

By: Senator(s) Wiggins

To: Judiciary, Division A

SENATE BILL NO. 2389

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

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

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

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

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

27 (b) "Relative" means a patient's spouse, parent,  
28 grandparent, stepfather, stepmother, child, grandchild, brother,



29 sister, stepbrother, stepsister, half brother, half sister, or  
30 spouse's parents. Relative includes persons related to the  
31 patient through adoptive relationships. Relative also includes  
32 any person who has a family-type relationship with the patient.

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

37 (d) "Unanticipated outcome" means the outcome of a  
38 medical treatment or procedure that differs from the optimal  
39 result that could have been expected.

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

