

SENATE NO. 987

AN ACT RELATIVE TO HEALTH CARE PROVIDERS' STATEMENTS OF REGRET

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. The General Laws are hereby amended by inserting after section 79K of chapter 233 the
2 following new section:

3 Section 79L

4 As used in this section the following terms shall have the following meaning:

5 (1)“Health Care Provider”, means any of the following health care professionals licensed pursuant to
6 chapter 112: a physician, podiatrist, physical therapist, occupational therapist, dentist, optometrist,
7 nurse, nurse practitioner, chiropractor, psychologist, independent clinical social worker, speech-
8 language pathologist, audiologist, marriage and family therapist and a mental health counselor. The
9 term shall also include any corporation, professional corporation, partnership, limited liability
10 company, limited liability partnership, authority, or other entity comprised of such health care
11 providers.

12 “Facility”, a hospital, clinic or nursing home licensed pursuant to chapter 111 or a home health
13 agency. The term shall also include any corporation, professional corporation, partnership, limited
14 liability company, limited liability partnership, authority, or other entity comprised of such facilities.

15 “Unanticipated outcome” means the outcome of a medical treatment or procedure, whether or not
16 resulting from an intentional act, that differs from an intended result of such medical treatment or
17 procedure.

18 (2) In any claim, complaint or civil action brought by or on behalf of a patient allegedly experiencing
19 an unanticipated outcome of medical care, any and all statements, affirmations, gestures, activities or
20 conduct expressing benevolence, regret, apology, sympathy, commiseration, condolence, compassion,
21 mistake, error, or a general sense of concern which are made by a health care provider, facility or an
22 employee or agent of a health care provider or facility, to the patient, a relative of the patient, or a
23 representative of the patient and which relate to the unanticipated outcome shall be inadmissible as
24 evidence in any judicial or administrative proceeding and shall not constitute an admission of liability
25 or an admission against interest.