

SUBSTITUTE FOR  
HOUSE BILL NO. 4350

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.

10           (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 **OR THAT COORDINATES OR OTHERWISE ARRANGES FOR THE PROVISION OF**  
9 nonemergency health care to uninsured or ~~under-insured~~**UNDERINSURED**  
10 individuals through the voluntary services of **OR THROUGH REFERRALS**  
11 **FOR THE VOLUNTARY SERVICES OF** licensees or registrants who receive  
12 no compensation for providing the nonemergency health care.

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

18 (a) The licensee, ~~or~~registrant, **OR HEALTH FACILITY OR ENTITY**  
19 **DESCRIBED IN SUBSECTION (2)** provides the patient with a written  
20 disclosure describing the limitation on liability and stating that  
21 the health care is free and compensation for the health care will  
22 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 **LICENSEE, REGISTRANT, OR** health facility or entity described  
4 in subsection (2).

5 (5) AN ENTITY THAT IS NOT A HEALTH FACILITY, IS EXEMPT FROM  
6 TAXATION UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE OF  
7 1986, 26 USC 501, AND IS ORGANIZED AND OPERATED FOR THE SOLE  
8 PURPOSE OF COORDINATING AND PROVIDING REFERRALS FOR NONEMERGENCY  
9 HEALTH CARE TO UNINSURED OR UNDERINSURED INDIVIDUALS THROUGH  
10 LICENSEES OR REGISTRANTS WHO DO NOT RECEIVE COMPENSATION FOR  
11 PROVIDING THE NONEMERGENCY HEALTH CARE IS NOT LIABLE IN A CIVIL  
12 ACTION FOR DAMAGES THAT ARISE FROM THE NONEMERGENCY HEALTH CARE  
13 PROVIDED BY THE LICENSEE, REGISTRANT, OR HEALTH FACILITY OR ENTITY  
14 DESCRIBED IN 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.

4 (C) "INDIRECTLY", WITH RESPECT TO COMPENSATION, DOES NOT  
5 INCLUDE THE RECEIPT BY A LICENSEE OR REGISTRANT WHO IS EMPLOYED BY  
6 A HEALTH FACILITY OTHER THAN A HEALTH FACILITY DESCRIBED IN  
7 SUBSECTION (2) OF WAGES, SALARY, OR OTHER VALUABLE CONSIDERATION  
8 FROM THE EMPLOYING HEALTH FACILITY FOR PROVIDING HEALTH CARE AS  
9 DESCRIBED IN THIS SECTION, IF THE EMPLOYING HEALTH FACILITY DOES  
10 NOT RECEIVE COMPENSATION FOR THE PROVISION OF THE HEALTH CARE.