

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 899

A bill to amend 1976 PA 390, entitled
"Emergency management act,"
by amending section 11 (MCL 30.411), as amended by 2005 PA 321.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) Personnel of disaster relief forces while on duty
2 are subject to all of the following provisions:

3 (a) If they are employees of this state, they have the powers,
4 duties, rights, privileges, and immunities of and receive the
5 compensation incidental to their employment.

6 (b) If they are employees of a political subdivision of this
7 state, regardless of where serving, they have the powers, duties,
8 rights, privileges, and immunities and receive the compensation
9 incidental to their employment.



1 (c) If they are not employees of this state or a political
 2 subdivision of this state, they are entitled to the same rights and
 3 immunities as provided by law for the employees of this state. All
 4 personnel of disaster relief forces shall, while on duty, be
 5 subject to the operational control of the authority in charge of
 6 disaster relief activities in the area in which they are serving ~~7~~
 7 and shall be reimbursed for all actual and necessary travel and
 8 subsistence expenses.

9 (2) This state, any political subdivision of this state, or
 10 the employees, agents, or representatives of this state or any
 11 political subdivision of this state are not liable for personal
 12 injury or property damage sustained by any person appointed or
 13 acting as a member of disaster relief forces. This act does not
 14 affect the right of a person to receive benefits or compensation to
 15 which he or she may otherwise be entitled to under the worker's
 16 disability compensation act of 1969, 1969 PA 317, MCL 418.101 to
 17 418.941, any pension law, or any act of ~~congress.~~**Congress.**

18 (3) This state or a political subdivision of this state
 19 engaged in disaster relief activity is not liable for the death of
 20 or injury to a person or persons, or for damage to property, as a
 21 result of that activity. The employees, agents, or representatives
 22 of this state or a political subdivision of this state and
 23 nongovernmental disaster relief force workers or private or
 24 volunteer personnel engaged in disaster relief activity are immune
 25 from tort liability to the extent provided under section 7 of 1964
 26 PA 170, MCL 691.1407. ~~As used in this section, "disaster relief~~
 27 ~~activity" includes training for or responding to an actual,~~
 28 ~~impending, mock, or practice disaster or emergency.~~

29 (4) ~~A person licensed to practice medicine or osteopathic~~



1 ~~medicine and surgery or a licensed hospital,~~ **health care provider**
 2 **or a health care facility,** whether licensed in this or another
 3 state or by the federal government or a branch of the ~~armed forces~~
 4 **Armed Forces** of the United States, ~~or an individual listed in~~
 5 ~~subsection (6),~~ who renders **health care** services during a state of
 6 **disaster or state of emergency** declared by the governor ~~and at the~~
 7 ~~express or implied request of a state official or agency or county~~
 8 ~~or local coordinator or executive body,~~ **in support of this state's**
 9 **response to the state of disaster or state of emergency** is
 10 considered an authorized disaster relief worker or facility and is
 11 not liable, for an ~~injury sustained by a person by reason of those~~
 12 ~~services,~~ **the death or for an injury sustained by a person by**
 13 **reason of those services** regardless of how or under what
 14 circumstances or by what cause those injuries are sustained **or**
 15 **death occurs.** The immunity granted by this subsection does not
 16 apply in the event of an act or omission that is willful **misconduct**
 17 or gross negligence **or constitutes intentional and willful or**
 18 **criminal misconduct or intentional infliction of harm.** If a civil
 19 action for malpractice is filed alleging an act or omission that is
 20 willful or gross negligence resulting in ~~injuries,~~ **injury or death,**
 21 the services rendered that resulted in those injuries **or death**
 22 shall be judged according to the standards required of persons
 23 licensed in this state to perform those services.

24 (5) An individual listed in subsection (6), during a state of
 25 disaster declared by the governor, may practice, in addition to the
 26 authority granted by other statutes of this state, the
 27 administration of anesthetics; minor surgery; intravenous,
 28 subcutaneous, or intramuscular procedure; or oral and topical
 29 medication; or a combination of these under the supervision of a



1 member of the medical staff of a licensed hospital of this state,
2 and may assist the staff member in other medical and surgical
3 proceedings.

4 (6) Subsections (4) and (5) apply to all of the following
5 individuals:

6 (a) Any of the following, if licensed in this or another state
7 or by the federal government or a branch of the ~~armed forces~~ **Armed**
8 **Forces** of the United States:

9 (i) A registered nurse.

10 (ii) A practical nurse.

11 (iii) A nursing student acting under the supervision of a
12 licensed nurse.

13 (iv) A dentist.

14 (v) A veterinarian.

15 (vi) A pharmacist.

16 (vii) A pharmacist intern acting under the supervision of a
17 licensed pharmacist.

18 (viii) A paramedic.

19 (b) A medical resident undergoing training in a licensed
20 hospital in this or another state.

21 (7) **Notwithstanding any law to the contrary, during the period**
22 **which begins retroactive to March 10, 2020 and continues until**
23 **January 1, 2021, the immunity granted under subsection (4) shall**
24 **extend to any death of or injury sustained by a person arising out**
25 **of or as a result of any act or omission by a health care provider**
26 **or health care facility while engaging in 1 or more of the**
27 **following activities, which shall constitute health care services**
28 **rendered in support of the state's response to the COVID-19**
29 **pandemic, unless the act or omission constitutes willful**



1 misconduct, gross negligence, intentional and willful criminal
2 misconduct, or intentional infliction of harm:

3 (a) The rendering of COVID-19-related health care services by
4 a health care provider or health care facility to an individual
5 with presumed, suspected, or confirmed COVID-19.

6 (b) The arrangement, scheduling, rescheduling, canceling, or
7 postponement of the rendering of health care services by a health
8 care provider or health care facility, including the decision to
9 utilize telehealth or other remote services in lieu of an in-person
10 encounter, in reliance on or in compliance with any administrative
11 or governmental agency, division, or department policy, rule, or
12 directive, or any executive order or law regarding health care
13 services provided by a health care provider or health care
14 facility.

15 (c) Acts, omissions, or decisions made by a health care
16 provider or health care facility resulting from a shortage of
17 necessary resources, including, but not limited to, blood products,
18 pharmaceuticals, medical equipment, or staffing.

19 (8) ~~(7)~~—A person owning or controlling real estate or other
20 premises who voluntarily and without compensation grants to this
21 state or a political subdivision of this state a license or
22 privilege, or otherwise permits this state or a political
23 subdivision of this state to inspect, designate, and use the whole
24 or any part or parts of the real estate or other premises for the
25 purpose of sheltering persons during an actual, impending, mock, or
26 practice disaster, together with his or her successors in interest,
27 if any, is not civilly liable for negligently causing the death of
28 or injury to any person on or about the real estate or premises
29 under the license, privilege, or permission or for loss or damage



1 to the property of the person.

2 **(9)** ~~(8)~~—A person owning or controlling real estate or other
3 premises who has gratuitously granted the use of the real estate or
4 other premises for the purposes stated in this section is legally
5 obligated to make known to the licensee any hidden dangers or
6 safety hazards that are known to the owner or occupant of the real
7 estate or premises that might possibly result in the death or
8 injury or loss of property to a person using the real estate or
9 premises.

10 **(10)** Nothing in this section removes, supersedes, or limits
11 any immunity conferred by any other state or federal law, rule,
12 policy, executive order, directive, or procedure.

13 **(11)** ~~(9)~~—As used in this section: ~~7~~—"gross

14 **(a)** "Disaster relief activity" includes training for or
15 responding to an actual, impending, mock, or practice disaster or
16 emergency.

17 **(b)** "Gross negligence" means conduct so reckless as to
18 demonstrate a substantial lack of concern for whether an injury
19 results.

20 **(c)** "Health care facility" means 1 or more of the following
21 entities or organizations, including any administrators,
22 executives, supervisors, board members, trustees, employees, and
23 volunteers of that entity or organization:

24 **(i)** A health facility or agency described in section 20106 of
25 the public health code, 1978 PA 368, MCL 333.20106.

26 **(ii)** State-owned surgical centers.

27 **(iii)** State-operated outpatient facilities.

28 **(iv)** State-operated veterans facilities.

29 **(v)** Facilities used as surge capacity for any of the health



1 care facilities described in this subdivision.

2 (vi) Any other entity or organization rendering health care
3 services.

4 (d) "Health care provider" means 1 or more of the following:

5 (i) An individual licensed, registered, or otherwise authorized
6 to engage in a health profession under article 15 of the public
7 health code, 1978 PA 368, MCL 333.16101 to 333.18838.

8 (ii) Emergency medical services personnel as defined in section
9 20904 of the public health code, 1978 PA 368, MCL 333.20904.

10 (iii) Students, trainees, volunteers, competency evaluated
11 nursing assistants, and temporary nurse aides as authorized under
12 the Centers for Medicare and Medicaid Services COVID-19 emergency
13 declaration blanket waivers for health care providers under section
14 1135 of the social security act, 42 USC 1320b-5, and any other
15 licensed, registered, or unlicensed individual otherwise authorized
16 by law, executive order, or directive of this state to render
17 health care services, with or without a license, during a state of
18 emergency or state of disaster or the period specified in
19 subsection (7).

20 (e) "Health care services" means services provided to an
21 individual by a health care facility or health care provider
22 regardless of the location where those services are provided,
23 including the provision of health care services via telehealth or
24 other remote method.

25 (f) "Willful misconduct" means conduct or a failure to act
26 that was intended to cause harm.

