

HOUSE BILL NO. HB0303

Medical malpractice liability fund.

Sponsored by: Representative(s) Simpson, Childers and Ross

A BILL

for

1 AN ACT relating to the medical malpractice insurance
2 program; increasing insurance coverage amounts as
3 specified; specifying applicability of advance payments;
4 and providing for an effective date.

5

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

7

8 **Section 1.** W.S. 26-33-102(a), 26-33-103, 26-33-104,
9 26-33-105(c), (g) and (h), 26-33-107 and 26-33-108 are
10 amended to read:

11

12 **26-33-102. Qualification.**

13

14 (a) To be qualified under this chapter, a physician
15 shall annually purchase health care professional liability
16 insurance coverage of not less than ~~fifty thousand dollars~~
17 ~~(\$50,000.00)~~ one million dollars (\$1,000,000.00) per

1 occurrence for any act, error or omission relating to
2 medical care rendered during the policy year and pay the
3 surcharge pursuant to W.S. 26-33-105(c).

4

5 **26-33-103. Insurance coverage.**

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7 A qualified physician shall be insured in a minimum amount
8 of ~~fifty thousand dollars (\$50,000.00)~~ one million dollars
9 (\$1,000,000.00) against a claim for malpractice. Any award
10 or settlement adjudicated or allowed on a malpractice claim
11 in excess of ~~fifty thousand dollars (\$50,000.00)~~ one
12 million dollars (\$1,000,000.00) or limits of other
13 underlying coverage if greater occurring during any year in
14 which the physician is qualified under this chapter shall
15 be paid from the account subject to the limitation that
16 obligations from the account shall not exceed ~~one million~~
17 ~~dollars (\$1,000,000.00)~~ two million five hundred thousand
18 dollars (\$2,500,000.00) on any one (1) claim, or five
19 million dollars (\$5,000,000.00) in any calendar year for
20 one (1) or more awards or settlements against an individual
21 physician.

22

23 **26-33-104. Advance payments.**

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1 Any advance payment a defendant physician or his insurer
2 makes to or for the plaintiff, or any other person, is not
3 an admission of liability for injuries or damages the
4 plaintiff or anyone else suffers as to a claim for
5 malpractice. Evidence of an advance payment is not
6 admissible in a court proceeding concerning malpractice
7 until there is final determination in the plaintiff's
8 favor, in which case the final amount payable from the fund
9 shall be reduced by any advance payments.

10

11 **26-33-105. Medical liability compensation fund.**

12

13 (c) To create the account, all physicians qualified
14 under W.S. 26-33-102, practicing in Wyoming and who elect
15 to participate, shall pay an annual surcharge. The
16 commissioner shall determine the surcharge based upon sound
17 actuarial principles using data obtained from Wyoming
18 experience. The surcharge shall not exceed one hundred
19 fifty percent (150%) of the cost to each physician for a
20 basic ~~fifty thousand dollar (\$50,000.00)~~ one million dollar
21 (\$1,000,000.00) malpractice insurance premium and shall be
22 collected on the same basis as premiums by each insurer
23 from the physician.

24

1 (g) ~~If the account balance exceeds four million~~
2 ~~dollars (\$4,000,000.00) at the end of any calendar year~~
3 ~~after payment of all claims and expenses,~~ The commissioner
4 shall ~~reduce~~ annually adjust the surcharge to maintain the
5 account at ~~an approximate~~ a level ~~of four million dollars~~
6 ~~(\$4,000,000.00)~~ that is actuarially sound using data
7 obtained from Wyoming experience.

8
9 (h) The commissioner shall purchase reinsurance, if
10 needed, to protect the account from depletion due to
11 judgment against it. The reinsurance so purchased shall
12 cover each qualified physician ~~from two hundred fifty~~
13 ~~thousand dollars (\$250,000.00)~~ to ~~one million dollars~~
14 ~~(\$1,000,000.00)~~ five million dollars (\$5,000,000.00) per
15 year. Cost of reinsurance shall be paid from the monies of
16 the account.

17
18 **26-33-107. Settlements.**

19
20 Any settlement of a claim against a physician exceeding
21 ~~fifty thousand dollars (\$50,000.00)~~ one million dollars
22 (\$1,000,000.00) or limits of other underlying coverage if
23 greater shall be carried out through agreement jointly by
24 the claimant, the insurance carrier and the commissioner.

1 If the claimant settles with the insurance carrier, without
2 including the commissioner in the settlement agreement, the
3 claimant waives any claim for damages exceeding ~~fifty~~
4 ~~thousand dollars (\$50,000.00)~~ one million dollars
5 (\$1,000,000.00) or limits of other underlying coverage if
6 greater arising from the incident for which the claim is
7 made.

8

9 **26-33-108. Payments from account.**

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11 The state treasurer shall issue a warrant in satisfaction
12 of each claim submitted to him against the account after
13 receipt of a certified copy of a final judgment from a
14 court having jurisdiction, or a settlement agreement signed
15 by a claimant, a qualified representative of the insurance
16 carrier and the commissioner, with original signatures. The
17 warrant shall be for the amount exceeding ~~fifty thousand~~
18 ~~dollars (\$50,000.00)~~ one million dollars (\$1,000,000.00) or
19 limits of other underlying coverage, if greater, set forth
20 in the judgment or settlement, subject to the limitation
21 that the amounts paid from the account shall not exceed ~~one~~
22 ~~million dollars (\$1,000,000.00)~~ two million five hundred
23 thousand dollars (\$2,500,000.00) on any one (1) claim, or
24 five million dollars (\$5,000,000.00) in any calendar year

1 for one (1) or more awards or settlements against an
2 individual physician.

3

4 **Section 2.** This act is effective July 1, 2003.

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6

(END)