

HOUSE BILL No. 6001

July 8, 1992, Introduced by Reps. Owen, Saunders, Gubow, Jondahl and Ciaramitaro and referred to the Committee on Judiciary.

A bill to amend Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

as amended, being sections 333.1101 to 333.25211 of the Michigan Compiled Laws, by adding section 20204.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 368 of the Public Acts of 1978, as
2 amended, being sections 333.1101 to 333.25211 of the Michigan
3 Compiled Laws, is amended by adding section 20204 to read as
4 follows:

5 SEC. 20204. (1) NOTWITHSTANDING CONTRARY STATUTES OR COMMON
6 LAW OF THIS STATE, BEGINNING ON THE EFFECTIVE DATE OF THE AMENDA-
7 TORY ACT THAT ADDED THIS SECTION, A LICENSED HEALTH FACILITY OR
8 AGENCY SHALL BE LIABLE FOR ANY INJURY OR DEATH OCCASIONED BY THE
9 FAILURE TO EXERCISE ORDINARY CARE, THE NEGLIGENCE, THE

1 MALPRACTICE, OR THE PROFESSIONAL NEGLIGENCE OF THE PHYSICIANS;
2 NURSES; RESIDENTS; INTERNS; HEALTH PROFESSIONALS; LABORATORY,
3 TECHNICAL, AND SUPPORT PERSONNEL; DIAGNOSTIC AND TREATMENT PER-
4 SONNEL; AND ALL OTHERS DIRECTLY OR INDIRECTLY PROVIDING HEALTH
5 CARE AT THE HEALTH FACILITY OR AGENCY.

6 (2) A HEALTH FACILITY OR AGENCY SHALL ESTABLISH A MEANS OF
7 DETERMINING CLAIMS FOR CONTRIBUTION OR INDEMNIFICATION WHICH
8 RESULT FROM ACTS OF PHYSICIANS; NURSES; RESIDENTS; INTERNS;
9 HEALTH PROFESSIONALS; LABORATORY, TECHNICAL, AND SUPPORT PERSON-
10 NEL; DIAGNOSTIC AND TREATMENT PERSONNEL; AND ALL OTHERS DIRECTLY
11 OR INDIRECTLY PROVIDING HEALTH CARE AT THE HEALTH FACILITY OR
12 AGENCY BY DOING 1 OR MORE OF THE FOLLOWING:

13 (A) INDEMNIFYING THE PERSONNEL NAMED IN THIS SECTION.

14 (B) ENTERING INTO CONTRACTS TO ESTABLISH A BINDING ARBITRA-
15 TION PROCESS TO SETTLE LIABILITY DISPUTES BETWEEN THE HEALTH
16 FACILITY OR AGENCY AND THE PERSONNEL NAMED IN THIS SECTION.

17 (C) ENTERING INTO CONTRACTS TO AGREE TO A CERTAIN METHOD OF
18 APPORTIONING LIABILITY BETWEEN THE HEALTH FACILITY OR AGENCY AND
19 THE PERSONNEL NAMED IN THIS SECTION WHICH SHALL BE BINDING ON ALL
20 PARTIES IN THE EVENT THAT AN ACT OR FAILURE TO ACT BY THE PERSON-
21 NEL NAMED IN THIS SECTION RESULTS IN THE NECESSITY FOR PAYMENT OF
22 DAMAGES FOR AN INJURY RESULTING FROM FAILURE TO EXERCISE ORDINARY
23 CARE, NEGLIGENCE, MALPRACTICE, OR PROFESSIONAL NEGLIGENCE.

24 (3) THE METHODS PRESCRIBED IN SUBSECTION (2) SHALL BE THE
25 SOLE REMEDIES WHICH A HEALTH FACILITY OR AGENCY MAY EMPLOY
26 AGAINST THE PERSONNEL NAMED IN THIS SECTION AS A MEANS OF

1 APPORTIONING LIABILITY AND COLLECTING PROPORTIONATE SHARES OF
2 DAMAGES FOR LIABILITY.