

Legislative Analysis



EXPAND GOOD SAMARITAN LAW

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Senate Bill 427 (S-1) as reported by House committee

Sponsor: Sen. Goeff Hansen

House Committee: Criminal Justice

Senate Committee: Judiciary

Complete to 11-3-15

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 209 of 2015)

SUMMARY:

Senate Bill 427 amends provisions within the Good Samaritan Law, Public Act 17 of 1963, to add a licensed EMS to the list of health professionals who are generally protected from lawsuits when providing uncompensated care at the scene of an emergency, when rendering emergency care to someone who requires the care as a result of having engaged in competitive sports, and when responding to a life-threatening emergency within a hospital or other medical care facility when the person's hospital duty does not require a response (MCL 691.1501 and 691.1502).

The bill defines "licensed EMS provider" as an individual who is a medical first responder, emergency medical technician, emergency medical technician specialist, or paramedic, as those terms are defined in Sections 20904 to 20908 of the Public Health Code. The bill would take effect 90 days after enactment.

BACKGROUND INFORMATION:

Currently, under the Good Samaritan Law, certain health professionals are not liable for civil damages when providing care without compensation under certain circumstances—primarily emergencies. Specifically, the Good Samaritan Law provides for the following:

A physician, physician's assistant, registered professional nurse, or licensed practical nurse who, in good faith, renders emergency care without compensation at the scene of an emergency and does not have a health professional-patient relationship with the person in need of care, is not liable for civil damages as a result of acts or omissions in rendering that care, except acts or omissions amounting to gross negligence or willful and wanton misconduct.

The law also exempts from liability a physician or physician's assistant who in good faith performs a physical examination, without compensation, upon an individual to determine fitness to engage in competitive sports, if the physician has obtained a statement signed by the individual or the individual's parent or guardian that the person signing the statement knows that the physician is not necessarily performing a complete physical and is not liable for civil damages as a result of acts or omissions except those amounting to gross negligence or willful and wanton misconduct or that are outside the scope of the license held by the physician.

A physician, physician's assistant, registered professional nurse, or licensed practical nurse who in good faith renders emergency care, without compensation, to an individual requiring that care as a result of having engaged in competitive sports is not liable for civil damages as a result of acts or omissions in rendering the emergency care, except acts or omissions amounting to gross negligence or willful and wanton misconduct and except acts or omissions that are outside of the scope of the license

held by the person. This exemption from liability applies to the rendering of emergency care to a minor even if the health professional does not obtain the consent of the minor's parent or guardian before the emergency care is rendered.

The Good Samaritan law also provides that, if an individual's actual hospital duty does not require a response to an emergency situation, certain specified health professionals who, in good faith, respond to a life-threatening emergency or responds to a request for emergency assistance in a life-threatening emergency within a hospital or other licensed medical care facility, are not liable for civil damages as a result of an act or omission in the rendering of emergency care, except an act or omission amounting to gross negligence or willful and wanton misconduct. This applies to a physician, physician's assistant, dentist, podiatrist, intern, resident, registered professional nurse, licensed practical nurse, registered physical therapist, clinical laboratory technologist, inhalation therapist, certified registered nurse anesthetist, x-ray technician, or paramedic. (This exemption from liability does not apply to a physician, physician's assistant, or licensed nurse if a provider-patient relationship existed prior to the emergency. Immunity does not apply if a physician's assistant's response is outside the scope of his or her license, expertise, or training.)

BRIEF DISCUSSION:

While enjoying a sporting event or concert, a day at the beach, or driving to a family event, off duty EMS providers may be the first to arrive at the scene of an emergency and can provide medical assistance until an ambulance arrives. Yet they must do so under fear that the person they are helping may sue them. The Good Samaritan law was enacted to encourage medical personnel to stop at the scene of an accident or injury and provide emergency assistance within their training without fear of reprisal of a lawsuit. Currently, doctors and nurses are protected from being sued if they render emergency care at the scene of an accident or to a person or child injured in a sporting event—providing they do not receive compensation, and also, along with other health professionals, if they provide assistance at a hospital during a life-threatening emergency (e.g., a natural disaster like a tornado or large explosion). EMS providers have the most training of any health care professionals regarding providing medical care outside of a hospital or doctor's office, and under emergency conditions. It is therefore appropriate to provide protection from liability to off-duty paramedics and other medical first responders when providing medical assistance at the scene of an emergency.

FISCAL IMPACT:

This bill will not have a fiscal impact on state or local units of government.

POSITIONS:

The following indicated support for the bill on 11-3-15:

The Department of Health and Human Services

The Michigan Township Association

Michigan Association of Ambulance Services

Oceana County EMS

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Fiscal Analyst: Kent Dell

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.