

## RESOLUTION 21-07A

**Title:** Physician Immunity for Impaired Patients

**Introduced by:** Marianna Spanaki-Varelas, MD, for the Oakland County Delegation

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**Referred to:** Reference Committee B

**House Action:** Adopted

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Whereas, any diminution of a bodily function, disease, and/or the treatment of such can cause an impairment that could place an individual at increased risk for injuring self or others while doing activities such as operating a motor vehicle or machinery, and

Whereas, Michigan physicians who assist the state to assess an individual's competency to operate a motor vehicle can be sued under the "special relationship" exception to the general rule that a physician does not owe a duty of care to non-patients, and

Whereas, Michigan law does not impose on a physician a duty to report to the Secretary of State if a patient is not fit to drive but also does not provide any immunity from litigation for a physician who does not report, and

Whereas, Michigan is one of only 18 states which do not protect physicians from third-party liability where the physician has filled out a report "certifying" that the individual's condition has been under control by medical or other treatment and that all symptoms or conditions which would affect the safe operation of a motor vehicle have been corrected, cured or controlled or have abated for not less than six months for an operator's license and one year for commercial driver's license, and

Whereas, Michigan physicians have been sued for a breach of duty of care owed to the public even if they warned and documented their patients about the driving law, and

Whereas, for a physician to practice under existing Michigan law the physician can warn the patient of the risks from driving but cannot take any other action without breaching patient confidentiality; therefore be it

**RESOLVED: That MSMS seek legislation that would provide immunity to physicians and institutions for injuries to or caused by individuals who are impaired due to any disease that reduces mental or physical skills and/or treatment of such condition provided that the physicians in good faith have properly warned the individual and documented such interactions/warnings in the patient's medical record and otherwise complied with state law.**

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**WAYS AND MEANS COMMITTEE FISCAL NOTE: NONE**