

PANDEMIC HEALTH CARE IMMUNITY ACT

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 6159 as enacted

Public Act 240 of 2020

Sponsor: Rep. Roger Hauck

House Committee: Judiciary

Senate Committee: Health Policy and Human Services [Discharged]

Complete to 10-27-20

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 6159 creates a new act, the Pandemic Health Care Immunity Act, to provide immunity from liability to a health care provider or health care facility that provided health care services under specific circumstances related to the COVID-19 pandemic.

Under the act, a *health care provider* or *health care facility* that provided *health care services* in support of the state's response to the COVID-19 pandemic on or after March 29, 2020, and before July 14, 2020, is not liable for an injury (including death) sustained by an individual because of those services.

This immunity from liability applies regardless of how, under what circumstances, or by what cause the injuries were sustained. However, it does not apply if it is established that the provision of the services constituted *willful misconduct*, *gross negligence*, intentional and willful criminal misconduct, or intentional infliction of harm by the health care provider or health care facility. The act also does not apply to claims covered by the Worker's Disability Compensation Act.

Health care services means services provided to an individual by a health care facility or health care provider regardless of where the services were provided, including services provided through telehealth or another remote method.

Health care provider means an individual who is one or more of the following:

- An individual licensed under Article 15 of the Public Health Code. (This includes, among others, physicians, nurses, dentists, mental health professionals, acupuncturists, physical therapists, occupational therapists, and respiratory therapists.)
- An individual who by education, training, or experience substantially meets requirements for licensure under Article 15 and is allowed under the code to render medical care without a license in a time of disaster or at the scene of an emergency.
- A medical first responder, emergency medical technician, emergency medical technician specialist, paramedic, or emergency medical services instructor-coordinator.
- A student, a volunteer, or any other licensed health professional at a health care facility.

Health care facility means an entity that is one or more of the following:

- A hospital.
- A health maintenance organization.
- A freestanding surgical outpatient facility.
- A county medical care facility.
- A nursing home.
- A home for the aged.
- An ambulance operation, aircraft transport operation, nontransport prehospital life support operation, or medical first response service.
- A facility or agency described above located in a university, college, or other educational institution.
- A hospice or hospice residence.
- A state-owned surgical center.
- A state-operated outpatient facility or veterans' facility.
- A facility used as surge capacity for any of the health care facilities described above.

Willful misconduct means conduct or a failure to act that was intended to cause harm.

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

The Pandemic Health Care Immunity Act took effect October 22, 2020.

MCL 691.1471 to 691.1477

FISCAL IMPACT:

House Bill 6159 would have an indeterminate fiscal impact on local court funding units. The bill would potentially reduce liability for injury for health care providers and facilities, although the magnitude of the potential reduction is unknown. Provisions of the bill are aimed at limiting the number of lawsuits likely to be filed. Any fiscal impact would be directly related to how provisions of the bill affect court caseloads, the complexity of lawsuits, and related administrative costs.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.