

CHAPTER 126

HEALTH AND ENVIRONMENT

HOUSE BILL 03-1232

BY REPRESENTATIVE(S) Stafford, Spradley, Frangas, Johnson R., Mitchell, Spence, and Stengel;
also SENATOR(S) Johnson S.

AN ACT

**CONCERNING EVIDENCE OF ADMISSIONS IN CIVIL PROCEEDINGS RELATED TO THE PROVISION OF
MEDICAL CARE.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 25 of title 13, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

13-25-135. Evidence of admissions - civil proceedings - unanticipated outcomes - medical care. (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, FAULT, 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 THE 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.

(2) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "HEALTH CARE PROVIDER" MEANS ANY PERSON LICENSED OR CERTIFIED BY THE STATE OF COLORADO TO DELIVER HEALTH CARE AND ANY CLINIC, HEALTH DISPENSARY, OR HEALTH FACILITY LICENSED BY THE STATE OF COLORADO. THE TERM INCLUDES ANY PROFESSIONAL CORPORATION OR OTHER PROFESSIONAL ENTITY COMPRISED OF SUCH HEALTH CARE PROVIDERS AS PERMITTED BY THE LAWS OF THIS STATE.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(b) "RELATIVE" MEANS A VICTIM'S SPOUSE, PARENT, GRANDPARENT, STEPFATHER, STEPMOTHER, CHILD, GRANDCHILD, BROTHER, SISTER, HALF BROTHER, HALF SISTER, OR SPOUSE'S PARENTS. THE TERM INCLUDES SAID RELATIONSHIPS THAT ARE CREATED AS A RESULT OF ADOPTION. IN ADDITION, "RELATIVE" INCLUDES ANY PERSON WHO HAS A FAMILY-TYPE RELATIONSHIP WITH A VICTIM.

(c) "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.

(d) "UNANTICIPATED OUTCOME" MEANS THE OUTCOME OF A MEDICAL TREATMENT OR PROCEDURE THAT DIFFERS FROM AN EXPECTED RESULT.

SECTION 2. Applicability. This act shall apply to actions filed on or after the effective date of this act.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 17, 2003