



# SENATE BILL No. 380

February 10, 1993, Introduced by Senators SCHWARZ, EMMONS, CISKY, PRIDNIA, ARTHURHULTZ, KOIVISTO, MC MANUS and O'BRIEN and referred to the Committee on Health Policy.

A bill to amend section 2 of Act No. 17 of the Public Acts of 1963, entitled as amended

"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,"

being section 691.1502 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 2 of Act No. 17 of the Public Acts of  
2 1963, being section 691.1502 of the Michigan Compiled Laws, is  
3 amended to read as follows:

4 Sec. 2. (1) In instances where the actual ~~hospital~~  
5 LICENSED HEALTH FACILITY duty of that person did not require a  
6 response to that emergency situation, a ~~physician, dentist,~~  
7 ~~podiatrist, intern, resident, registered nurse, licensed~~  
8 ~~practical nurse, registered physical therapist, clinical~~

1 ~~laboratory technologist, inhalation therapist, certified~~  
2 ~~registered nurse anesthetist, x-ray technician, or paramedical~~  
3 ~~person,~~ HEALTH PROFESSIONAL who in good faith responds to a  
4 life-threatening emergency or responds to a request for emergency  
5 assistance in a life-threatening emergency within a ~~hospital or~~  
6 ~~other~~ licensed ~~medical care~~ HEALTH facility ~~, shall~~ IS not  
7 ~~be~~ liable for ~~any~~ civil damages as a result of an act or  
8 omission in the rendering of THE emergency care, except ~~an act~~  
9 ~~or omission amounting to~~ FOR gross negligence or ~~wilful~~  
10 WILLFUL and wanton misconduct.

11 (2) SUBJECT TO SUBSECTIONS (4) AND (5), A HEALTH PROFES-  
12 SIONAL EMPLOYED BY, UNDER CONTRACT TO, OR OTHERWISE AUTHORIZED BY  
13 A HOSPITAL TO WORK OR PRACTICE IN THE CONFINES OF THE EMERGENCY  
14 AREA OR OPERATING AREA OF THE HOSPITAL WHO IN GOOD FAITH RENDERS  
15 EMERGENCY MEDICAL CARE, EMERGENCY MEDICAL TREATMENT, OR EMERGENCY  
16 MEDICAL DIRECTION TO A PATIENT WITHIN THE HOSPITAL AND WHO IN  
17 GOOD FAITH RENDERS SUBSEQUENT MEDICAL CARE, SUBSEQUENT MEDICAL  
18 TREATMENT, OR SUBSEQUENT MEDICAL DIRECTION TO THAT PATIENT  
19 INCLUDING, BUT NOT LIMITED TO, OBSTETRICAL CARE RENDERED TO A  
20 WOMAN WHO IS IN ACTIVE LABOR, AND THE HOSPITAL IN WHICH THE EMER-  
21 GENCY OR SUBSEQUENT MEDICAL CARE, EMERGENCY OR SUBSEQUENT MEDICAL  
22 TREATMENT, OR EMERGENCY OR SUBSEQUENT MEDICAL DIRECTION IS  
23 RENDERED, ARE NOT LIABLE FOR CIVIL DAMAGES AS A RESULT OF AN ACT  
24 OR OMISSION IN THE RENDERING OF THE EMERGENCY OR SUBSEQUENT MEDI-  
25 CAL CARE, EMERGENCY OR SUBSEQUENT MEDICAL TREATMENT, OR EMERGENCY  
26 OR SUBSEQUENT MEDICAL DIRECTION, EXCEPT FOR GROSS NEGLIGENCE OR  
27 WILLFUL AND WANTON MISCONDUCT. THE LIMITATION ON LIABILITY

1 GRANTED UNDER THIS SUBSECTION IS IN EFFECT UNTIL THE PATIENT AND  
2 THE HEALTH PROFESSIONAL RENDERING THE CARE, TREATMENT, OR DIREC-  
3 TION KNOWINGLY ENTER INTO TO A VOLUNTARY HEALTH  
4 PROFESSIONAL-PATIENT RELATIONSHIP AND THE PATIENT IS NO LONGER  
5 RECEIVING MEDICAL CARE, MEDICAL TREATMENT, OR MEDICAL DIRECTION  
6 AS AN EMERGENCY PATIENT, AS DETERMINED UNDER SUBSECTION (3).

7 (3) FOR PURPOSES OF SUBSECTION (2), THE PATIENT AND THE  
8 HEALTH PROFESSIONAL HAVE KNOWINGLY ENTERED INTO A VOLUNTARY  
9 HEALTH PROFESSIONAL-PATIENT RELATIONSHIP AND THE PATIENT IS NO  
10 LONGER RECEIVING MEDICAL CARE, MEDICAL TREATMENT, OR MEDICAL  
11 DIRECTION AS AN EMERGENCY PATIENT WHEN BOTH THE HEALTH PROFES-  
12 SIONAL AND THE PATIENT OR THE PATIENT'S REPRESENTATIVE VOLUN-  
13 TARIPLY ENTER INTO A WRITTEN AGREEMENT AS DESCRIBED IN THIS SUB-  
14 SECTION OR 12 HOURS AFTER ADMITTANCE, WHICHEVER COMES FIRST. THE  
15 HEALTH PROFESSIONAL AND THE PATIENT OR THE PATIENT'S REPRESENTA-  
16 TIVE SHALL STATE IN THE AGREEMENT THAT THE HEALTH PROFESSIONAL  
17 AND THE PATIENT KNOWINGLY CONSENT TO A VOLUNTARY HEALTH  
18 PROFESSIONAL-PATIENT RELATIONSHIP AND THAT, IN THE PROFESSIONAL  
19 OPINION OF THE HEALTH PROFESSIONAL OR THE ATTENDING PHYSICIAN AND  
20 AS UNDERSTOOD BY THE PATIENT OR THE PATIENT'S REPRESENTATIVE, THE  
21 PATIENT IS NO LONGER RECEIVING MEDICAL CARE, MEDICAL TREATMENT,  
22 OR MEDICAL DIRECTION AS AN EMERGENCY PATIENT.

23 (4) AS A CONDITION PRECEDENT TO THE LIMITATION ON LIABILITY  
24 GRANTED UNDER SUBSECTION (2), EACH HOSPITAL IN THIS STATE SHALL  
25 POST A NOTICE IN THE PATIENT WAITING AND ADMISSION AREAS OF THE  
26 HOSPITAL. THE NOTICE SHALL BE IN THE FORM OF A SIGN THAT IS NOT  
27 LESS THAN 24 INCHES BY 24 INCHES AND PRINTED IN NOT LESS THAN

1 32-POINT BOLDFACED TYPE. THE NOTICE SHALL BE IN SUBSTANTIALLY  
2 THE FOLLOWING FORM:

3 NOTICE

4 PATIENTS ADMITTED TO THIS FACILITY UNDER EMERGENCY CONDI-  
5 TIONS HAVE A LIMITED RIGHT TO SUE FOR DAMAGES.

6 UNDER MICHIGAN LAW, HEALTH PROFESSIONALS WHO RENDER CARE TO  
7 EMERGENCY PATIENTS IN THIS FACILITY HAVE IMMUNITY FROM LIABILITY  
8 EXCEPT FOR GROSS NEGLIGENCE.

9 (5) AS A CONDITION PRECEDENT TO THE LIMITATION ON LIABILITY  
10 GRANTED UNDER SUBSECTION (2), A HOSPITAL THAT ADVERTISES ITS  
11 EMERGENCY SERVICES TO THE PUBLIC SHALL INCLUDE IN THE ADVERTISING  
12 THE LANGUAGE OF THE NOTICE REQUIRED UNDER SUBSECTION (4). THE  
13 NOTICE SHALL BE CONSPICUOUSLY PLACED IN THE ADVERTISING AND, IF  
14 THE ADVERTISING IS BY A VISUAL MEDIUM, PRINTED IN A TYPE STYLE  
15 AND SIZE THAT IS READABLE AND CONTRASTS WITH SURROUNDING MATERIAL  
16 IN THE ADVERTISING.

17 (6) ~~(2)~~ The ~~exemption from~~ LIMITATION ON liability under  
18 subsection (1) ~~shall~~ DOES not apply to a ~~physician where a~~  
19 ~~physician-patient~~ HEALTH PROFESSIONAL IF A HEALTH  
20 PROFESSIONAL-PATIENT relationship existed ~~prior to the advent of~~  
21 ~~the emergency nor to a licensed nurse where a nurse-patient rela-~~  
22 ~~tionship existed prior to the advent of the emergency~~ BEFORE THE  
23 EMERGENCY CARE WAS RENDERED.

24 (7) ~~(3)~~ ~~Nothing in this section shall~~ THIS SECTION DOES  
25 NOT diminish a hospital's responsibility to reasonably and ade-  
26 quately staff hospital emergency facilities ~~when~~ IF the

1 hospital maintains or holds out to the general public that it  
2 maintains such emergency room facilities.

3 (8) AS USED IN THIS SECTION:

4 (A) "HEALTH PROFESSIONAL" MEANS A PHYSICIAN, INTERN, RESI-  
5 DENT, PHYSICIAN'S ASSISTANT, DENTIST, REGISTERED PROFESSIONAL  
6 NURSE, LICENSED PRACTICAL NURSE, CERTIFIED REGISTERED NURSE ANES-  
7 THETIST, AMBULANCE ATTENDANT, EMERGENCY MEDICAL TECHNICIAN, EMER-  
8 GENCY MEDICAL TECHNICIAN SPECIALIST, OR ADVANCED EMERGENCY MEDI-  
9 CAL TECHNICIAN WHO PERFORMS A MEDICAL PROCEDURE WITHIN THE CON-  
10 FINES OF THAT PORTION OF A HOSPITAL DEDICATED TO EMERGENCY OR  
11 OPERATING PROCEDURES.

12 (B) "LICENSED HEALTH FACILITY" MEANS A HEALTH FACILITY OR  
13 AGENCY LICENSED UNDER ARTICLE 17 OF THE PUBLIC HEALTH CODE, ACT  
14 NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SECTIONS 333.20101 TO  
15 333.22260 OF THE MICHIGAN COMPILED LAWS.