

# SENATE BILL No. 184

February 8, 2001, Introduced by Senators SCHWARZ, MC MANUS, MC COTTER, HAMMERSTROM, NORTH, VAN REGENMORTER, GAST, YOUNG, GOUGEON and SHUGARS 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 WITHOUT COMPENSATION at the scene of an  
4 emergency, ~~where~~ IF a physician-patient relationship,  
5 PHYSICIAN'S ASSISTANT-PATIENT RELATIONSHIP, registered profes-  
6 sional nurse-patient relationship, or licensed practical  
7 nurse-patient relationship did not exist before ~~the advent of~~  
8 the emergency, ~~shall~~ IS not ~~be~~ liable for civil damages as a

1 result of acts or omissions by the physician, PHYSICIAN'S  
2 ASSISTANT, registered professional nurse, or licensed practical  
3 nurse in rendering the emergency care, except acts or omissions  
4 amounting to gross negligence or willful 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 OR WHICH ARE OUTSIDE THE  
15 SCOPE OF THE LICENSE HELD BY THE PHYSICIAN OR PHYSICIAN'S  
16 ASSISTANT. THE FORM REQUIRED BY THIS SUBSECTION SHALL CONTAIN A  
17 STATEMENT INDICATING that the person signing the ~~statement~~ FORM  
18 knows that the physician OR PHYSICIAN'S ASSISTANT is not necessarily  
19 performing a complete physical examination and is not  
20 liable UNDER THIS SECTION for civil damages as a result of acts  
21 or omissions by the physician OR PHYSICIAN'S ASSISTANT in performing  
22 the PHYSICAL examination, except acts or omissions  
23 amounting to gross negligence or willful and wanton misconduct or  
24 which are outside the scope of the license held by the physician  
25 ~~—~~ or ~~a~~ PHYSICIAN'S ASSISTANT.

26       (3) A physician, PHYSICIAN'S ASSISTANT, registered  
27 professional nurse, or licensed practical nurse who in good faith

1 renders emergency care ~~—~~, without compensation ~~—~~, AT THE SCENE  
 2 OF AN EMERGENCY to an individual requiring ~~such~~ EMERGENCY care  
 3 as a result of having engaged in competitive sports ~~shall~~ IS  
 4 not ~~be~~ liable for civil damages as a result of acts or omis-  
 5 sions by the ~~physician in performing the physical examination or~~  
 6 ~~acts or omissions by the~~ physician, PHYSICIAN'S ASSISTANT, reg-  
 7 istered professional nurse, or licensed practical nurse in  
 8 rendering the emergency care, except acts or omissions amounting  
 9 to gross negligence or willful and wanton misconduct and except  
 10 acts or omissions ~~which~~ THAT are outside the scope of the  
 11 license held by the physician, PHYSICIAN'S ASSISTANT, registered  
 12 professional nurse, or licensed practical nurse. This subsection  
 13 ~~shall apply~~ APPLIES to the rendering of emergency care to  
 14 ~~minors~~ A MINOR even if the physician, PHYSICIAN'S ASSISTANT,  
 15 registered professional nurse, or licensed practical nurse does  
 16 not obtain the consent of the parent or guardian of the minor  
 17 before the emergency care is rendered.

18 (4) ~~(3)~~ As used in this ~~section~~ ACT:

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

25 (b) "Licensed practical nurse" means an individual licensed  
 26 to engage in the practice of nursing as a licensed practical  
 27 nurse under article 15 of the public health code, ~~Act No. 368 of~~

1 ~~the Public Acts of 1978 sections 333.16101 to 333.18838 of the~~  
2 ~~Michigan Compiled Laws 1978 PA 368, MCL 333.16101 TO 333.18838.~~

3 (c) "Physician" means an individual licensed to ENGAGE IN  
4 THE practice OF medicine or THE PRACTICE OF osteopathic medicine  
5 and surgery under article 15 of ~~Act No. 368 of the Public Acts~~  
6 ~~of 1978~~ THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16101 TO  
7 333.18838.

8 (D) "PHYSICIAN'S ASSISTANT" MEANS AN INDIVIDUAL LICENSED TO  
9 ENGAGE IN THE PRACTICE OF MEDICINE OR THE PRACTICE OF OSTEOPATHIC  
10 MEDICINE AND SURGERY PERFORMED UNDER THE SUPERVISION OF A PHYSI-  
11 CIAN AS PROVIDED IN ARTICLE 15 OF THE PUBLIC HEALTH CODE, 1978 PA  
12 368, MCL 333.16101 TO 333.18838.

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

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

1 ~~be~~ liable for ~~any~~ civil damages as a result of an act or  
2 omission in the rendering of emergency care, except an act or  
3 omission amounting to gross negligence or ~~wilful~~ WILLFUL and  
4 wanton misconduct.

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

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