

Substitute for SENATE BILL No. 374

By Committee on Judiciary

2-16

9 AN ACT enacting the Kansas adverse medical outcome transparency act;
10 concerning evidence in civil actions; expression of apology, sympathy,
11 compassion or benevolent acts by health care providers not admissible
12 as evidence of an admission of liability or as evidence of an admission
13 against interest.

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15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. (a) This section may be cited as the “Kansas adverse med-
17 ical outcome transparency act.”

18 (b) In any claim or civil action brought by or on behalf of a patient
19 allegedly experiencing an adverse outcome of medical care, any and all
20 statements, activities, waivers of charges for medical care provided or
21 other conduct expressing benevolence, regret, mistake, error, sympathy,
22 apology, commiseration, condolence, compassion or a general sense of
23 benevolence which are made by a health care provider, an employee or
24 agent of a health care provider, shall be inadmissible as evidence and shall
25 not constitute an admission of liability or an admission against interest.

26 (c) A defendant in a medical malpractice action may waive the in-
27 admissibility of statements defined in subsection (b) that are attributable
28 to such defendant by expressly stating, in writing, the intent to make such
29 a waiver.

30 (d) As used in this section:

31 (1) “Health care provider” has the meaning prescribed in K.S.A. 65-
32 4915, and amendments thereto.

33 (2) “Adverse outcome” means the outcome of a medical treatment
34 or procedure, whether or not resulting from an intentional act, that differs
35 from an intended result of such medical treatment or procedure.

36 Sec. 2. This act shall take effect and be in force from and after its
37 publication in the statute book.