SENATE BILL NO. 2182

AN ACT TO PROVIDE THAT CERTAIN STATEMENTS BY HEALTH CARE PROVIDERS OR EMPLOYEES REGARDING THE UNANTICIPATED OUTCOME OF MEDICAL CARE ARE INADMISSIBLE IN ANY CIVIL ACTION BY A RELATIVE OR REPRESENTATIVE OF THE PATIENT; TO PROVIDE DEFINITIONS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) In any civil action brought by an alleged victim of an unanticipated outcome of medical care, or in any arbitration proceeding related to such civil action, any and all statements, affirmations, gestures, or conduct expressing apology, sympathy, commiseration, condolence, compassion, or a general sense of benevolence which are made by a health care provider or an employee of a health care provider to the alleged victim, a relative of the alleged victim, or a representative of the alleged victim and which relate to the discomfort, pain, suffering, injury, or death of the alleged victim as a result of the unanticipated outcome of medical care shall be inadmissible as evidence of an admission of liability or as evidence of an admission against interest. A statement of fault which is otherwise admissible and is part of or in addition to any such communication shall be admissible.

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

(a) "Health care provider" means any person licensed or certified by a licensing agency of the State of Mississippi to deliver health care and any health care facility licensed by the State Department of Health. Health care provider includes any professional corporation or other professional entity comprised of
such health care providers, and any person who has any financial
or indirect interest in any such health care provider.

(b) "Relative" means a patient's spouse, parent,
grandparent, stepfather, stepmother, child, grandchild, brother,
sister, stepbrother, stepsister, half brother, half sister, or
spouse's parents. Relative includes persons related to the
patient through adoptive relationships. Relative also includes
any person who has a family-type relationship with the patient.

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

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

SECTION 2. This act shall take effect and be in force from
and after July 1, 2012.