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SENATE BILL 5494

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State of Washington

59th Legislature

2005 Regular Session

By Senators Thibaudeau, Deccio, Parlette, Benson, Pflug and Kohl-Welles; by request of Department of Health

Read first time 01/26/2005. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to identifying health care providers covered by the  
2 retired health care provider liability malpractice insurance program;  
3 and 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 2004 c 184 s 1 are each amended to read  
6 as follows:

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

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

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

17 (c) Retired ((primary)) hhealth care providers providing health care  
18 services 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 (e) Specialists in this program will be limited to those whose  
4 malpractice insurance premiums are comparable to primary care  
5 providers.

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

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

17 (4) The department may monitor the claims experience of retired  
18 ((primary)) health care providers covered by liability insurers  
19 contracting with the department.

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

27 **Sec. 2.** RCW 43.70.470 and 2004 c 184 s 2 are each amended to read  
28 as follows:

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

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

1 advanced registered nurse practitioner under chapter ~~((18.88))~~ 18.79  
2 RCW, a dentist under chapter 18.32 RCW, or other health professionals  
3 as may be deemed in short supply ~~((in the health personnel resource~~  
4 ~~plan under chapter 28B.125 RCW. A primary care provider may include a~~  
5 ~~specialist who is practicing in a primary care capacity))~~ by the  
6 department. All ~~((primary))~~ health care providers must be in  
7 conformity with current requirements for licensure ~~((as a retired~~  
8 ~~primary care provider))~~, including continuing education requirements;  
9 (2) ~~((The participating primary care provider shall limit the scope~~  
10 ~~of practice in the clinic to primary care. Primary))~~ Health care shall  
11 be limited to noninvasive procedures and shall not include obstetrical  
12 care~~((, or any specialized care and treatment))~~. Noninvasive  
13 procedures include injections, suturing of minor lacerations, and  
14 incisions of boils or superficial abscesses. Primary dental care shall  
15 be limited to diagnosis, oral hygiene, restoration, and extractions and  
16 shall not include orthodontia, or other specialized care and treatment;  
17 (3) The provision of liability insurance coverage shall not extend  
18 to acts outside the scope of rendering ~~((medical))~~ health care services  
19 pursuant to this section and RCW 43.70.460;  
20 (4) The participating ~~((primary))~~ health care provider shall limit  
21 the provision of health care services to primarily low-income persons  
22 provided that clinics may, but are not required to, provide means tests  
23 for eligibility as a condition for obtaining health care services;  
24 (5) The participating ~~((primary))~~ health care provider shall not  
25 accept compensation for providing health care services from patients  
26 served pursuant to this section and RCW 43.70.460, nor from clinics  
27 serving these patients. "Compensation" shall mean any remuneration of  
28 value to the participating ~~((primary))~~ health care provider for  
29 services provided by the ~~((primary))~~ health care provider, but shall  
30 not be construed to include any nominal copayments charged by the  
31 clinic, nor reimbursement of related expenses of a participating  
32 ~~((primary))~~ health care provider authorized by the clinic in advance of  
33 being incurred; and  
34 (6) The use of mediation or arbitration for resolving questions of  
35 potential liability may be used, however any mediation or arbitration  
36 agreement format shall be expressed in terms clear enough for a person

1 with a sixth grade level of education to understand, and on a form no  
2 longer than one page in length.

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