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SUBSTITUTE HOUSE BILL 2788

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State of Washington

58th Legislature

2004 Regular Session

By House Committee on Health Care (originally sponsored by Representatives Kessler, Schual-Berke, Cody, Morrell, Clibborn, Campbell, Moeller, Darneille, Buck and Kagi)

READ FIRST TIME 02/05/04.

1 AN ACT Relating to the liability insurance program for retired  
2 primary care providers volunteering to serve low-income patients; and  
3 amending RCW 43.70.460 and 43.70.470.

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

5 **Sec. 1.** RCW 43.70.460 and 1993 c 492 s 276 are each amended to  
6 read as follows:

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

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

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

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

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

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

9 (3) The state and its employees who operate the program shall be  
10 immune from any civil or criminal action involving claims against  
11 clinics or (~~physicians [primary care providers]~~) primary care  
12 providers that provided health care services under this section and RCW  
13 43.70.470. This protection of immunity shall not extend to any clinic  
14 or primary care provider participating in the program.

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

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

25 **Sec. 2.** RCW 43.70.470 and 1993 c 492 s 277 are each amended to  
26 read as follows:

27 The department may establish by rule the conditions of  
28 participation in the liability insurance program by retired primary  
29 care providers at clinics utilizing retired (~~physicians [primary care~~  
30 ~~providers]~~) primary care providers for the purposes of this section  
31 and RCW 43.70.460. These conditions shall include, but not be limited  
32 to, the following:

33 (1) The participating primary care provider associated with the  
34 clinic shall hold a valid license to practice as a physician under  
35 chapter 18.71 or 18.57 RCW, a naturopath under chapter 18.36A RCW, a  
36 physician assistant under chapter 18.71A or 18.57A RCW, an advanced  
37 registered nurse practitioner under chapter 18.88 RCW, a dentist under

1 chapter 18.32 RCW, or other health professionals as may be deemed in  
2 short supply in the health personnel resource plan under chapter  
3 28B.125 RCW. A primary care provider may include a specialist who is  
4 practicing in a primary care capacity. All primary care providers must  
5 be in conformity with current requirements for licensure as a retired  
6 primary care provider, including continuing education requirements;

7 (2) The participating primary care provider shall limit the scope  
8 of practice in the clinic to primary care. Primary care shall be  
9 limited to noninvasive procedures and shall not include obstetrical  
10 care, or any specialized care and treatment. Noninvasive procedures  
11 include injections, suturing of minor lacerations, and incisions of  
12 boils or superficial abscesses. Primary dental care shall be limited  
13 to diagnosis, oral hygiene, restoration, and extractions and shall not  
14 include orthodontia, or other specialized care and treatment;

15 (3) The provision of liability insurance coverage shall not extend  
16 to acts outside the scope of rendering medical services pursuant to  
17 this section and RCW 43.70.460;

18 (4) The participating primary care provider shall limit the  
19 provision of health care services to primarily low-income persons  
20 provided that clinics may, but are not required to, provide means tests  
21 for eligibility as a condition for obtaining health care services;

22 (5) The participating primary care provider shall not accept  
23 compensation for providing health care services from patients served  
24 pursuant to this section and RCW 43.70.460, nor from clinics serving  
25 these patients. "Compensation" shall mean any remuneration of value to  
26 the participating primary care provider for services provided by the  
27 primary care provider, but shall not be construed to include any  
28 nominal copayments charged by the clinic, nor reimbursement of related  
29 expenses of a participating primary care provider authorized by the  
30 clinic in advance of being incurred; and

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

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