

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1185

A bill to provide immunity for health care providers and health care facilities in the event of a pandemic; to clarify the time frame for the immunity; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "pandemic response health care immunity act".

3 Sec. 3. As used in this act:

4 (a) "Care and recovery center" means a nursing home that is
5 designated by the department of health and human services as a
6 dedicated facility to temporarily and exclusively care for and
7 isolate COVID-19-affected residents.

8 (b) "Gross negligence" means conduct so reckless as to
9 demonstrate a substantial lack of concern for whether an injury



1 results.

2 (c) "Health care facility" means an entity that is 1 or more
3 of the following:

4 (i) A health facility or agency as defined in section 20106 of
5 the public health code, 1978 PA 368, MCL 333.20106.

6 (ii) A psychiatric hospital, as that term is defined in section
7 100b of the mental health code, 1974 PA 258, MCL 330.1100b, or a
8 psychiatric unit as that term is defined in section 100c of the
9 mental health code, 1974 PA 258, MCL 330.1100c.

10 (iii) A state-owned surgical center.

11 (iv) A state-operated outpatient facility.

12 (v) A state-operated veterans facility.

13 (vi) A facility used as surge capacity for any of the health
14 care facilities described in this subdivision.

15 (vii) A facility operating as a care and recovery center.

16 (d) "Health care provider" means an individual that is 1 or
17 more of the following:

18 (i) An individual licensed under article 15 of the public
19 health code, 1978 PA 368, MCL 333.16101 to 333.18838.

20 (ii) An individual permitted to engage in the practice of a
21 health profession under section 16171(c) of the public health code,
22 1978 PA 368, MCL 333.16171.

23 (iii) Emergency medical services personnel as defined in section
24 20904 of the public health code, 1978 PA 368, MCL 333.20904.

25 (iv) A student, a volunteer, or any other licensed health care
26 professional at a health care facility.

27 (e) "Health care services" means services provided to an
28 individual by a health care facility or health care provider



1 regardless of the location where those services are provided,
2 including the provision of health care services via telehealth or
3 other remote method.

4 (f) "Willful misconduct" means conduct or a failure to act
5 that was intended to cause harm.

6 Sec. 5. A health care provider or health care facility that
7 provides health care services in support of this state's response
8 to the COVID-19 pandemic is not liable for an injury, including
9 death, sustained by an individual by reason of those services,
10 regardless of how, under what circumstances, or by what cause those
11 injuries are sustained, unless it is established that the provision
12 of the services constituted willful misconduct, gross negligence,
13 intentional and willful criminal misconduct, or intentional
14 infliction of harm by the health care provider or health care
15 facility.

16 Sec. 6. This act does not apply to claims covered by the
17 worker's disability compensation act of 1969, 1969 PA 317, MCL
18 418.101 to 418.941.

19 Sec. 7. The liability protection provided by this act applies
20 retroactively, and applies during both of the following:

21 (a) After March 28, 2020 and before July 14, 2020.

22 (b) After October 29, 2020 and before February 14, 2021.

23 Sec. 8. The pandemic health care immunity act, 2020 PA 240,
24 MCL 691.1471 to 691.1477, is repealed.

