

SENATE BILL No. 1261

April 14, 2010, Introduced by Senators JACOBS, HARDIMAN, GEORGE and BIRKHOLZ 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 THIS SECTION, 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 limitation on liability provided under subsection (1)
2 applies only if the nonemergency health care is provided inside the
3 premises of or as a result of a referral from either of the
4 following:

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

8 (b) An entity that is not a health facility and that provides
9 **OR THAT COORDINATES OR OTHERWISE ARRANGES FOR THE PROVISION OF**
10 nonemergency health care to uninsured or ~~under-insured~~ **UNDERINSURED**
11 individuals through the voluntary services of **OR THROUGH REFERRALS**
12 **FOR THE VOLUNTARY SERVICES OF** licensees or registrants who receive
13 no compensation for providing the nonemergency health care.

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

19 (a) The licensee, ~~or~~ **registrant, OR HEALTH FACILITY OR ENTITY**
20 **DESCRIBED IN SUBSECTION (2)** provides the patient with a written
21 disclosure describing the limitation on liability and stating that
22 the health care is free and compensation for the health care will
23 not be requested from any source.

24 (b) The patient signs an acknowledgment of receipt of the
25 written disclosure.

26 (4) A health facility, other than a health facility described
27 in subsection (2), that provides financial, in-kind, or other

1 support, not including health care services, to a health facility
2 or ~~other~~ entity described in subsection (2) is not liable in a
3 civil action for damages based on nonemergency health care provided
4 by the **LICENSEE, REGISTRANT, OR** health facility or entity described
5 in subsection (2).

6 (5) **AN ENTITY THAT IS NOT A HEALTH FACILITY AND THAT**
7 **COORDINATES OR OTHERWISE ARRANGES FOR THE PROVISION OF NONEMERGENCY**
8 **HEALTH CARE TO UNINSURED OR UNDERINSURED INDIVIDUALS THROUGH THE**
9 **VOLUNTARY SERVICES OF OR THROUGH REFERRALS FOR THE VOLUNTARY**
10 **SERVICES OF LICENSEES OR REGISTRANTS WHO RECEIVE NO COMPENSATION**
11 **FOR PROVIDING THE NONEMERGENCY HEALTH CARE IS NOT LIABLE IN A CIVIL**
12 **ACTION FOR DAMAGES BASED ON NONEMERGENCY HEALTH CARE PROVIDED BY**
13 **THE LICENSEE, REGISTRANT, OR HEALTH FACILITY OR ENTITY DESCRIBED IN**
14 **SUBSECTION (2).**

15 (6) ~~(5)~~ This section does not affect the liability of a health
16 facility or entity described in subsection (2) as that liability
17 existed before ~~the effective date of this section~~ **JANUARY 1, 2002.**

18 (7) ~~(6)~~ This section does not apply to a civil action for
19 damages for acts or omissions if the nonemergency health care is
20 surgery that customarily requires more than a local anesthetic.

21 (8) ~~(7)~~ As used in this section:

22 (a) "Compensation" means receipt of payment or expected
23 receipt of payment from any source, including, but not limited to,
24 receipt of payment or expected receipt of payment directly from a
25 patient, from a patient's parent, guardian, or spouse, or from a
26 public or private health care payment or benefits plan on behalf of
27 the patient, or indirectly in the form of wages, salary, or other

1 valuable consideration under an employment or service agreement.

2 (b) "Health facility" means a health facility or agency

3 licensed under article 17.