

SENATE FILE NO. SF1012

Medicaid-medical malpractice insurance assistance.

Sponsored by: Senator(s) Mockler, Job and Sessions

A BILL

for

1 AN ACT relating to medical malpractice insurance; creating
2 the medical malpractice insurance assistance account;
3 authorizing assistance for payment of health care
4 providers' medical malpractice insurance premiums as
5 specified; providing requirements; specifying duties;
6 providing an appropriation; providing a sunset date; and
7 providing for an effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.**

12

13 (a) The legislature finds that there is a medical
14 malpractice insurance crisis in Wyoming that is causing
15 health care providers' insurance premiums to increase to
16 the point that some health care providers are unable to
17 afford insurance premium increases and are limiting

1 practices and in some instances leaving or contemplating
2 leaving the state. The medical malpractice insurance
3 crisis has a particularly great impact upon those health
4 care providers who provide care to Wyoming residents
5 qualified under the Wyoming Medical Assistance and Services
6 Act.

7

8 (b) It is the purpose of this act to attempt:

9

10 (i) To retain health care providers who may
11 otherwise limit the provision of services or close their
12 practices in Wyoming because of the cost of medical
13 malpractice insurance;

14

15 (ii) To maintain an adequate number of health
16 care providers in the state to meet the needs of Wyoming
17 citizens, particularly those citizens who could not
18 otherwise afford or obtain necessary medical care.

19

20 (c) The legislature finds the program provided within
21 this act is necessary support of the poor, enacted to
22 ensure that medical services funded under the Wyoming
23 Medical Assistance and Services Act and the Child Health

1 Insurance Program will continue to be available to citizens
2 of Wyoming.

3

4 **Section 1.** W.S. 35-1-901 and 35-1-902 are created to
5 read:

6

7 ARTICLE 9

8 MEDICAL MALPRACTICE INSURANCE ASSISTANCE ACCOUNT

9

10 **35-1-901. Definitions.**

11

12 (a) As used in this article:

13

14 (i) "Account" means the medical malpractice
15 insurance assistance account;

16

17 (ii) "Department" means the department of
18 health;

19

20 (iii) "Director" means the director of the
21 department of health;

22

1 (iv) "Health care" means any care, treatment,
2 service or procedure to maintain, diagnose or treat an
3 individual's physical or mental condition;

4
5 (v) "Health care provider" means a person who is
6 licensed, certified or otherwise authorized or permitted by
7 the laws of this state to administer health care in the
8 ordinary course of business or practice of a profession.

9
10 **35-1-902. Medical malpractice insurance assistance**
11 **account; creation; duties of the department; requirements**
12 **for assistance; breach.**

13
14 (a) There is created a medical malpractice insurance
15 assistance account. The account and any investment income
16 earned from it shall be invested and reinvested by the
17 state treasurer pursuant to W.S. 9-4-711. Investment
18 income shall be redeposited to the account. Funds within
19 the account, including investment income, are continuously
20 appropriated to the department and shall be used for the
21 purposes of this article.

22
23 (b) The department shall:

24

1 (i) Develop and make available application forms
2 and information required for assistance under this section;

3

4 (ii) Develop and enter into contracts with
5 health care providers as provided in this section;

6

7 (iii) Administer the account;

8

9 (iv) Submit reports on or before October 1 of
10 each year this article is in effect to the joint interim
11 labor, health and social services interim committee, the
12 joint appropriations interim committee and the governor,
13 reporting the status of the account, payments made,
14 estimated future expenditures of the account and the
15 effectiveness of this article in maintaining medical care
16 for the needy, the poor and other residents of the state's
17 communities; and

18

19 (v) Exercise all powers necessary to implement
20 this article, including adopting rules.

21

22 (c) Any health care provider who is licensed and
23 practicing in the state may apply to the department for
24 assistance in paying a portion of the health care

1 provider's medical malpractice insurance premiums as
2 provided in this section. Upon approval of the application
3 for assistance, the health care provider shall enter into a
4 contract with the state, wherein the provider shall agree:

5
6 (i) To practice in the area of medical specialty
7 or subspecialty for the entire period of the contract for
8 which malpractice insurance premium assistance is to be
9 provided under this section;

10
11 (ii) To provide medical care for the entire
12 period of the contract to Wyoming residents qualified under
13 the Wyoming Medical Assistance and Services Act or the
14 Child Health Insurance Program established under W.S.
15 35-25-101 who are seeking medical care which the health
16 care provider is qualified to provide;

17
18 (iii) To submit documentation to establish that
19 the health care provider has complied with the terms of the
20 contract and to determine the amount of assistance that
21 should be provided; and

22
23 (iv) To repay all funds distributed to the
24 health care provider pursuant to this article, together

1 with attorney fees and costs incurred in collection, for
2 any contract period in which the provider is in breach of
3 the contract.

4

5 (d) At the times specified in the contract but in no
6 event less than once per year, the health care provider
7 shall submit documentation to the department showing
8 compliance with the terms of the contract. The department
9 shall examine the documentation provided by the provider
10 and calculate the amount of assistance if any to be
11 provided. The amount of assistance to be provided shall be
12 calculated by:

13

14 (i) Determining the amount of medical
15 malpractice insurance premiums paid by the health care
16 provider;

17

18 (ii) Determining the percentage of the health
19 care provider's practice dedicated to providing the care to
20 the persons specified in paragraph (c)(ii) of this section.
21 This determination shall be based upon the dollar amount of
22 billings made;

23

1 (iii) Multiplying the percentage determined
2 under paragraph (ii) of this subsection by the amount
3 determined under paragraph (i) of this subsection; and
4

5 (iv) Multiplying the product obtained in
6 paragraph (iii) of this subsection by one-half (1/2).
7

8 (e) If funding available from the account is
9 insufficient to pay assistance for all health care
10 providers who apply for assistance under this section, the
11 department may at its discretion reduce the payments to pay
12 each eligible provider a pro rata amount.
13

14 (f) A health care provider who receives assistance
15 for medical malpractice insurance under this section may,
16 upon full reimbursement to the medical malpractice
17 insurance premium account for the assistance received in a
18 contract period, cancel the contract at any time.
19

20 (g) In addition to any other civil or criminal
21 penalties that may be imposed by law, any health care
22 provider who fails or refuses to fulfill the terms of the
23 contract required under subsection (c) of this section
24 shall be in breach of the contract. The department may

1 obtain the assistance of the attorney general to recoup the
2 amount of assistance provided under the contract together
3 with attorney fees and other costs of collection.

4
5 (h) The payment amounts and the name of a health care
6 provider receiving payments under this section shall be a
7 public record. Any other information used by the
8 department in determining the amount of payment to health
9 care providers, including all information submitted to the
10 department by a provider under this article, which is not
11 already matters of public record is confidential and is not
12 a public record under W.S. 16-4-201 through 16-4-205.

13
14 **Section 3.** W.S. 35-1-901 and 35-1-902 are repealed
15 effective June 30, 2007.

16
17 **Section 4.** There is appropriated from the budget
18 reserve account to the medical malpractice insurance
19 assistance account created by this act, ten million dollars
20 (\$10,000,000.00) to implement the purposes of this act,
21 including payment of assistance for health care providers'
22 qualified medical malpractice insurance premiums and
23 administrative costs incurred by the department of health
24 in the implementation of the act.

1

2 **Section 5.** This act is effective immediately upon
3 completion of all acts necessary for a bill to become law
4 as provided by Article 4, Section 8 of the Wyoming
5 Constitution.

6

7

(END)