

**78B-3-422 Evidence of disclosures -- Civil proceedings -- Unanticipated outcomes -- Medical care.**

- (1) As used in this section:
  - (a) "Defendant" means the defendant in a malpractice action against a health care provider.
  - (b) "Health care provider" includes an agent of a health care provider.
  - (c) "Patient" includes any person associated with the patient.
- (2) In any civil action or arbitration proceeding relating to an unanticipated outcome of medical care, any unsworn statement, affirmation, gesture, or conduct made to the patient by the defendant shall be inadmissible as evidence of an admission against interest or of liability if it:
  - (a) expresses:
    - (i) apology, sympathy, commiseration, condolence, or compassion; or
    - (ii) a general sense of benevolence; or
  - (b) describes:
    - (i) the sequence of events relating to the unanticipated outcome of medical care;
    - (ii) the significance of events; or
    - (iii) both.
- (3) Except as provided in Subsection (2), this section does not alter any other law or rule that applies to the admissibility of evidence in a medical malpractice action.

Renumbered and Amended by Chapter 3, 2008 General Session