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HOUSE BILL 2461

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State of Washington                      58th Legislature                      2004 Regular Session

By Representatives Kessler, Romero, Cody, Campbell, Morrell,  
Dickerson, Hatfield and Blake

Read first time 01/14/2004. Referred to Committee on Judiciary.

1            AN ACT Relating to liability for licensed health care providers;  
2 and amending RCW 4.24.300 and 43.70.460.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            **Sec. 1.** RCW 4.24.300 and 2003 c 256 s 1 are each amended to read  
5 as follows:

6            (1) Any person, including but not limited to a volunteer provider  
7 of emergency or medical services, who without compensation or the  
8 expectation of compensation renders emergency care at the scene of an  
9 emergency or who participates in transporting, not for compensation,  
10 therefrom an injured person or persons for emergency medical treatment  
11 shall not be liable for civil damages resulting from any act or  
12 omission in the rendering of such emergency care or in transporting  
13 such persons, other than acts or omissions constituting gross  
14 negligence or willful or wanton misconduct. Any person rendering  
15 emergency care during the course of regular employment and receiving  
16 compensation or expecting to receive compensation for rendering such  
17 care is excluded from the protection of this subsection.

18            (2) Any (~~physician licensed under chapter 18.57 or 18.71 RCW~~)  
19 licensed health care provider as listed in RCW 18.130.040 in the state

1 of Washington who, without compensation or the expectation of  
2 compensation, provides health care services at a community (~~clinic~~  
3 ~~that is a public or private tax exempt corporation~~) health care  
4 setting is not liable for civil damages resulting from any act or  
5 omission in the rendering of such care, other than acts or omissions  
6 constituting gross negligence or willful or wanton misconduct.

7 (3) For purposes of subsection (2) of this section, "community  
8 health care setting" means an entity that provides health care services  
9 and:

10 (a) Is operated by a public entity or private tax exempt  
11 corporation;

12 (b) Is a for-profit corporation that maintains and holds itself out  
13 to the public as having established hours on a regular basis for  
14 providing free health care services to members of the public to the  
15 extent that care is actually provided without compensation during those  
16 established hours; or

17 (c) Is a for-profit corporation that is participating, through a  
18 written agreement, in a community-based program to provide access to  
19 health care services for uninsured persons, to the extent that care is  
20 being provided without compensation to individuals who have been  
21 referred for care through that community-based program.

22 **Sec. 2.** RCW 43.70.460 and 1993 c 492 s 276 are each amended to  
23 read as follows:

24 (1) The department may establish a program to purchase and maintain  
25 liability malpractice insurance for retired primary care providers who  
26 provide primary health care services (~~at community clinics~~) to low-  
27 income patients. The following conditions apply to the program:

28 (a) Primary health care services shall be provided at (~~community~~)  
29 clinics serving low-income patients that are public or private tax-  
30 exempt corporations or other established practice settings as defined  
31 by the department;

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

34 (c) Retired primary care providers providing health care services  
35 shall not receive compensation for their services; and

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

1 (2) This section and RCW 43.70.470 shall not be interpreted to  
2 require a liability insurer to provide coverage to a primary care  
3 provider should the insurer determine that coverage should not be  
4 offered to a ((~~physician [primary care provider]~~)) primary care  
5 provider because of past claims experience or for other appropriate  
6 reasons.

7 (3) The state and its employees who operate the program shall be  
8 immune from any civil or criminal action involving claims against  
9 clinics or ((~~physicians [primary care providers]~~)) primary care  
10 providers that provided health care services under this section and RCW  
11 43.70.470. This protection of immunity shall not extend to any clinic  
12 or primary care provider participating in the program.

13 (4) The department may monitor the claims experience of retired  
14 ((~~physicians [primary care providers]~~)) primary care providers covered  
15 by liability insurers contracting with the department.

16 (5) The department may provide liability insurance under chapter  
17 113, Laws of 1992 only to the extent funds are provided for this  
18 purpose by the legislature. If there are insufficient funds to support  
19 all applications for liability insurance coverage, priority shall be  
20 given to those retired primary care providers working at clinics  
21 operated by public or private tax-exempt corporations rather than  
22 clinics operated by for-profit corporations.

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