

1 HOUSE BILL NO. 464

2 INTRODUCED BY M. BLASDEL

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT PHYSICIANS WHO ARE BOARD-CERTIFIED
5 OR BOARD-ELIGIBLE IN PEDIATRIC OR GERIATRIC SUBSPECIALTIES MAY BE LIABLE FOR DAMAGES
6 ONLY UPON PROOF BY CLEAR AND CONVINCING EVIDENCE; AND PROVIDING AN APPLICABILITY
7 DATE."

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9 WHEREAS, the provision of medical services to Montana's children and elderly is imperative to maintain
10 a healthy populace; and

11 WHEREAS, seriously injured and severely ill Montana children have historically lacked access to in-state
12 medical services; and

13 WHEREAS, sending seriously injured and severely ill Montana children out of state for medical care is
14 costly to the State of Montana, particularly for the Medicaid and CHIP programs; and

15 WHEREAS, the elderly population in Montana is steadily rising, both in number and as a percentage of
16 the total population; and

17 WHEREAS, the lack of timely access to in-state geriatric services for Montana elderly is costly to the
18 State of Montana and results in increased incidence of long-term care and associated Medicaid costs; and

19 WHEREAS, it is difficult in Montana to recruit and retain pediatric and geriatric physician subspecialists;
20 and

21 WHEREAS, Montana and its residents have a compelling state interest in reducing costs associated with
22 the lack of in-state pediatric and geriatric subspecialist physician services; and

23 WHEREAS, one of the main reasons that pediatric and geriatric subspecialists choose not to practice
24 medicine in the State of Montana is the high cost of medical malpractice insurance in Montana in these
25 subspecialties; and

26 WHEREAS, in order to attract more physicians to Montana, the state has a compelling interest in taking
27 steps that will reduce the cost of medical malpractice insurance, reduce the incidence of claims made against
28 pediatric and geriatric subspecialists, and improve access to care and quality of care in Montana.

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

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2 **NEW SECTION. Section 1. Standard of proof for pediatric and geriatric subspecialists.** A physician
3 as defined in 27-6-103 who is board-eligible or board-certified in any pediatric or geriatric subspecialty may be
4 found liable for damages only upon proof by clear and convincing evidence. Clear and convincing evidence
5 means evidence in which there is no serious or substantial doubt about the correctness of the conclusions drawn
6 from the evidence. It is more than a preponderance of evidence but less than beyond a reasonable doubt.

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8 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an
9 integral part of Title 27, chapter 1, part 7, and the provisions of Title 27, chapter 1, part 7, apply to [section 1].

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11 **NEW SECTION. Section 3. Applicability.** [This act] applies to care given by physicians who are
12 board-eligible or board-certified in any pediatric or geriatric subspecialty after [the effective date of this act].

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