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ENGROSSED SUBSTITUTE HOUSE BILL 2337

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State of Washington

52nd Legislature

1992 Regular Session

By House Committee on Health Care (originally sponsored by Representatives Morris, Moyer, Paris, Casada, Franklin, Braddock, Ebersole, H. Myers, Schmidt, Appelwick, Ogden, Locke, Hargrove, Edmondson, D. Sommers, Cantwell, Hochstatter, Rasmussen, Forner, R. Johnson, Zellinsky, Rayburn, Nealey, Heavey, Wineberry, Chandler, Roland, J. Kohl, Ludwig, Mitchell, Orr, Spanel, May, Leonard, Haugen, Ferguson, Sprenkle, Miller, O'Brien and Anderson)

Read first time 01/27/92.

1 AN ACT Relating to community clinics that utilize retired  
2 physicians to provide primary care to low-income persons without  
3 compensation; adding new sections to chapter 43.70 RCW; and creating  
4 new sections.

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

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

13 A program to alleviate the onerous costs of malpractice insurance  
14 for retired physicians providing uncompensated health care services to

1 low-income patients will encourage philanthropy and augment state  
2 resources in providing for the health care needs of those who have no  
3 access to basic health care services.

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

10 The legislature declares that this act will increase the  
11 availability of primary care to low-income persons and is in the  
12 interest of the public health and safety.

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

15 (1) The department shall purchase and maintain liability insurance  
16 by contracting with an insurer authorized to do business in this state  
17 to provide liability insurance, under this section and section 3 of  
18 this act, to retired physicians who provide primary care at community  
19 clinics that are public or private nonprofit tax-exempt corporations  
20 that utilize retired physicians for providing primary care without  
21 compensation to low-income individuals at a charge based upon ability  
22 to pay. Nothing shall prevent the contracting insurer from refusing to  
23 provide coverage for a participating physician in a clinic for claims  
24 experience reasons or other appropriate reasons.

25 (2) The state and its officers and employees, or individuals acting  
26 on their behalf, are immune from suit in any action, civil or criminal,  
27 with regard to any claims against clinics or physicians or based upon  
28 the performance of official acts under this chapter.

1 (3) The department shall monitor the claims experience of retired  
2 physicians covered by liability insurers contracting with the  
3 department.

4 (4) The department shall provide liability insurance under this act  
5 only to the extent funds are provided for this purpose by the  
6 legislature.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.70 RCW  
8 to read as follows:

9 The department shall establish by rule the conditions of  
10 participation in the liability insurance program by retired physicians  
11 at clinics utilizing retired physicians for the purposes of this  
12 section and section 2 of this act. These conditions shall include, but  
13 not be limited to, the following:

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

18 (2) The participating physician shall limit the scope of practice  
19 in the clinic to primary care. Primary care shall be limited to  
20 noninvasive procedures and shall not include obstetrical care, or any  
21 specialized care and treatment. Noninvasive procedures include  
22 injections, suturing of minor lacerations, and incisions of boils or  
23 superficial abscesses;

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

27 (4) The participating physician shall limit the provision of health  
28 care services to low-income persons provided that clinics may, but are

1 not required to, provide means tests for eligibility as a condition for  
2 obtaining health care services;

3 (5) The participating physician shall not accept compensation for  
4 providing health care services from patients served pursuant to this  
5 section and section 2 of this act, nor from clinics serving these  
6 patients. "Compensation" shall mean any remuneration of value to the  
7 participating physician for services provided by the physician, but  
8 shall not be construed to include any nominal copayments charged by the  
9 clinic, nor reimbursement of related expenses of a participating  
10 physician authorized by the clinic in advance of being incurred; and

11 (6) The use of mediation or arbitration for resolving questions of  
12 potential liability may be used, however any mediation or arbitration  
13 agreement format shall be expressed in terms clear enough for a person  
14 with a sixth grade level of education to understand, and on a form no  
15 longer than one page in length.

16 NEW SECTION. **Sec. 4.** If specific funding for this act,  
17 referencing this act by bill number, is not provided by June 30, 1992,  
18 in the supplemental biennial operating appropriations act, this act  
19 shall be null and void.