

SUBSTITUTE FOR
HOUSE BILL NO. 4350

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 16277 (MCL 333.16277), as added by 2001 PA 172.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 16277. (1) ~~A~~**SUBJECT TO THIS SECTION, A** licensee or
2 registrant who provides to a patient nonemergency health care that
3 the licensee or registrant is licensed or registered under this
4 article to provide, and who receives no compensation for providing
5 the nonemergency health care, is not liable in a civil action for
6 damages for acts or omissions in providing the nonemergency health
7 care, unless the acts or omissions were the result of gross
8 negligence or willful and wanton misconduct or were intended to
9 injure the patient.
- 10 (2) The limitation on liability provided under subsection (1)

1 applies only if the nonemergency health care is provided inside the
2 premises of or as a result of a referral from either of the
3 following:

4 (a) A health facility organized and operated for the sole
5 purpose of delivering nonemergency health care without receiving
6 compensation.

7 (b) An entity that is not a health facility and that provides
8 **OR THAT COORDINATES OR OTHERWISE ARRANGES FOR THE PROVISION OF**
9 nonemergency health care to uninsured or ~~under-insured~~ **UNDERINSURED**
10 individuals through the voluntary services of **OR THROUGH REFERRALS**
11 **FOR THE VOLUNTARY SERVICES OF** licensees or registrants who receive
12 no compensation for providing the nonemergency health care.

13 (3) In addition to the restrictions under subsection ~~(1)~~ **(2)**,
14 the limitation on liability provided in subsection (1) does not
15 apply in regard to the nonemergency health care of a patient
16 unless, before the licensee or registrant provides that health
17 care, both of the following occur:

18 (a) The licensee, ~~or~~ **registrant, OR HEALTH FACILITY OR ENTITY**
19 **DESCRIBED IN SUBSECTION (2)** provides the patient with a written
20 disclosure describing the limitation on liability and stating that
21 the health care is free and compensation for the health care will
22 not be requested from any source.

23 (b) The patient signs an acknowledgment of receipt of the
24 written disclosure.

25 (4) A health facility, other than a health facility described
26 in subsection (2), that provides financial, in-kind, or other
27 support, not including health care services, to a health facility

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1 or ~~other~~ entity described in subsection (2) is not liable in a
 2 civil action for damages based on nonemergency health care provided
 3 by the **LICENSEE, REGISTRANT, OR** health facility or entity described
 4 in subsection (2).

5 (5) AN ENTITY THAT IS NOT A HEALTH FACILITY, IS EXEMPT FROM
 6 TAXATION UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE OF
 7 1986, 26 USC 501, AND IS ORGANIZED AND OPERATED FOR THE SOLE
 8 PURPOSE OF COORDINATING AND PROVIDING REFERRALS FOR NONEMERGENCY
 9 HEALTH CARE TO UNINSURED OR UNDERINSURED INDIVIDUALS THROUGH
 10 LICENSEES OR REGISTRANTS WHO DO NOT RECEIVE COMPENSATION FOR
 11 PROVIDING THE NONEMERGENCY HEALTH CARE IS NOT LIABLE IN A CIVIL
 12 ACTION FOR DAMAGES THAT ARISE FROM THE NONEMERGENCY HEALTH CARE
 13 PROVIDED BY THE LICENSEE, REGISTRANT, OR HEALTH FACILITY OR ENTITY
 14 DESCRIBED IN SUBSECTION (2).

15 (6) ~~(5)~~ This section does not affect the liability of a health
 16 facility or entity described in subsection (2) as that liability
 17 existed before ~~the effective date of this section~~ **JANUARY 1, 2002.**

18 (7) ~~(6)~~ This section does not apply to a civil action for
 19 damages for acts or omissions if the nonemergency health care is
 20 surgery that customarily requires more than a local anesthetic.

21 (8) ~~(7)~~ As used in this section:

22 (a) "Compensation" means **<<, SUBJECT TO SUBDIVISION (B), >>**
 receipt of payment or expected

23 receipt of payment from any source, including, but not limited to,
 24 receipt of payment or expected receipt of payment directly from a
 25 patient, from a patient's parent, guardian, or spouse, or from a
 26 public or private health care payment or benefits plan on behalf of
 27 the patient, or indirectly in the form of wages, salary, or other

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1 valuable consideration under an employment or service agreement.

<<(B) "COMPENSATION" DOES NOT INCLUDE THE RECEIPT BY A LICENSEE OR REGISTRANT WHO IS EMPLOYED BY A HEALTH FACILITY OTHER THAN A HEALTH FACILITY DESCRIBED IN SUBSECTION (2) OF WAGES, SALARY, OR OTHER VALUABLE CONSIDERATION FROM THE EMPLOYING HEALTH FACILITY, IF ALL OF THE FOLLOWING APPLY:

(i) THE EMPLOYING HEALTH FACILITY DOES NOT EXPECT OR REQUIRE THE LICENSEE OR REGISTRANT TO PROVIDE HEALTH CARE AS DESCRIBED IN THIS SECTION AS A CONDITION OF EMPLOYMENT.

(ii) THE EMPLOYING HEALTH FACILITY DOES NOT EXPECT OR REQUIRE THE LICENSEE OR REGISTRANT TO PROVIDE HEALTH CARE AS DESCRIBED IN THIS SECTION AT A SPECIFIC HEALTH FACILITY DESCRIBED IN SUBSECTION (2) AS A CONDITION OF EMPLOYMENT.

(iii) THE EMPLOYING HEALTH FACILITY DOES NOT RECEIVE COMPENSATION FOR THE LICENSEE OR REGISTRANT'S PROVISION OF HEALTH CARE AS DESCRIBED IN THIS SECTION.

2 (C) >> "Health facility" means a health facility or agency
3 licensed under article 17.

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