

1 HOUSE BILL NO. 98

2 INTRODUCED BY D. LEWIS

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE MONTANA
5 CHIROPRACTIC LEGAL PANEL; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 27-12-206,
6 27-12-306, 27-12-308, AND 27-12-502, MCA; AND PROVIDING AN EFFECTIVE DATE."

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8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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10 **Section 1.** Section 27-12-206, MCA, is amended to read:

11 **"27-12-206. Funding.** (1) ~~There is an account in the state special revenue fund.~~ There is a pretrial
12 review fund to be administered by the director for the purposes stated in this chapter. The fund and any
13 income from it must be held in trust, deposited in an account, and invested and reinvested by the director.
14 The fund may not become part of or revert to the general fund of this state but is subject to auditing by
15 the legislative auditor. Money from the assessments levied under this section must be deposited in the
16 ~~account~~ fund.

17 (2) For each fiscal year, beginning July 1, an annual assessment is levied on all chiropractic
18 physicians. The amount of the assessment must be annually set by the director and equally assessed
19 against all chiropractic physicians. A fund surplus at the end of a fiscal year, that is not required for the
20 administration of this chapter, ~~must be retained in the account by the director~~ and used to finance the
21 administration of this chapter during the next fiscal year, in which event the director shall reduce the next
22 annual assessment to an amount estimated to be necessary for the proper administration of this chapter
23 during that fiscal year.

24 (3) The annual assessment must be paid on or before the date the chiropractic physician's annual
25 renewal fee under 37-12-307 is due. An unpaid assessment bears a late charge fee of \$25. The late
26 charge fee is part of the annual assessment. The director has the same powers and duties in connection
27 with the collection of and failure to pay the annual assessment as the department of commerce has under
28 37-12-307 with regard to a chiropractic physician's annual license fee."

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30 **Section 2.** Section 27-12-306, MCA, is amended to read:

1 **"27-12-306. Chiropractic physician's appearance and answer -- waiver of confidentiality of**
 2 **records.** (1) If a chiropractic physician whose alleged malpractice caused the application to be filed chooses
 3 to retain legal counsel, ~~his~~ the chiropractic physician's attorney ~~must~~ shall informally enter an appearance
 4 with the director.

5 (2) The chiropractic physician shall answer the application and submit a statement authorizing the
 6 panel to inspect all medical, chiropractic, and hospital records and information pertaining to the application
 7 and, for the purposes of ~~such panel~~ inspection only, waiving any privilege as to the content of those
 8 records. Nothing in the statement waives any privilege for any other purpose."
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10 **Section 3.** Section 27-12-308, MCA, is amended to read:

11 **"27-12-308. Director to furnish panel members with documents.** At least 10 days prior to the
 12 hearing, the director shall give each panel member copies of all claims, all briefs, all chiropractic, medical,
 13 or hospital records, and all other documents that the director considers necessary."
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15 **Section 4.** Section 27-12-502, MCA, is amended to read:

16 **"27-12-502. Conduct of hearing.** (1) At the time set for hearing, the claimant must be present
 17 and give a brief statement of ~~his~~ the claimant's case, including the facts constituting the alleged
 18 professional malpractice that ~~he~~ the claimant is prepared to prove. The chiropractic physician against
 19 whom the claim is brought and ~~his~~ the chiropractic physician's attorney may be present and may make
 20 an introductory statement of ~~his~~ the chiropractic physician's case.

21 (2) A party may call witnesses to testify before the panel. Witnesses must be sworn. Medical and
 22 chiropractic texts, journals, studies, and other documentary evidence relied upon by a party may be offered
 23 and admitted if relevant. Written statements of facts by treating chiropractic physicians may be reviewed.

24 (3) The hearing is informal, and an official transcript ~~must~~ may not be made."
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26 **NEW SECTION. Section 5. Fund transfer APPROPRIATION.** If on June 30, 2001, a balance remains
 27 in the account of the state special revenue fund for the administration of Title 27, chapter 12, the ~~state~~
 28 ~~treasurer shall transfer the balance to the pretrial review fund provided for in 27-12-206~~ BALANCE IS
 29 APPROPRIATED, IN AN AMOUNT NOT TO EXCEED \$50,000, TO THE MONTANA CHIROPRACTIC LEGAL PANEL PROVIDED FOR
 30 IN 27-12-104.

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2 NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 2001.

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