

2 ESHB 2337 - S COMM AMD

3 By Committee on Health & Long-Term Care

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5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** There are a number of retired physicians
8 who wish to provide, or are providing, health care services to low-
9 income patients without compensation. However, the cost of obtaining
10 malpractice insurance is a burden that is deterring them from donating
11 their time and services in treating the health problems of the poor.
12 The necessity of maintaining malpractice insurance for those in
13 practice is a significant reality in today's litigious society.

14 A program to alleviate the onerous costs of malpractice insurance
15 for retired physicians providing uncompensated health care services to
16 low-income patients will encourage philanthropy and augment state
17 resources in providing for the health care needs of those who have no
18 access to basic health care services.

19 An estimated sixteen percent of the nonelderly population do not
20 have health insurance and lack access to even basic health care
21 services. This is especially problematic for low-income persons who
22 are young and who are either unemployed or have entry-level jobs
23 without health care benefits. The majority of the uninsured, however,
24 are working adults, and some twenty-nine percent are children.

25 The legislature declares that this act will increase the
26 availability of primary care to low-income persons and is in the
27 interest of the public health and safety."

1 "NEW SECTION. **Sec. 2.** A new section is added to chapter 43.70 RCW
2 to read as follows:

3 (1) The department may establish a program to purchase and maintain
4 liability malpractice insurance for retired physicians who provide
5 primary health care services at community clinics. The following
6 conditions apply to the program:

7 (a) Primary health care services shall be provided at community
8 clinics that are public or private tax-exempt corporations;

9 (b) Primary health care services provided at the clinics shall be
10 offered to low-income patients based on their ability to pay;

11 (c) Retired physicians providing health care services shall not
12 receive compensation for their services; and

13 (d) The department shall contract only with a liability insurer
14 authorized to offer liability malpractice insurance in the state.

15 (2) This section and section 3 of this act shall not be interpreted
16 to require a liability insurer to provide coverage to a physician
17 should the insurer determine that coverage should not be offered to a
18 physician because of past claims experience or for other appropriate
19 reasons.

20 (3) The state and its employees who operate the program shall be
21 immune from any civil or criminal action involving claims against
22 clinics or physicians that provided health care services under this
23 section and section 3 of this act. This protection of immunity shall
24 not extend to any clinic or physician participating in the program.

25 (4) The department may monitor the claims experience of retired
26 physicians covered by liability insurers contracting with the
27 department.

28 (5) The department may provide liability insurance under this act
29 only to the extent funds are provided for this purpose by the
30 legislature."

1 "NEW SECTION. **Sec. 3.** A new section is added to chapter 43.70 RCW
2 to read as follows:

3 The department may establish by rule the conditions of
4 participation in the liability insurance program by retired physicians
5 at clinics utilizing retired physicians for the purposes of this
6 section and section 2 of this act. These conditions shall include, but
7 not be limited to, the following:

8 (1) The participating physician associated with the clinic shall
9 hold a valid license to practice medicine and surgery in this state and
10 otherwise be in conformity with current requirements for licensure as
11 a retired physician, including continuing education requirements;

12 (2) The participating physician shall limit the scope of practice
13 in the clinic to primary care. Primary care shall be limited to
14 noninvasive procedures and shall not include obstetrical care, or any
15 specialized care and treatment. Noninvasive procedures include
16 injections, suturing of minor lacerations, and incisions of boils or
17 superficial abscesses;

18 (3) The provision of liability insurance coverage shall not extend
19 to acts outside the scope of rendering medical services pursuant to
20 this section and section 2 of this act;

21 (4) The participating physician shall limit the provision of health
22 care services to low-income persons provided that clinics may, but are
23 not required to, provide means tests for eligibility as a condition for
24 obtaining health care services;

25 (5) The participating physician shall not accept compensation for
26 providing health care services from patients served pursuant to this
27 section and section 2 of this act, nor from clinics serving these
28 patients. "Compensation" shall mean any remuneration of value to the
29 participating physician for services provided by the physician, but
30 shall not be construed to include any nominal copayments charged by the

1 clinic, nor reimbursement of related expenses of a participating
2 physician authorized by the clinic in advance of being incurred; and
3 (6) The use of mediation or arbitration for resolving questions of
4 potential liability may be used, however any mediation or arbitration
5 agreement format shall be expressed in terms clear enough for a person
6 with a sixth grade level of education to understand, and on a form no
7 longer than one page in length."

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11 On page 1, line 3 of the title, after "compensation;" strike the
12 remainder of the title and insert "adding new sections to chapter 43.70
13 RCW; and creating new sections."