



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 427 (as enacted)
Sponsor: Senator Goeff Hansen
Senate Committee: Judiciary
House Committee: Criminal Justice

PUBLIC ACT 209 of 2015

Date Completed: 1-4-16

RATIONALE

The Public Health Code provides for the licensure of various emergency medical service (EMS) personnel, such as emergency medical technicians. These EMS providers are trained to respond to medical emergencies and provide care to people at the scene and during transport to a hospital. Unlike other health care providers, however, EMS providers have not been protected from liability when acting as a "Good Samaritan".

The Good Samaritan law provides immunity from civil liability for certain medical professionals who voluntarily provide medical aid in emergency situations, unless their acts or omissions amount to gross negligence or willful and wanton misconduct. The law also applies to certain medical professionals who render medical assistance to an athlete or who respond to a life-threatening emergency in a hospital when their actual hospital duty does not require them to respond. The law is designed to encourage bystanders who are medical professionals to offer on-site care or assistance in an emergency situation and to volunteer to provide medical service to athletes without being exposed to a civil action claim by the people they attempt to assist. Some people believe that licensed EMS providers should be included among the professionals who are protected from liability under the Good Samaritan law.

CONTENT

The bill amends the Good Samaritan law to include licensed EMS providers in the law's immunity from liability for certain health care professionals who provide care at the scene of an emergency, provide emergency care to someone who requires the care as a result of engaging in competitive sports, and respond to a life-threatening emergency in a hospital or other medical care facility when the person's actual hospital duty does not require a response.

Under the Good Samaritan law, 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 bill includes a licensed EMS provider in this provision.

Also, under the law, 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 that amount to gross negligence or willful and wanton misconduct or are outside of the scope of the license held by the person. ("Competitive sports" means sports conducted as part of a program sponsored by a private or public school that provides instruction in grades kindergarten through 12 or a charitable or volunteer organization.) This exemption from liability applies to the provision

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 provided. The bill includes a licensed EMS provider in these provisions.

The Good Samaritan law further specifies that, if an individual's actual hospital duty does not require a response to an emergency situation, a physician, physician's assistant, dentist, podiatrist, intern, resident, registered nurse, licensed practical nurse, registered physical therapist, clinical laboratory technologist, inhalation therapist, certified registered nurse anesthetist, x-ray technician, or paramedic who, in good faith, responds to a life-threatening emergency or responds to a request for emergency assistance in a life-threatening emergency in a hospital or other licensed medical care facility, is not liable for civil damages as a result of an act or omission in the provision of emergency care, except an act or omission amounting to gross negligence or willful and wanton misconduct. The bill refers to a licensed EMS provider, rather than a paramedic.

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 the Public Health Code.

The bill was enacted on November 30, 2015, and will take effect 90 days after that date.

MCL 691.1501 & 691.1502

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Licensed EMS providers are highly trained and fully capable of dealing with emergency situations and providing care to the injured. Indeed, that is exactly what EMS providers do when on duty. Licensed EMS personnel are the people who are most likely to know how to deal with emergency situations in a setting outside of a hospital or other medical facility. They should not have to be concerned about potential liability for helping others when they are not responding in an official capacity. By extending limited immunity to licensed EMS providers who respond to emergencies and provide care to injured athletes, the bill removes a possible disincentive for off-duty EMS providers to render emergency care. The Good Samaritan law has been amended over the years to include a broad range of medical professionals and has even been extended to people who are not medical professionals under some circumstances (e.g., individuals performing cardiopulmonary resuscitation or using an automated external defibrillator), so it is appropriate to include licensed EMS providers under the law's liability umbrella.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

Fiscal Analyst: John Maxwell

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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.