

Sixtieth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1333

Introduced by

Representatives Klemin, Delmore, Dosch

Senators Erbele, Nelson, Nething

1 A BILL for an Act to provide that expressions of empathy by health care providers are
2 inadmissible in civil actions; and to provide for application.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. Expressions of empathy.**

5 1. A statement, affirmation, gesture, or conduct of a health care provider, or health
6 care provider's employee or agent, that expresses apology, sympathy,
7 commiseration, condolence, compassion, or benevolence to a patient or to a
8 patient's relative or representative is not admissible as evidence of liability or as an
9 admission against interest in a civil action, arbitration proceeding, or administrative
10 hearing regarding the health care provider.

11 2. For purposes of this section, unless the context otherwise requires:

12 a. "Health care provider" means:

13 (1) An individual licensed or certified by the state to deliver health care;

14 (2) A hospital or clinic, including an ambulatory surgery center or group of
15 physicians operating a clinic or outpatient care facility, or a professional
16 corporation or other professional entity comprised of such health care
17 providers as permitted by the laws of this state; and

18 (3) A nursing, basic, or assisted living facility licensed by this state or by
19 any other health care organization.

20 b. "Relative" means an individual who has a relationship to the patient by
21 marriage, blood, or adoption.

22 c. "Representative" means a legal guardian, attorney, person designated to
23 make decisions on behalf of a patient under a health care directive, or any
24 person recognized in law or custom as a patient's agent.

- 1 **SECTION 2. APPLICATION.** This Act applies to actions or other proceedings
2 commenced on or after the effective date of this Act.