

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2788

58th Legislature
2004 Regular Session

Passed by the House February 16, 2004
Yeas 88 Nays 10

Speaker of the House of Representatives

Passed by the Senate March 11, 2004
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2788** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2788

Passed Legislature - 2004 Regular Session

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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