

[No. 172]

(SB 30)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," (MCL 333.1101 to 333.25211) by adding section 16277.

*The People of the State of Michigan enact:*

**333.16277 Nonemergency health care; limitation on liability; additional restrictions; exceptions; definitions.**

Sec. 16277. (1) A licensee or registrant who provides to a patient nonemergency health care that the licensee or registrant is licensed or registered under this article to provide, and who receives no compensation for providing the nonemergency health care, is not liable in a civil action for damages for acts or omissions in providing the nonemergency health care, unless the acts or omissions were the result of gross negligence or willful and wanton misconduct or were intended to injure the patient.

(2) The limitation on liability provided under subsection (1) applies only if the non-emergency health care is provided inside the premises of or as a result of a referral from either of the following:

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

(b) An entity that is not a health facility and that provides nonemergency health care to uninsured or under-insured individuals through the voluntary services of licensees or registrants who receive no compensation for providing the nonemergency health care.

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

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

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

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

(5) This section does not affect the liability of a health facility or entity described in subsection (2) as that liability existed before the effective date of this section.

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

(7) As used in this section:

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

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

### **Effective date; applicability to causes of action.**

Enacting section 1. Section 16277 of the public health code, 1978 PA 368, MCL 333.16277, as added by this amendatory act, takes effect January 1, 2002 and applies to a cause of action arising on or after that effective date.

This act is ordered to take immediate effect.

Approved November 29, 2001.

Filed with Secretary of State November 30, 2001.

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