



AN ACT PROVIDING THAT PHYSICIANS WHO ARE BOARD-CERTIFIED OR BOARD-ELIGIBLE IN PEDIATRIC OR GERIATRIC SUBSPECIALTIES MAY BE LIABLE FOR DAMAGES ONLY UPON PROOF BY CLEAR AND CONVINCING EVIDENCE; AND PROVIDING AN APPLICABILITY DATE.

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

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

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

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

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

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

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

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

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

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

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

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

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

- END -

I hereby certify that the within bill,
HB 0464, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2011.

President of the Senate

Signed this _____ day
of _____, 2011.

HOUSE BILL NO. 464

INTRODUCED BY M. BLASDEL, M. MILBURN

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