

HOUSE BILL NO. 5751

April 30, 2020, Introduced by Rep. Sheppard and referred to the Committee on Judiciary.

A bill to amend 1976 PA 390, entitled
"Emergency management act,"
by amending section 11 (MCL 30.411), as amended by 2005 PA 321.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) Personnel of disaster relief forces while on duty
2 are subject to all of the following provisions:

3 (a) If they are employees of this state, they have the powers,
4 duties, rights, privileges, and immunities of and receive the



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1 compensation incidental to their employment.

2 (b) If they are employees of a political subdivision of this
3 state, regardless of where serving, they have the powers, duties,
4 rights, privileges, and immunities and receive the compensation
5 incidental to their employment.

6 (c) If they are not employees of this state or a political
7 subdivision of this state, they are entitled to the same rights and
8 immunities as provided by law for the employees of this state. All
9 personnel of disaster relief forces shall, while on duty, be
10 subject to the operational control of the authority in charge of
11 disaster relief activities in the area in which they are serving,
12 and shall be reimbursed for all actual and necessary travel and
13 subsistence expenses.

14 (2) This state, any political subdivision of this state, or
15 the employees, agents, or representatives of this state or any
16 political subdivision of this state are not liable for personal
17 injury or property damage sustained by any person appointed or
18 acting as a member of disaster relief forces. This act does not
19 affect the right of a person to receive benefits or compensation to
20 which he or she may otherwise be entitled to under the worker's
21 disability compensation act of 1969, 1969 PA 317, MCL 418.101 to
22 418.941, any pension law, or any act of ~~congress~~**Congress**.

23 (3) This state or a political subdivision of this state
24 engaged in disaster relief activity is not liable for the death of
25 or injury to a person or persons, or for damage to property, as a
26 result of that activity. The employees, agents, or representatives
27 of this state or a political subdivision of this state and
28 nongovernmental disaster relief force workers or private or
29 volunteer personnel engaged in disaster relief activity are immune



1 from tort liability to the extent provided under section 7 of 1964
 2 PA 170, MCL 691.1407. ~~As used in this section, "disaster relief~~
 3 ~~activity" includes training for or responding to an actual,~~
 4 ~~impending, mock, or practice disaster or emergency.~~

5 (4) ~~A person licensed to practice medicine or osteopathic~~
 6 ~~medicine and surgery or a licensed hospital,~~ **health care**
 7 **professional or a health care facility**, whether licensed in this or
 8 another state or by the federal government or a branch of the ~~armed~~
 9 ~~forces~~ **Armed Forces** of the United States, or an individual ~~listed~~
 10 **described** in subsection (6), who renders services during a state of
 11 disaster declared by the governor ~~and at the express or implied~~
 12 ~~request of a state official or agency or county or local~~
 13 ~~coordinator or executive body,~~ **under this act or under a state of**
 14 **emergency declared under 1945 PA 302, MCL 10.31 to 10.33, in**
 15 **support of this state's response to the state of disaster declared**
 16 **under this act or under a state of emergency declared under 1945 PA**
 17 **302, MCL 10.31 to 10.33,** is considered an authorized disaster
 18 relief worker or facility and is not liable for an injury sustained
 19 by a person by reason of those services, regardless of how or under
 20 what circumstances or by what cause those injuries are sustained.
 21 The immunity granted by this subsection does not apply in the event
 22 of an act or omission that is willful or gross negligence. If a
 23 civil action for malpractice is filed alleging an act or omission
 24 that is willful or gross negligence resulting in injuries, the
 25 services rendered that resulted in those injuries shall be judged
 26 according to the standards required of persons licensed in this
 27 state to perform those services. **The immunity granted to health**
 28 **care professionals and health care facilities under this subsection**
 29 **due to this state's response to the COVID-19 pandemic shall remain**



1 in effect through September 30, 2020.

2 (5) An individual listed in subsection (6), during a state of
3 disaster declared by the governor, may practice, in addition to the
4 authority granted by other statutes of this state, the
5 administration of anesthetics; minor surgery; intravenous,
6 subcutaneous, or intramuscular procedure; or oral and topical
7 medication; or a combination of these under the supervision of a
8 member of the medical staff of a licensed hospital of this state,
9 and may assist the staff member in other medical and surgical
10 proceedings.

11 (6) Subsections (4) and (5) apply to all of the following
12 individuals:

13 (a) Any of the following, if licensed in this or another state
14 or by the federal government or a branch of the ~~armed forces~~ **Armed**
15 **Forces** of the United States:

16 (i) A registered nurse.

17 (ii) A practical nurse.

18 (iii) A nursing student acting under the supervision of a
19 licensed nurse.

20 (iv) A dentist.

21 (v) A veterinarian.

22 (vi) A pharmacist.

23 (vii) A pharmacist intern acting under the supervision of a
24 licensed pharmacist.

25 (viii) A paramedic.

26 (b) A medical resident undergoing training in a licensed
27 hospital in this or another state.

28 (7) A person owning or controlling real estate or other
29 premises who voluntarily and without compensation grants to this



state or a political subdivision of this state a license or privilege, or otherwise permits this state or a political subdivision of this state to inspect, designate, and use the whole or any part or parts of the real estate or other premises for the purpose of sheltering persons during an actual, impending, mock, or practice disaster, together with his or her successors in interest, if any, is not civilly liable for negligently causing the death of or injury to any person on or about the real estate or premises under the license, privilege, or permission or for loss or damage to the property of the person.

(8) A person owning or controlling real estate or other premises who has gratuitously granted the use of the real estate or other premises for the purposes stated in this section is legally obligated to make known to the licensee any hidden dangers or safety hazards that are known to the owner or occupant of the real estate or premises that might possibly result in the death or injury or loss of property to a person using the real estate or premises.

(9) As used in this section: ~~"gross~~

(a) "Disaster relief activity" includes training for or responding to an actual, impending, mock, or practice disaster or emergency.

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

(c) "Health care facility" means 1 or more of the following:

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

(ii) State-owned surgical centers.



1 (iii) State-operated outpatient facilities.

2 (iv) State-operated veterans facilities.

3 (v) Entities used as surge capacity for any of the entities
4 described in this subdivision.

5 (d) "Health care professional" means a person licensed,
6 registered, or otherwise authorized to engage in a health
7 profession under article 15 of the public health code, 1978 PA 368,
8 MCL 333.16101 to 333.18838.

