

# HOUSE BILL No. 4669

April 26, 2005, Introduced by Reps. Vander Veen, Caswell, Taub, Green, Amos, Huizenga, Stahl, Ball, Sheen, Kahn, Pearce, Newell, Emmons and Farhat and referred to the Committee on Health Policy.

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 SUBSECTION (3),** 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.

1           (2) ~~The~~ **SUBJECT TO SUBSECTION (3), THE** limitation on  
2 liability provided under subsection (1) **ALSO** applies ~~only if the~~  
3 **TO THE FOLLOWING FACILITIES OR ENTITIES IF** nonemergency health care  
4 is provided **BY A LICENSEE OR REGISTRANT** inside the premises of or  
5 as a result of a referral from ~~either of the following~~ **THE**  
6 **FACILITY OR ENTITY:**

7           (a) A health facility organized and operated for the sole  
8 purpose of delivering nonemergency health care without receiving  
9 compensation.

10           (b) An entity that is not a health facility and that provides  
11 nonemergency health care to uninsured or under-insured individuals  
12 through the voluntary services of licensees or registrants who  
13 receive no compensation for providing the nonemergency health care.

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

19           (a) The licensee or registrant provides the patient with a  
20 written disclosure describing the limitation on liability and  
21 stating that the health care is free and compensation for the  
22 health care will 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

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 health facility or entity described in subsection (2).

4 (5) This section does not affect the liability of a health  
5 facility or entity described in subsection (2) as that liability  
6 existed before ~~the effective date of this section~~ **JANUARY 1,**  
7 **2002.**

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

11 (7) As used in this section:

12 (a) "Compensation" means receipt of payment or expected  
13 receipt of payment from any source, including, but not limited to,  
14 receipt of payment or expected receipt of payment directly from a  
15 patient, from a patient's parent, guardian, or spouse, or from a  
16 public or private health care payment or benefits plan on behalf of  
17 the patient, or indirectly in the form of wages, salary, or other  
18 valuable consideration under an employment or service agreement.

19 (b) "Health facility" means a health facility or agency  
20 licensed under article 17.