

**WORKING DRAFT**

HOUSE BILL NO. \_\_\_\_\_

Physician's professional liability fund.

Sponsored by: Representative(s) Simpson

A BILL

for

1 AN ACT relating to professions and occupations; providing  
2 for the creation of the physician's professional liability  
3 fund; creating powers and duties; providing an  
4 appropriation; 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. 33-26-701 is created to read:

9

10 **Article 7. Physician's professional liability fund.**

11

12 **33-26-701. Physician's professional liability fund**  
13 **established; professional liability insurance required;**  
14 **board to establish.**

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1           (a)     The board shall require any person practicing  
2 medicine and licensed under this chapter to carry  
3 professional liability insurance and shall, either by  
4 itself or in conjunction with other medical organizations,  
5 implement the provisions of this section including owning,  
6 organizing and sponsoring any insurance organization  
7 authorized under the laws of this state.

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9           (b)     The board shall establish a physician's  
10 professional liability fund. The fund shall pay, on behalf  
11 of any person licensed under this chapter and engaged in  
12 the practice of medicine in this state, any sum as may be  
13 provided under the coverages established under paragraph  
14 (c)(ii) of this section that any person covered by the fund  
15 becomes legally obligated to pay as money damages because  
16 of any claim made against the person as a result of any act  
17 or omission:

18

19           (i)     Of the person in rendering or failing to  
20 render a professional service for another in the person's  
21 capacity as a person licensed to practice medicine in this  
22 state;

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1           (ii)    Caused by any other person for whose acts  
2 or omissions the person covered by the fund is legally  
3 responsible.

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5           (c)    The board shall:

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7           (i)    Assess any person licensed under this  
8 chapter who is engaged in the practice of medicine in this  
9 state for contributions to the fund;

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11           (ii)   Establish definitions of coverage to be  
12 provided by the fund; and

13

14           (iii)   Retain or employ legal counsel to  
15 represent the fund and defend and control the defense  
16 against any covered claim made against a person covered by  
17 the fund.

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19           (d)    The board shall offer, through the fund, through  
20 a separate fund or through any insurance organization  
21 authorized under the laws of this state, optional  
22 professional liability coverage on an underwritten basis  
23 above the minimum required coverage limits provided under  
24 the fund, and shall do whatever is necessary to implement

1 this provision. Any fund established shall not be subject  
2 to the Wyoming Insurance Code, W.S. 26-1-101 et seq.  
3 Records of a claim against the fund shall not be considered  
4 a public record under the provisions of W.S. 16-4-201  
5 through 16-4-205.

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**\*\*\* STAFF COMMENTS \*\*\***

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9 **Note that the creation of the fund shall not be**  
10 **subject to the Wyoming Insurance Code. This may**  
11 **need to be reviewed, especially since the board**  
12 **under this subsection and subsection (a) of this**  
13 **section is authorized to own, organize and**  
14 **sponsor any insurance organization authorized**  
15 **under the laws of this state, including the**  
16 **Wyoming Insurance Code.**

17

18 (e) For the purposes of this section, a licensee is  
19 considered to be practicing medicine in this state if the  
20 person practices medicine in this state more than fifty  
21 percent (50%) of the total time that the licensee engages  
22 in the practice of medicine.

23

24 (f) The board may appoint committees, officers and  
25 employees as it deems necessary or proper and fix and pay  
26 their compensation and necessary expenses from the fund.

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28 (g) In establishing the fund provided for in  
29 subsection (b) of this section and offering optional

1 coverage under subsection (d) of this section, the board  
2 shall give preference to contracting with an insurance  
3 provider established pursuant to the laws of this state.

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5 (h) The minimum mandatory professional liability  
6 coverage established by the board under this section shall  
7 be offered to every person licensed under this chapter who  
8 is engaged in the practice of medicine in this state, and  
9 the cost of the coverage shall be the same for each person  
10 offered coverage under this section.

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12 (j) Nothing in this section shall be interpreted to  
13 affect the provisions of the medical liability compensation  
14 account created by W.S. 26-33-105.

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16 (k) The board shall promulgate necessary rules and  
17 regulations for the implementation of the provisions of  
18 this section.

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20 **Section 2.** There is appropriated from the general  
21 fund to the Wyoming state board of medicine \$ \_\_\_\_\_ for  
22 the purposes of creating the fund authorized by section 1  
23 of this act.

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

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(END)