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3 **Title: Gross Negligence Standard for EMTALA Related Care**
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5 **Introduced by: Domenic R. Federico, MD, for the Kent County Delegation**
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7 **Original Author: David W. Whalen, MD**
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9 **Referred to: Reference Committee B**
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11 **House Action:**

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14 **Whereas, Federal EMTALA legislation requires hospitals to provide care**
15 **for patients with an emergency condition or in active labor; and**

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17 **Whereas, EMTALA effectively requires Emergency Physicians,**
18 **Obstetricians, and on-call physicians to care for some patients without having**
19 **access to prior records, without hope for compensation, but with persistent**
20 **risks of malpractice claims, and**

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22 **Whereas, it has become increasingly difficult for hospitals to obtain**
23 **coverage for some specialties due to EMTALA expectations, which has led to**
24 **less access for patients, and**

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26 **Whereas, Texas passed H.B. 4 in 2003 to provide Tort Reform which**
27 **among other provisions limited liability in EMTALA related care to acts of**
28 **"willful or wanton negligence" (i.e., "Gross Negligence"), because the**
29 **legislature recognized the unique role and circumstances of Emergency Care,**
30 **and**

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32 **Whereas, Texas' reforms have led to a 60% decrease in the number of**
33 **malpractice claims filed; therefore be it**

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35 **RESOLVED: That the Michigan State Medical Society seek legislation**
36 **that would require a standard of gross negligence on all EMTALA related care.**

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