

Legislative Analysis



PANDEMIC HEALTH CARE IMMUNITY ACT

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House Bill 6159 (H-1) as reported from committee

Sponsor: Rep. Roger Hauck

Committee: Judiciary

Complete to 9-22-20

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

SUMMARY:

House Bill 6159 would create a new act, the Pandemic Health Care Immunity Act, to provide protection from liability, with some exceptions, 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 bill, 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 after March 9, 2020, and before July 15, 2020, would not be liable for an injury, including death, sustained by an individual by reason of those services.

This protection from liability would apply regardless of how, under what circumstances, or by what cause the injuries were sustained. However, it would not apply if it were 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 would not apply to claims covered by the Worker's Disability Compensation Act.

Health care services would mean services provided to an individual by a health care facility or health care provider regardless of the location where the services were provided, including services provided via telehealth or other remote method.

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

- An individual licensed, registered, or authorized to engage in a health profession 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.)
- A medical first responder, emergency medical technician, emergency medical technician specialist, paramedic, or emergency medical services instructor-coordinator.
- A student, trainee, volunteer, competency-evaluated nursing assistant, temporary nurse aide, or any other licensed, registered, or unlicensed individual authorized to render health care services by law, executive order, or directive of the state.

Health care facility would mean an entity that is one or more of the following, or an administrator, executive, supervisor, board member, trustee, employee, or volunteer of such an entity:

- 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.
- Any other entity or organization rendering health care services.
- A facility used as surge capacity for any of the health care facilities described above.

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

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

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.

POSITIONS:

A representative of the Michigan Health and Hospital Association (MHA) testified in support of the bill. (9-9-20)

The following entities indicated support for the bill:

- Sparrow Health Systems (9-20-20)
- Leading Age Michigan (9-15-20)
- Health Care Association of Michigan (9-9-20)
- Michigan County Medical Care Facilities Council (9-9-20)

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■ 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.