

HOUSE BILL NO. HB0173

Medical liability insurance assistance.

Sponsored by: Representative(s) Osborn, Cohee, Harvey, Iekel, Lubnau and Meuli and Senator(s) Barrasso, Jennings, Massie, Ross and Sessions

A BILL

for

1 AN ACT relating to providing medical care and services;  
2 stating legislative findings; establishing a medical  
3 liability insurance assistance account; providing for the  
4 payment of a portion of physician medical liability  
5 premiums as specified; providing definitions; specifying  
6 duties of the insurance commissioner; granting rulemaking  
7 authority; providing a sunset date; providing  
8 appropriations; and providing for an effective date.

9

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

11

12 **Section 1.** W.S. 26-33-201 through 26-33-206 are  
13 created to read:

14

15

ARTICLE 2

## 1 MEDICAL LIABILITY INSURANCE ASSISTANCE FUND

2

3 **26-33-201. Legislative findings.**

4

5 (a) The Wyoming legislature finds that:

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7 (i) Physicians' medical liability insurance  
8 premiums in Wyoming are increasing significantly. These  
9 increases are such that some Wyoming physicians may be  
10 unable to afford the increased premiums and may be forced  
11 to limit or close their practices, or in some cases, to  
12 leave the state;

13

14 (ii) Wyoming has difficulty recruiting and  
15 retaining sufficient numbers of physicians to practice in  
16 various parts of the state;

17

18 (iii) Sufficient availability of physicians  
19 throughout the state is critical to the access of medical  
20 care for all Wyoming citizens, but particularly individuals  
21 under the Wyoming Medical Assistance and Services Act and  
22 the Wyoming Uninsured Child Health Insurance Program;

23

24 (iv) Ensuring the availability of adequate

1 medical care to Wyoming citizens is a compelling interest  
2 of the state; and

3

4 (v) The availability of adequate medical care to  
5 Wyoming citizens is threatened without implementation of  
6 the terms of this act.

7

8 (b) The legislature determines that the payments  
9 contemplated by this act are necessary support of the poor  
10 as authorized in Article 16, Section 6 of the Wyoming  
11 Constitution.

12

13 (c) The legislature further determines that the  
14 payments contemplated by this act are necessary to support  
15 the compelling state interests of ensuring the availability  
16 of adequate medical care, encouraging physicians to offer  
17 medical care in Wyoming's communities, and encouraging  
18 physicians to provide medical care to needy and poor  
19 persons.

20

21 **26-33-202. Definitions.**

22

23 (a) As used in this article:

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1           (i) "Qualified physician" means an individual  
2 who:

3  
4           (A) Is a duly licensed physician under  
5 Title 33, Chapter 26, Article 3 of the Wyoming statutes, is  
6 in good standing with the Wyoming Board of Medicine, has  
7 been licensed and practicing in the state for not less than  
8 one (1) year and whose license is under no disciplinary  
9 restrictions, limitations or conditions during the period  
10 for which he is under contract with the state as provided  
11 in this article;

12  
13           (B) Is actively engaged in the full or part  
14 time practice of medicine within the state of Wyoming  
15 during the entire contract period for which the physician  
16 seeks assistance under this article;

17  
18           (C) Possesses and maintains in force a  
19 policy of medical professional liability insurance with  
20 minimum limits of coverage of at least one million dollars  
21 (\$1,000,000.00) per occurrence and three million dollars  
22 (\$3,000,000.00) in the aggregate;

23  
24           (D) Has entered into a contract with the

1 state agreeing to provide medical care for the period  
2 through June 30, 2009 to any Wyoming resident who is  
3 qualified under the Wyoming Medical Assistance and Services  
4 Act or the Wyoming Uninsured Child Health Insurance Program  
5 and who seeks medical care which the physician is qualified  
6 to provide.

7

8 **26-33-203. Management of the fund.**

9

10 (a) There is created a medical liability insurance  
11 assistance account. Funds in the account shall be used as  
12 provided in this article for a premium assistance program  
13 for medical professional liability insurance policies  
14 issued by authorized insurers.

15

16 (b) The account and any investment income earned from  
17 the account shall be held in trust and invested and  
18 reinvested by the state treasurer pursuant to W.S. 9-4-711.

19

20 (c) The commissioner shall oversee the administration  
21 and management of the account created by this article. The  
22 commissioner's duties shall include, but are not limited  
23 to:

24

1           (i) Fulfilling the purposes and objectives of  
2 this article;

3  
4           (ii) Minimizing transaction costs and  
5 administrative expenses of this article;

6  
7           (iii) Providing the staff, resources and  
8 administrative support necessary to implement this article;  
9 and

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

19  
20           **26-33-204. Account administration.**

21  
22           (a) Commencing July 1, 2006, and continuing through  
23 June 30, 2009, a qualified physician is eligible for  
24 medical liability insurance assistance payments as provided

1 in this article.

2

3 (b) Assistance payments on behalf of qualified  
4 physicians shall:

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6 (i) Offset twenty-five percent (25%) of the cost  
7 of a qualified physician's annual medical liability  
8 insurance premiums for the coverage described in W.S.  
9 26-33-202(a)(i)(C);

10

11 (ii) Not exceed thirty-five thousand dollars  
12 (\$35,000.00) per year during the period of a contract  
13 specified in W.S. 26-33-202(a)(i)(D);

14

15 (iii) Be made only for the benefit of a  
16 qualified physician's medical liability insurance premium  
17 during the period of the contract and shall not be made for  
18 any other purpose or use, including any premium for tail  
19 coverage.

20

21 (c) The commissioner shall have authority to adopt  
22 rules and regulations to implement this article. Pursuant  
23 to those rules and regulations, the commissioner shall  
24 determine the information a qualified physician must

1 provide to qualify for payments under this article and  
2 shall create forms to collect the required information.  
3 The information submitted by a qualifying physician to the  
4 commissioner shall not be open to public inspection.

5

6 (d) A physician who receives assistance for medical  
7 liability insurance under this section may, upon full  
8 reimbursement including interest to the medical liability  
9 insurance premium account for the assistance received in a  
10 contract period, cancel the contract at any time.

11

12 (e) If funding available from the account created  
13 under this article is insufficient to pay the amount of  
14 insurance premium assistance authorized in subsection (b)  
15 of this section for all qualified applicants, the  
16 commissioner shall give priority to qualified physicians  
17 serving in areas where primary care services are most  
18 severely restricted, as determined by the department of  
19 health.

20

21 (f) The names of physicians receiving payments under  
22 this article and the amounts of those payments shall be a  
23 matter of public record, but all other information  
24 submitted by physicians to the commissioner pursuant to



1 this article shall be confidential.

2

3 **26-33-205. Contract enforcement.**

4

5 (a) The commissioner shall promulgate rules and  
6 regulations providing for administration of contracts  
7 required under this article and shall also promulgate the  
8 form of contract required under this article.

9

10 (b) Any qualified physician who receives assistance  
11 under this article, or who has entered into a contract  
12 under this article, who thereafter fails or refuses to  
13 fulfill the terms of the contract, shall be in breach of  
14 the contract, and shall immediately reimburse the state for  
15 any and all payments received under this article. The  
16 provisions of this subsection shall be incorporated in any  
17 contract entered into pursuant to this article.

18

19 (c) The commissioner shall obtain the assistance of  
20 the attorney general in recovering any amount due to the  
21 state in the event of any contract breach by a qualified  
22 physician.

23

24 (d) In the event of any contract breach by a

1 qualified physician, the physician shall also be liable to  
2 the state for interest from and after the date of default  
3 and for reasonable costs of collection, including  
4 attorney's fees. The commissioner shall establish the  
5 default interest rate by rule and regulation.

6

7 **26-33-206. Repeal; continuing authority.**

8

9 (a) W.S. 26-33-201 through 26-33-206 are repealed  
10 effective June 30, 2009.

11

12 (b) Notwithstanding subsection (a) of this section,  
13 the insurance commissioner may seek recoupment of  
14 assistance provided under this article, interest and costs  
15 for any breach of contract that occurs as a result of a  
16 contract executed under this article, subject to any  
17 limitations that may apply under title 1, chapter 3 of the  
18 Wyoming statutes.

19

20 **Section 2.** W.S. 26-33-101 through 26-33-111 are  
21 repealed.

22

23 **Section 3.**

24

1           (a) There is appropriated to the medical insurance  
2 liability account six million dollars (\$6,000,000.00) from  
3 the budget reserve account for payments to qualified  
4 physicians as provided in this act. Any unexpended or  
5 unobligated funds remaining in the account at the end of  
6 the biennium on June 30, 2006 or on June 30, 2008 shall not  
7 lapse and shall not revert as provided in W.S. 9-4-207.

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9           (b) There is appropriated to the insurance department  
10 one hundred fifty thousand dollars (\$150,000.00) from the  
11 budget reserve account for the purpose of administering  
12 this act for the biennium commencing July 1, 2006.

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

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(END)