

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2337

Chapter 113, Laws of 1992

52nd Legislature
1992 Regular Session

MALPRACTICE INSURANCE FOR RETIRED PHYSICIANS PROVIDING FREE CARE
TO LOW-INCOME PERSONS

EFFECTIVE DATE: 6/11/92

Passed by the House March 9, 1992
Yeas 96 Nays 0

JOE KING
**Speaker of the
House of Representatives**

Passed by the Senate March 6, 1992
Yeas 48 Nays 0

JOEL PRITCHARD
President of the Senate

Approved March 31, 1992

BOOTH GARDNER
Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is ENGROSSED SUBSTITUTE HOUSE BILL 2337 as passed by the House of Representatives and the Senate on the dates hereon set forth.

ALAN THOMPSON
Chief Clerk

FILED

March 31, 1992 - 12:06 p.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2337

AS AMENDED BY THE SENATE

Passed Legislature - 1992 Regular Session

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 a
4 new section.

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 may establish a program to purchase and maintain
16 liability malpractice insurance for retired physicians who provide
17 primary health care services at community clinics. The following
18 conditions apply to the program:

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

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

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

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

27 (2) This section and section 3 of this act shall not be interpreted
28 to require a liability insurer to provide coverage to a physician
29 should the insurer determine that coverage should not be offered to a

1 physician because of past claims experience or for other appropriate
2 reasons.

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

8 (4) The department may monitor the claims experience of retired
9 physicians covered by liability insurers contracting with the
10 department.

11 (5) The department may provide liability insurance under this act
12 only to the extent funds are provided for this purpose by the
13 legislature.

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

16 The department may establish by rule the conditions of
17 participation in the liability insurance program by retired physicians
18 at clinics utilizing retired physicians for the purposes of this
19 section and section 2 of this act. These conditions shall include, but
20 not be limited to, the following:

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

25 (2) The participating physician shall limit the scope of practice
26 in the clinic to primary care. Primary care shall be limited to
27 noninvasive procedures and shall not include obstetrical care, or any
28 specialized care and treatment. Noninvasive procedures include

1 injections, suturing of minor lacerations, and incisions of boils or
2 superficial abscesses;

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

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

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

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

Passed the House March 9, 1992.

Passed the Senate March 6, 1992.

Approved by the Governor March 31, 1992.

Filed in Office of Secretary of State March 31, 1992.