

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

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

Sec. 16277.

(1) Subject to this section, 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 nonemergency 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 or that coordinates or otherwise arranges for the provision of nonemergency health care to uninsured or underinsured individuals through the voluntary services of or through referrals for 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 (2), 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, registrant, or health facility or entity described in subsection (2) 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.

(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 entity described in subsection (2) is not liable in a civil action for damages based on nonemergency health care provided by the licensee, registrant, or health facility or entity described in subsection (2).

(5) An entity that is not a health facility, is exempt from taxation under section 501(c)(3) of the internal revenue code of 1986, 26 USC 501, and is organized and operated for the sole purpose of coordinating and providing referrals for nonemergency health care to uninsured or underinsured individuals through licensees or registrants who do not receive compensation for providing the nonemergency health care is not liable in a civil action for damages that arise from the nonemergency health care provided by the licensee, registrant, or health facility or entity described in subsection (2).

(6) This section does not affect the liability of a health facility or entity described in subsection (2) as that liability existed before January 1, 2002.

(7) 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.

(8) As used in this section:

(a) "Compensation" means, subject to subdivision (b), 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) "Compensation" does not include the receipt by a licensee or registrant who is employed by a health facility other than a health facility described in subsection (2) of wages, salary, or other valuable consideration from the employing health facility, if all of the following apply:

(i) The employing health facility does not expect or require the licensee or registrant to provide health care as described in this section as a condition of employment.

(ii) The employing health facility does not expect or require the licensee or registrant to provide health care as described in this section at a specific health facility described in subsection (2) as a condition of employment.

(iii) The employing health facility does not receive compensation for the licensee's or registrant's provision of health care as described in this section.

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

History: Add. 2001, Act 172, Eff. Jan. 1, 2002 ;-- Am. 2011, Act 94, Imd. Eff. July 15, 2011

Compiler's Notes: Enacting section 1 of Act 172 of 2001 provides: "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.”

Popular Name: Act 368