

# SENATE BILL No. 635

June 11, 2009, Introduced by Senators ALLEN, PAPPAGEORGE, HARDIMAN, KUIPERS  
and BIRKHOLZ and referred to the Committee on Judiciary.

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 licensee or registrant who provides to a  
2 patient nonemergency health care that the licensee or registrant is  
3 licensed or registered under this article to provide, and who  
4 receives no compensation for providing the nonemergency health  
5 care, is not liable in a civil action for damages for acts or  
6 omissions in providing the nonemergency health care, unless the  
7 acts or omissions were the result of gross negligence or willful  
8 and wanton misconduct or were intended to injure the patient.

9           (2) The limitation on liability provided under subsection (1)

1 applies only if the nonemergency health care is provided inside the  
2 premises of or as a result of a referral from either of the  
3 following:

4 (a) A health facility organized and operated for the sole  
5 purpose of delivering nonemergency health care without receiving  
6 compensation.

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

11 (3) In addition to the restrictions under subsection (1), the  
12 limitation on liability provided in subsection (1) does not apply  
13 in regard to the nonemergency health care of a patient unless,  
14 before the licensee or registrant provides that health care, both  
15 of the following occur:

16 (a) The licensee or registrant provides the patient with a  
17 written disclosure describing the limitation on liability and  
18 stating that the health care is free and compensation for the  
19 health care will not be requested from any source.

20 (b) The patient signs an acknowledgment of receipt of the  
21 written disclosure.

22 (4) A health facility, other than a health facility described  
23 in subsection (2), that provides financial, in-kind, or other  
24 support, not including health care services, to a health facility  
25 or other entity described in subsection (2) is not liable in a  
26 civil action for damages based on nonemergency health care provided  
27 by the health facility or entity described in subsection (2).

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

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

7           (7) As used in this section:

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

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

17           (c) **"INDIRECTLY", WITH RESPECT TO COMPENSATION, DOES NOT**  
18 **INCLUDE THE RECEIPT BY A LICENSEE OR REGISTRANT WHO IS EMPLOYED BY**  
19 **A HEALTH FACILITY OTHER THAN A HEALTH FACILITY DESCRIBED IN**  
20 **SUBSECTION (2) OF WAGES, SALARY, OR OTHER VALUABLE CONSIDERATION**  
21 **FROM THE EMPLOYING HEALTH FACILITY FOR PROVIDING HEALTH CARE AS**  
22 **DESCRIBED IN THIS SECTION, IF THE EMPLOYING HEALTH FACILITY DOES**  
23 **NOT RECEIVE COMPENSATION FOR THE PROVISION OF THE HEALTH CARE.**