

SENATE BILL No. 1314

June 20, 2000, Introduced by Senator SCHWARZ and referred to the Committee on Judiciary.

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),
section 1 as amended by 1987 PA 30.

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 who in good faith
3 renders emergency care at the scene of an emergency, ~~where~~ IF a
4 physician-patient relationship, PHYSICIAN'S ASSISTANT-PATIENT
5 RELATIONSHIP, registered professional nurse-patient relationship,
6 or licensed practical nurse-patient relationship did not exist
7 before ~~the advent of~~ the emergency, ~~shall~~ IS not ~~be~~ liable
8 for civil damages as a result of acts or omissions by the

1 physician, PHYSICIAN'S ASSISTANT, registered professional nurse,
2 or licensed practical nurse in rendering the emergency care,
3 except acts or omissions amounting to gross negligence or willful
4 and wanton misconduct.

5 (2) A physician OR PHYSICIAN'S ASSISTANT who in good faith
6 performs a physical examination without compensation upon
7 an individual to determine the individual's fitness to engage in
8 competitive sports and who has obtained a ~~statement~~ FORM
9 DESCRIBED IN THIS SUBSECTION signed by the individual or, if the
10 individual is a minor, BY the parent or guardian of the minor, IS
11 NOT LIABLE FOR CIVIL DAMAGES AS A RESULT OF ACTS OR OMISSIONS BY
12 THE PHYSICIAN OR PHYSICIAN'S ASSISTANT IN PERFORMING THE PHYSICAL
13 EXAMINATION, EXCEPT ACTS OR OMISSIONS AMOUNTING TO GROSS NEGLIGENCE
14 OR WILLFUL AND WANTON MISCONDUCT. THE FORM REQUIRED BY
15 THIS SUBSECTION SHALL CONTAIN A STATEMENT INDICATING that the
16 person signing the ~~statement~~ FORM knows that the physician OR
17 PHYSICIAN'S ASSISTANT is not necessarily performing a complete
18 physical examination and is not liable UNDER THIS SECTION for
19 civil damages as a result of acts or omissions by the physician
20 OR PHYSICIAN'S ASSISTANT in performing the PHYSICAL examination,
21 except acts or omissions amounting to gross negligence or willful
22 and wanton misconduct. ~~or which are outside the scope of the~~
23 ~~license held by the physician, or a~~

24 (3) A physician, PHYSICIAN'S ASSISTANT, registered profes-
25 sional nurse, or licensed practical nurse who in good faith
26 renders emergency care without compensation to an
27 individual requiring ~~such~~ EMERGENCY care as a result of having

1 engaged in competitive sports ~~shall~~ IS not ~~be~~ liable for
 2 civil damages as a result of acts or omissions by the ~~physician~~
 3 ~~in performing the physical examination or acts or omissions by~~
 4 ~~the~~ physician, PHYSICIAN'S ASSISTANT, registered professional
 5 nurse, or licensed practical nurse in rendering the emergency
 6 care, except acts or omissions amounting to gross negligence or
 7 willful and wanton misconduct and except acts or omissions
 8 ~~which~~ THAT are outside the scope of the license held by the
 9 physician, PHYSICIAN'S ASSISTANT, registered professional nurse,
 10 or licensed practical nurse. This subsection ~~shall apply~~
 11 APPLIES to the rendering of emergency care to ~~minors~~ A MINOR
 12 even if the physician, PHYSICIAN'S ASSISTANT, registered profes-
 13 sional nurse, or licensed practical nurse does not obtain the
 14 consent of the parent or guardian of the minor before the emer-
 15 gency care is rendered.

16 (4) ~~(3)~~ As used in this section:

17 (a) "Competitive sports" means sports conducted as part of a
 18 program sponsored by a public or private school ~~which~~ THAT pro-
 19 vides instruction in grades kindergarten through 12 or a charita-
 20 ble or volunteer organization. Competitive sports ~~does~~ DO not
 21 include sports conducted as part of a program sponsored by a
 22 public or private college or university.

23 (b) "Licensed practical nurse" means an individual licensed
 24 to engage in the practice of nursing as a licensed practical
 25 nurse under article 15 of the public health code, ~~Act No. 368 of~~
 26 ~~the Public Acts of 1978 sections 333.16101 to 333.18838 of the~~
 27 ~~Michigan Compiled Laws~~ 1978 PA 368, MCL 333.16101 TO 333.18838.

1 (c) "Physician" means an individual licensed to ENGAGE IN
 2 THE practice OF medicine or THE PRACTICE OF osteopathic medicine
 3 and surgery under article 15 of ~~Act No. 368 of the Public Acts~~
 4 ~~of 1978~~ THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16101 TO
 5 333.18838.

6 (D) "PHYSICIAN'S ASSISTANT" MEANS AN INDIVIDUAL LICENSED TO
 7 ENGAGE IN THE PRACTICE OF MEDICINE OR THE PRACTICE OF OSTEOPATHIC
 8 MEDICINE AND SURGERY PERFORMED UNDER THE SUPERVISION OF A PHYSI-
 9 CIAN AS PROVIDED IN ARTICLE 15 OF THE PUBLIC HEALTH CODE, 1978 PA
 10 368, MCL 333.16101 TO 333.18838.

11 (E) ~~(d)~~ "Registered professional nurse" means an individ-
 12 ual licensed to engage in the practice of nursing under article
 13 15 of ~~Act No. 368 of the Public Acts of 1978~~ THE PUBLIC HEALTH
 14 CODE, 1978 PA 368, MCL 333.16101 TO 333.18838.

15 Sec. 2. (1) ~~In instances where the~~ IF AN INDIVIDUAL'S
 16 actual hospital duty ~~of that person did~~ DOES not require a
 17 response to ~~that~~ THE emergency situation, a physician,
 18 PHYSICIAN'S ASSISTANT, dentist, podiatrist, intern, resident,
 19 registered nurse, licensed practical nurse, registered physical
 20 therapist, clinical laboratory technologist, inhalation thera-
 21 pist, certified registered nurse anesthetist, x-ray technician,
 22 or ~~paramedical person~~ PARAMEDIC, who in good faith responds to
 23 a life threatening emergency or responds to a request for emer-
 24 gency assistance in a life threatening emergency within a hospi-
 25 tal or other licensed medical care facility, ~~shall~~ IS not ~~be~~
 26 liable for ~~any~~ civil damages as a result of an act or omission
 27 in the rendering of emergency care, except an act or omission

1 amounting to gross negligence or ~~wilful~~ WILLFUL and wanton
2 misconduct.

3 (2) The exemption from liability under subsection (1)
4 ~~shall~~ DOES not apply to a physician ~~where~~ IF a
5 physician-patient relationship, ~~existed prior to the advent of~~
6 ~~the emergency nor~~ TO A PHYSICIAN'S ASSISTANT IF A PHYSICIAN'S
7 ASSISTANT-PATIENT RELATIONSHIP, OR to a licensed nurse ~~where~~ IF
8 a nurse-patient relationship existed ~~prior to the advent of~~
9 BEFORE the emergency.

10 (3) ~~Nothing in this~~ THIS act ~~shall~~ DOES NOT diminish a
11 hospital's responsibility to reasonably and adequately staff hos-
12 pital emergency facilities ~~when~~ IF the hospital maintains or
13 holds out to the general public that it maintains ~~such~~ emer-
14 gency room facilities.