

# HOUSE BILL No. 6163

May 14, 2010, Introduced by Rep. Meadows and referred to the Committee on Ethics and Elections.

A bill to amend 1961 PA 236, entitled  
"Revised judiciary act of 1961,"  
(MCL 600.101 to 600.9947) by adding section 2912i.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           SEC. 2912I. (1) A LICENSED HEALTH CARE PROFESSIONAL OR A  
2 LICENSED HEALTH FACILITY OR AGENCY IS NOT LIABLE IN AN ACTION BASED  
3 ON MEDICAL MALPRACTICE ARISING OUT OF THE PROVISION OF EMERGENCY  
4 MEDICAL CARE IN AN EMERGENCY DEPARTMENT OR OBSTETRICAL UNIT LOCATED  
5 IN AND OPERATED BY A HOSPITAL, OR EMERGENCY SERVICES PROVIDED IN A  
6 SURGICAL OPERATING ROOM, CARDIAC CATHETERIZATION LABORATORY, OR  
7 RADIOLOGY DEPARTMENT IMMEDIATELY FOLLOWING THE EVALUATION OR  
8 TREATMENT OF THE PATIENT IN AN EMERGENCY DEPARTMENT, UNLESS THE  
9 PLAINTIFF PROVES BY CLEAR AND CONVINCING EVIDENCE THAT THE LICENSED  
10 HEALTH CARE PROFESSIONAL'S ACTIONS CONSTITUTED GROSS NEGLIGENCE

1 THAT PROXIMATELY CAUSED THE INJURY TO THE PATIENT.

2 (2) IN AN ACTION DESCRIBED IN SUBSECTION (1), THE COURT SHALL  
3 INSTRUCT THE JURY TO CONSIDER, IN ADDITION TO ALL OTHER RELEVANT  
4 MATTERS, ALL OF THE FOLLOWING:

5 (A) WHETHER THE PERSON PROVIDING CARE HAD MEANINGFUL ACCESS TO  
6 THE PATIENT'S FULL MEDICAL HISTORY, INCLUDING KNOWLEDGE OF  
7 PREEXISTING MEDICAL CONDITIONS, ALLERGIES, AND MEDICATIONS.

8 (B) WHETHER THE PERSON PROVIDING CARE HAD A PREEXISTING  
9 LICENSED HEALTH CARE PROFESSIONAL-PATIENT RELATIONSHIP WITH THE  
10 PATIENT.

11 (C) WHETHER THE PERSON PROVIDING CARE KNEW OR SHOULD HAVE  
12 KNOWN OF THE FACTS RELATING TO THE EMERGENCY.

13 (3) AS USED IN THIS SECTION:

14 (A) "EMERGENCY MEDICAL CARE" MEANS BONA FIDE EMERGENCY  
15 SERVICES PROVIDED AFTER THE ONSET OF A MEDICAL OR TRAUMATIC  
16 CONDITION THAT IS MANIFESTED BY ACUTE SYMPTOMS, INCLUDING, BUT NOT  
17 LIMITED TO, PAIN OF SUFFICIENT SEVERITY THAT A FAILURE TO PROVIDE  
18 IMMEDIATE MEDICAL ATTENTION COULD REASONABLY BE EXPECTED TO RESULT  
19 IN SERIOUS JEOPARDY TO THE PATIENT'S HEALTH, SERIOUS IMPAIRMENT OF  
20 BODILY FUNCTIONS, OR SERIOUS DYSFUNCTION OF A BODILY ORGAN OR PART.  
21 EMERGENCY MEDICAL CARE DOES NOT INCLUDE MEDICAL CARE PROVIDED AFTER  
22 THE PATIENT IS STABILIZED AND CAPABLE OF RECEIVING MEDICAL CARE AS  
23 A NONEMERGENCY PATIENT OR CARE THAT IS UNRELATED TO THE ORIGINAL  
24 MEDICAL EMERGENCY.

25 (B) "GROSS NEGLIGENCE" MEANS CONDUCT SO RECKLESS AS TO  
26 DEMONSTRATE A SUBSTANTIAL LACK OF CONCERN FOR WHETHER AN INJURY  
27 RESULTS.

1 (C) "HOSPITAL" MEANS THAT TERM AS DEFINED IN SECTION 20106 OF  
2 THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.20106.

3 (D) "LICENSED HEALTH CARE PROFESSIONAL" AND "LICENSED HEALTH  
4 FACILITY OR AGENCY" MEAN THOSE TERMS AS DEFINED IN SECTION 5838A.

5 Enacting section 1. This amendatory act does not take effect  
6 unless all of the following bills of the 95th Legislature are  
7 enacted into law:

8 (a) House Bill No. 5744.

9 (b) House Bill No. 5745.