

SUBSTITUTE FOR
SENATE BILL NO. 427

A bill to amend 1963 PA 17, entitled

"An act to relieve certain persons from civil liability when rendering emergency care, when rendering care to persons involved in competitive sports under certain circumstances, or when participating in a mass immunization program approved by the department of public health,"

by amending sections 1 and 2 (MCL 691.1501 and 691.1502), as amended by 2002 PA 543.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) A physician, physician's assistant, registered
2 professional nurse, ~~or~~-licensed practical nurse, **OR LICENSED EMS**
3 **PROVIDER** who in good faith renders emergency care without
4 compensation at the scene of an emergency, if a physician-patient
5 relationship, physician's assistant-patient relationship,
6 registered professional nurse-patient relationship, ~~or~~-licensed
7 practical nurse-patient, **OR LICENSED EMS PROVIDER-PATIENT**

1 relationship did not exist before the emergency, is not liable for
2 civil damages as a result of acts or omissions by the physician,
3 physician's assistant, registered professional nurse, ~~or~~-licensed
4 practical nurse, **LICENSED EMS PROVIDER** in rendering the emergency
5 care, except acts or omissions ~~amounting~~-**THAT AMOUNT** to gross
6 negligence or willful and wanton misconduct.

7 (2) A physician or physician's assistant who in good faith
8 performs a physical examination without compensation ~~upon~~-**ON** an
9 individual to determine the individual's fitness to engage in
10 competitive sports and who has obtained a form described in this
11 subsection signed by the individual or, if the individual is a
12 minor, by the parent or guardian of the minor, is not liable for
13 civil damages as a result of acts or omissions by the physician or
14 physician's assistant in performing the physical examination,
15 except acts or omissions ~~amounting~~-**THAT AMOUNT** to gross negligence
16 or willful and wanton misconduct or ~~which~~-**THAT** are outside the
17 scope of the license held by the physician or physician's
18 assistant. The form required by this subsection ~~shall~~-**MUST** contain
19 a statement indicating that the person signing the form knows that
20 the physician or physician's assistant is not necessarily
21 performing a complete physical examination and is not liable under
22 this section for civil damages as a result of acts or omissions by
23 the physician or physician's assistant in performing the physical
24 examination, except acts or omissions ~~amounting~~-**THAT AMOUNT** to
25 gross negligence or willful and wanton misconduct or ~~which~~-**THAT** are
26 outside the scope of the license held by the physician or
27 physician's assistant.

(3) A physician, physician's assistant, registered professional nurse, ~~or~~-licensed practical nurse, **OR LICENSED EMS PROVIDER** who in good faith renders emergency care without compensation to an individual requiring emergency care as a result of having engaged in competitive sports is not liable for civil damages as a result of acts or omissions by the physician, physician's assistant, registered professional nurse, ~~or~~-licensed practical nurse, **OR LICENSED EMS PROVIDER** in rendering the emergency care, except acts or omissions ~~amounting~~-**THAT AMOUNT** to gross negligence or willful and wanton misconduct and except acts or omissions that are outside the scope of the license held by the physician, physician's assistant, registered professional nurse, ~~or~~-licensed practical nurse, **OR LICENSED EMS PROVIDER**. This subsection applies to the rendering of emergency care to a minor even if the physician, physician's assistant, registered professional nurse, ~~or~~-licensed practical nurse, **OR LICENSED EMS PROVIDER** does not obtain the consent of the parent or guardian of the minor before the emergency care is rendered.

(4) As used in this act:

(a) "Competitive sports" means sports conducted as part of a program sponsored by a public or private school that provides instruction in grades kindergarten through 12 or a charitable or volunteer organization. Competitive sports do not include sports conducted as part of a program sponsored by a public or private college or university.

(b) **"LICENSED EMS PROVIDER" MEANS AN INDIVIDUAL WHO IS A MEDICAL FIRST RESPONDER, EMERGENCY MEDICAL TECHNICIAN, EMERGENCY**

1 MEDICAL TECHNICIAN SPECIALIST, OR PARAMEDIC, AS THOSE TERMS ARE
 2 DEFINED IN SECTIONS 20904 TO 20908 OF THE PUBLIC HEALTH CODE, 1978
 3 PA 368, MCL 333.20904 TO 333.20908.

4 (C) ~~(b)~~—"Licensed practical nurse" means an individual
 5 licensed to engage in the practice of nursing as a licensed
 6 practical nurse under article 15 of the public health code, 1978 PA
 7 368, MCL 333.16101 to 333.18838.

8 (D) ~~(c)~~—"Physician" means an individual licensed to engage in
 9 the practice of medicine or the practice of osteopathic medicine
 10 and surgery under article 15 of the public health code, 1978 PA
 11 368, MCL 333.16101 to 333.18838.

12 (E) ~~(d)~~—"Physician's assistant" means an individual licensed
 13 to engage in the practice of medicine or the practice of
 14 osteopathic medicine and surgery performed under the supervision of
 15 a physician as provided in article 15 of the public health code,
 16 1978 PA 368, MCL 333.16101 to 333.18838.

17 (F) ~~(e)~~—"Registered professional nurse" means an individual
 18 licensed to engage in the practice of nursing **AS A REGISTERED**
 19 **PROFESSIONAL NURSE** under article 15 of the public health code, 1978
 20 PA 368, MCL 333.16101 to 333.18838.

21 Sec. 2. (1) If ~~an~~**THE** individual's actual hospital duty does
 22 not require a response to the emergency situation, a physician,
 23 physician's assistant, dentist, podiatrist, intern, resident,
 24 registered **PROFESSIONAL** nurse, licensed practical nurse, ~~registered~~
 25 physical therapist, clinical laboratory technologist, inhalation
 26 therapist, certified registered nurse anesthetist, x-ray
 27 technician, or ~~paramedic~~, **LICENSED EMS PROVIDER** who in good faith

1 responds to a life threatening emergency or responds to a request
2 for emergency assistance in a life threatening emergency ~~within~~ **IN**
3 a hospital or other licensed medical care facility ~~,~~ is not liable
4 for civil damages as a result of an act or omission in the
5 rendering of emergency care, except an act or omission amounting to
6 gross negligence or willful and wanton misconduct.

7 (2) The exemption from liability under subsection (1) does not
8 apply to a physician if a physician-patient relationship, to a
9 physician's assistant if a physician's assistant-patient
10 relationship, or to a licensed nurse if a nurse-patient
11 relationship existed before the emergency.

12 (3) The exemption from liability under subsection (1) does not
13 apply to a physician's assistant unless the response by the
14 physician's assistant is within the scope of the license held by
15 the physician's assistant or within the expertise or training of
16 the physician's assistant.

17 (4) This act does not diminish a hospital's responsibility to
18 reasonably and adequately staff hospital emergency facilities if
19 the hospital maintains or holds out to the general public that it
20 maintains emergency room facilities.

21 Enacting section 1. This amendatory act takes effect 90 days
22 after the date it is enacted into law.