

SENATE FILE NO. SF0175

Health care providers at correctional facilities.

Sponsored by: Senator(s) Job

A BILL

for

1 AN ACT relating to civil actions; providing for waiver of
2 governmental immunity for specified contract health
3 professionals providing services for state institutions and
4 county jails; modifying limitations on damages; providing
5 corresponding coverage under the local government and state
6 self-insurance programs; repealing obsolete provisions;
7 making conforming amendments; and providing for an
8 effective date.

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

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12 **Section 1.** W.S. 1-39-103(a)(iv)(C), 1-39-104(d),
13 1-39-110, 1-39-115(d), 1-41-102(a)(v)(C), 1-41-103(c)(v),
14 1-42-201(a)(vi), 1-42-202(b) by creating a new paragraph
15 (iv) and 7-2-106(c) are amended to read:

16

17 **1-39-103. Definitions.**

1

2 (a) As used in this act:

3

4 (iv) "Public employee":
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6

7 (C) Includes contract physicians, physician
8 assistants, nurses and dentists in the course of providing
9 contract services for state institutions and county jails;

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11 **1-39-104. Granting immunity from tort liability;**
12 **liability on contracts; exceptions.**

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14 (d) A governmental entity shall assume and pay
15 settlements of claims under this act against its public
16 employees in accordance with W.S. 1-39-115, 1-41-106 or
17 ~~1-42-107~~ 1-42-204.

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19 **1-39-110. Liability; health care providers.**

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21 (a) A governmental entity is liable for damages
22 resulting from bodily injury, wrongful death or property
23 damage caused by the negligence of health care providers
24 who are employees of the governmental entity, including
contract physicians, physician assistants, nurses and

1 dentists who are providing a service for state institutions
2 or county jails, while acting within the scope of their
3 duties.

4
5 (b) Notwithstanding W.S. 1-39-118(a), for claims
6 under this section against a physician, physician
7 assistant, nurse or dentist employed by ~~the state of~~
8 ~~Wyoming~~ a governmental entity based upon an act, error or
9 omission occurring on or after May 1, 1988, the liability
10 of the state shall not exceed the sum of one million
11 dollars (\$1,000,000.00) to any claimant for any number of
12 claims arising out of a single transaction or occurrence
13 nor exceed the sum of one million dollars (\$1,000,000.00)
14 for all claims of all claimants arising out of a single
15 transaction or occurrence.

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17 **1-39-115. Settlement of claims.**

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19 (d) Claims under this act which are not covered by
20 insurance may be settled as provided by W.S. 1-41-106 or
21 ~~1-42-107~~ 1-42-204.

22
23 **1-41-102. Definitions.**

1 (a) As used in this act:

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3 (v) "Public employee" means any officer,
4 employee or servant of the state, provided the term:

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6 (C) Includes contract physicians, physician
7 assistants, nurses or dentists in the course of providing
8 contract services for state institutions.

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10 **1-41-103. Self-insurance account; creation;**
11 **authorized payments.**

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13 (c) Expenditures shall be made out of the self-
14 insurance account for the following claims which have been
15 settled or reduced to final judgment:

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17 (v) Claims against contract physicians,
18 physician assistants, nurses or dentists brought under the
19 Wyoming Governmental Claims Act or federal law, provided:

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21 (A) The contract physician, physician
22 assistant, nurse or dentist is unable to procure medical
23 malpractice insurance coverage up to the limits specified
24 in W.S. 1-39-110(b) or 1-39-118(a) as applicable;

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(B) The liability of the state shall not exceed limits specified in W.S. 1-39-118(a) except as the limitation may be increased by W.S. 1-39-110(b) both reduced by the amount of the contract physician's, physician assistant's, nurse's or dentist's malpractice insurance coverage applicable to such claim; and

(C) The claim arises from services performed by the contract physician, physician assistant, nurse or dentist for a state institution.

1-42-201. Definitions.

(a) As used in this act:

(vi) "Public employee" means any officer, employee or servant of a local government including elected or appointed officials and persons acting on behalf or in service of the local government in any official capacity, whether with or without compensation, including individuals engaged in search and rescue operations under the coordination of a county sheriff pursuant to W.S. 18-3-609(a)(iii). ~~The term~~ "Public employee":

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(A) Except as provided in subparagraph (b) of this paragraph, does not include an independent contractor, peace officer or a judicial officer exercising the authority vested in him;

(B) Includes contract physicians, physician assistants, nurses and dentists in the course of providing contract services for local government correctional facilities.

1-42-202. Local government self-insurance program; creation; authorized payments.

(b) Upon approval of the board, expenditures shall be made by the program for the following claims which have been settled or reduced to final judgment:

(iv) Claims against contract physicians, physician assistants, nurses or dentists brought under the Wyoming Governmental Claims Act or federal law, provided:

(A) The contract physician, physician assistant, nurse or dentist is unable to procure medical

1 malpractice insurance coverage up to the limits specified
2 in W.S. 1-39-110(b) or 1-39-118(a) as applicable;

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4 (B) The liability of the county shall not
5 exceed limits specified in W.S. 1-39-118(a) except as the
6 limitation may be increased by W.S. 1-39-110(b) both
7 reduced by the amount of the contract physician's,
8 physician assistant's, nurse's or dentist's malpractice
9 insurance coverage applicable to such claim; and

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11 (C) The claim arises from the services
12 performed by the physician, physician assistant, nurse or
13 dentist for a county jail.

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15 **7-2-106. Extraterritorial authority of peace**
16 **officers; requests for assignment of peace officers;**
17 **liability; compensation.**

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19 (c) A peace officer acting pursuant to subsection (a)
20 or (b) of this section outside his own jurisdiction shall
21 be deemed to be acting within the scope of his duties for
22 purposes of the Wyoming Governmental Claims Act and the
23 state self-insurance program, W.S. 1-41-101 through
24 1-41-111, or the local government self-insurance program,

1 W.S. ~~1-42-101~~ 1-42-201 through 1-42-207. All privileges
2 and immunities from liability, and all pension, disability,
3 worker's compensation and other benefits which normally
4 apply to peace officers while they perform their duties in
5 their own jurisdiction shall also apply to them when acting
6 as provided in subsection (a) or (b) of this section. For
7 purposes of W.S. 27-14-104, the requesting and assigning
8 law enforcement agencies shall be a joint employer as
9 defined under W.S. 27-14-102(a)(xix) and the designated
10 peace officer shall be a joint employee as defined under
11 W.S. 27-14-102(a)(xxi).

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13 **Section 2.** W.S. 1-42-101 through 1-42-111 are
14 repealed.

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16 **Section 3.** This act shall apply to acts or omissions
17 occurring on or after the effective date of this act.

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19 **Section 4.** This act is effective July 1, 2007.

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21 (END)