdivision 1. **Apology not admission; medical liability.** In any civil action
1.8 brought by an alleged victim of an unanticipated outcome of medical care, or in any
1.9 arbitration proceeding related to that civil action, statements, affirmations, gestures, or
1.10 conduct expressing apology, sympathy, commiseration, condolence, compassion, or a
1.11 general sense of benevolence, made by a health care provider or an employee of a health
1.12 care provider to the alleged victim, a relative of the alleged victim, or a representative of
1.13 the alleged victim and which relate to the discomfort, pain, suffering, injury, or death of
1.14 the alleged victim as a result of the unanticipated outcome of medical care is inadmissible
1.15 as evidence of an admission of liability or as evidence of an admission against interest or
1.16 as an excited utterance.

1.17 Subd. 2. **Definitions.** For purposes of this section, unless the context otherwise
1.18 requires:

1.19 (a) "Health care provider" means any person licensed, certified, or registered in this
1.20 state to deliver health care and any clinic, pharmacy, hospital, or other health facility
1.21 located in this state. The term includes any professional corporation or other professional
1.22 entity comprised of such health care providers as permitted by the laws of this state.

1.23 (b) "Relative" means a victim's spouse, parent, grandparent, stepfather, stepmother,
1.24 child, grandchild, brother, sister, half-brother, half-sister, or spouse's parents. The term

2.1 includes those relationships if created as a result of adoption. In addition, relative includes
2.2 any person who is a member of the victim's household.

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

2.6 (d) "Unanticipated outcome" means the outcome of a medical treatment or procedure
2.7 that differs from an expected result.

2.8 **Sec. 2. EFFECTIVE DATE; APPLICATION.**

2.9 Section 1 is effective January 1, 2010, and applies to causes of action arising on or
2.10 after that date.