

SENATE BILL No. 427

July 1, 2015, Introduced by Senators HANSEN, ZORN, JONES, KNOLLENBERG, HORN, CASPERSON, STAMAS, MARLEAU and BOOHER 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), as amended by 2002 PA 543.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) A physician, physician's assistant, registered
2 professional nurse, ~~ex~~-licensed practical nurse, **OR LICENSED EMS**
3 **PROVIDER** who in good faith renders emergency care without
4 compensation at the scene of an emergency, if a physician-patient
5 relationship, physician's assistant-patient relationship,

1 registered professional nurse-patient relationship, ~~or~~-licensed
2 practical nurse-patient, **OR LICENSED EMS PROVIDER-PATIENT**
3 relationship did not exist before the emergency, is not liable for
4 civil damages as a result of acts or omissions by the physician,
5 physician's assistant, registered professional nurse, ~~or~~-licensed
6 practical nurse, **LICENSED EMS PROVIDER** in rendering the emergency
7 care, except acts or omissions ~~amounting~~-**THAT AMOUNT** to gross
8 negligence or willful and wanton misconduct.

9 (2) A physician or physician's assistant who in good faith
10 performs a physical examination without compensation ~~upon~~-**ON** an
11 individual to determine the individual's fitness to engage in
12 competitive sports and who has obtained a form described in this
13 subsection signed by the individual or, if the individual is a
14 minor, by the parent or guardian of the minor, is not liable for
15 civil damages as a result of acts or omissions by the physician or
16 physician's assistant in performing the physical examination,
17 except acts or omissions ~~amounting~~-**THAT AMOUNT** to gross negligence
18 or willful and wanton misconduct or ~~which~~-**THAT** are outside the
19 scope of the license held by the physician or physician's
20 assistant. The form required by this subsection ~~shall~~-**MUST** contain
21 a statement indicating that the person signing the form knows that
22 the physician or physician's assistant is not necessarily
23 performing a complete physical examination and is not liable under
24 this section for civil damages as a result of acts or omissions by
25 the physician or physician's assistant in performing the physical
26 examination, except acts or omissions ~~amounting~~-**THAT AMOUNT** to
27 gross negligence or willful and wanton misconduct or ~~which~~-**THAT** are

1 outside the scope of the license held by the physician or
2 physician's assistant.

3 (3) A physician, physician's assistant, registered
4 professional nurse, ~~or~~-licensed practical nurse, **OR LICENSED EMS**
5 **PROVIDER** who in good faith renders emergency care without
6 compensation to an individual requiring emergency care as a result
7 of having engaged in competitive sports is not liable for civil
8 damages as a result of acts or omissions by the physician,
9 physician's assistant, registered professional nurse, ~~or~~-licensed
10 practical nurse, **OR LICENSED EMS PROVIDER** in rendering the
11 emergency care, except acts or omissions ~~amounting~~-**THAT AMOUNT** to
12 gross negligence or willful and wanton misconduct and except acts
13 or omissions that are outside the scope of the license held by the
14 physician, physician's assistant, registered professional nurse, ~~or~~
15 licensed practical nurse, **OR LICENSED EMS PROVIDER**. This subsection
16 applies to the rendering of emergency care to a minor even if the
17 physician, physician's assistant, registered professional nurse, ~~or~~
18 licensed practical nurse, **OR LICENSED EMS PROVIDER** does not obtain
19 the consent of the parent or guardian of the minor before the
20 emergency care is rendered.

21 (4) As used in this act:

22 (a) "Competitive sports" means sports conducted as part of a
23 program sponsored by a public or private school that provides
24 instruction in grades kindergarten through 12 or a charitable or
25 volunteer organization. Competitive sports do not include sports
26 conducted as part of a program sponsored by a public or private
27 college or university.

(B) "LICENSED EMS PROVIDER" MEANS 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, 1978 PA 368, MCL 333.20904 TO 333.20908.

(C) ~~(b)~~—"Licensed practical nurse" means an individual licensed to engage in the practice of nursing as a licensed practical nurse under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(D) ~~(e)~~—"Physician" means an individual licensed to engage in the practice of medicine or the practice of osteopathic medicine and surgery under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(E) ~~(d)~~—"Physician's assistant" means an individual licensed to engage in the practice of medicine or the practice of osteopathic medicine and surgery performed under the supervision of a physician as provided in article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(F) ~~(e)~~—"Registered professional nurse" means an individual licensed to engage in the practice of nursing **AS A REGISTERED PROFESSIONAL NURSE** under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

Sec. 2. (1) If ~~an~~**THE** individual's actual hospital duty does not require a response to the emergency situation, a physician, physician's assistant, dentist, podiatrist, intern, resident, registered **PROFESSIONAL** nurse, licensed practical nurse, ~~registered~~ physical therapist, clinical laboratory technologist, inhalation

1 therapist, certified registered nurse anesthetist, x-ray
2 technician, or ~~paramedic~~, **LICENSED EMS PROVIDER** who in good faith
3 responds to a life threatening emergency or responds to a request
4 for emergency assistance in a life threatening emergency ~~within~~ **IN**
5 a hospital or other licensed medical care facility, ~~is~~ is not liable
6 for civil damages as a result of an act or omission in the
7 rendering of emergency care, except an act or omission amounting to
8 gross negligence or willful and wanton misconduct.

9 (2) The exemption from liability under subsection (1) does not
10 apply to a physician if a physician-patient relationship, to a
11 physician's assistant if a physician's assistant-patient
12 relationship, or to a licensed nurse if a nurse-patient
13 relationship existed before the emergency.

14 (3) The exemption from liability under subsection (1) does not
15 apply to a physician's assistant unless the response by the
16 physician's assistant is within the scope of the license held by
17 the physician's assistant or within the expertise or training of
18 the physician's assistant.

19 (4) This act does not diminish a hospital's responsibility to
20 reasonably and adequately staff hospital emergency facilities if
21 the hospital maintains or holds out to the general public that it
22 maintains emergency room facilities.