A bill for an act

relating to civil actions; regulating medical liability actions; providing for the inadmissibility of certain health care provider statements, gestures, and conduct; proposing coding for new law in Minnesota Statutes, chapter 604.

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

Section 1. **[604.111] MEDICAL LIABILITY; USE OF PROVIDER'S APOLOGY.**

Subdivision 1. **Apology not admission; medical liability.** 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 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 or as an excited utterance.

Subd. 2. **Definitions.** For purposes of this section, unless the context otherwise requires:

(1) "health care provider" means any person licensed, certified, or registered in this state to deliver health care and any clinic, pharmacy, hospital, or other health facility located in this state. The term includes any professional corporation or other professional entity comprised of such health care providers as permitted by the laws of this state;

(2) "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 those relationships if created as a result of adoption. In addition, "relative" includes any person who is a member of the victim's household;

(3) "representative" means a legal guardian, attorney, person designated to make decisions on behalf of a patient under a health care power of attorney, or any person recognized in law or custom as a patient's agent; and

(4) "unanticipated outcome" means the outcome of a medical treatment or procedure that differs from an expected result.

EFFECTIVE DATE; APPLICATION. This section is effective January 1, 2010, and applies to causes of action arising on or after that date.