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BILL ANALYSIS



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House Bill 4350 (Substitute H-1 as passed by the House)
Sponsor: Representative Gail Haines
House Committee: Health Policy
Senate Committee: Health Policy

Date Completed: 6-9-11

CONTENT

The bill would amend the Public Health Code to provide civil immunity to nonprofit entities that coordinate and provide referrals for uncompensated nonemergency health care, and extend immunity to health professionals who provide such care as a result of referrals from those entities.

Specifically, a nonprofit, tax-exempt entity that was not a health facility, and that was organized and operated for the sole purpose of coordinating and providing referrals for nonemergency health care to the uninsured and underinsured through licensees or registrants who did not receive compensation, would not be liable in a civil action for damages arising from that care.

Under the Code, a licensee or registrant who provides to a patient nonemergency health care that he or she is licensed or registered to provide, and who receives no compensation for providing the care, is not liable in a civil action for damages for acts or omissions in providing the care. The immunity provision does not apply if the acts or omissions were the result of gross negligence or willful and wanton misconduct, or were intended to injure the patient.

The limitation on liability applies only if the nonemergency health care is provided inside the premises of or as a result of a referral from either of the following:

- A health facility organized and operated for the sole purpose of delivering nonemergency health care without receiving compensation.
- An entity that is not a health facility and that provides nonemergency health care to uninsured or underinsured individuals through the voluntary services of licensees or registrants who receive no compensation for providing the care.

The bill would include in this provision an entity that is not a health facility and that coordinates or otherwise arranges for the provision of nonemergency health care to the uninsured or underinsured through referrals for the voluntary services of an uncompensated licensee or registrant.

Under the Code, the limitation on liability does not apply unless the licensee or registrant gives the patient a written disclosure describing the limitation on liability and stating that the health care is free and compensation will not be requested from any source; and the patient signs an acknowledgment of receipt of the disclosure. Under the bill, this disclosure would have to be given by a licensee, a registrant, or a health facility or entity that provides, coordinates, or otherwise arranges for the health care.

A health facility, other than one that is organized and operated for the purpose of delivering uncompensated nonemergency health care, that provides financial, in-kind, or other support to another health facility or entity that provides such care is not liable in a civil action for damages based on the care provided by that other facility or entity. Under the bill, the supporting health facility also would not be liable for damages based on the care provided by an uncompensated licensee or registrant.

For the purposes of these provisions, "compensation" means receipt of payment or expected receipt of payment from any source, including receipt of payment or expected receipt of payment indirectly in the form of wages, salary, or other valuable consideration under an employment or service agreement. With regard to compensation, the bill provides that "indirectly" would not include the receipt by a licensee or registrant who is employed by a health facility other than one described above of wages, salary, or other valuable consideration from the employing health facility for providing uncompensated care, if the employing health facility does not receive compensation for the provision of the health care.

MCL 333.16277

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Steve Angelotti

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.