

HOUSE BILL No. 5848

May 4, 2004, Introduced by Reps. Vander Veen, Voorhees, Garfield, Newell, Pappageorge, Ehardt, Amos, Hummel and Ward 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 licensee or registrant who provides to a
2 patient nonemergency health care that the licensee or registrant
3 is 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)
10 **also applies ~~only if the~~ to the following if** nonemergency

1 health care is provided **by a licensee or registrant** inside the
2 premises of or as a result of a referral from ~~either of the~~
3 ~~following~~ **the facility or entity:**

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
9 individuals through the voluntary services of licensees or
10 registrants who receive no compensation for providing the
11 nonemergency health care.

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

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

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

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

1 provided by the health facility or entity described in subsection
2 (2).

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

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

10 (7) As used in this section:

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

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