To: Judiciary, Division A

MISSISSIPPI LEGISLATURE
REGULAR SESSION 2012
By: Senator(s) Wiggins

To: Judiciary, Division A

SENATE BILL NO. 2389

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, or in any arbitration proceeding related to a civil action, any and all statements, affirmations, gestures, or conduct expressing fault, 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 a patient, a relative of the patient, or a representative of the patient which relate to the discomfort, pain, suffering, injury, or death of the patient as a result of any unanticipated outcome of medical care shall be inadmissible as evidence of an admission of liability or as evidence of an admission against interest.

(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 optimal result that could have been expected.

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