

SENATE BILL NO. 83

INTRODUCED BY R. WEBB

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE VOLUNTEER HEALTH SERVICES PROGRAM
5 TO PROVIDE FREE QUALITY HEALTHCARE SERVICES TO UNINSURED AND UNDERINSURED
6 INDIVIDUALS; PROVIDING IMMUNITY TO CERTAIN HEALTH CARE FACILITIES AND PROVIDERS THAT
7 PARTICIPATE IN THE PROGRAM; ALLOWING PROVIDERS TO RECEIVE CONTINUING EDUCATION
8 CREDIT FOR PARTICIPATING IN THE PROGRAM; ESTABLISHING A STATE REGISTRY FOR
9 PARTICIPATING FACILITIES AND PROVIDERS; PROVIDING DEFINITIONS; AND AMENDING SECTIONS
10 27-1-736 AND 37-1-306, MCA."

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

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14 NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 4], the following definitions
15 apply:

- 16 (1) "Department" means the department of public health and human services provided for in 2-15-2201.
- 17 (2) "Health care facility" means any of the following facilities as defined in 50-5-101:
 - 18 (a) a hospital;
 - 19 (b) a critical access hospital;
 - 20 (c) an outpatient center for primary care;
 - 21 (d) an outpatient center for surgical services; or
 - 22 (e) any other facility licensed pursuant to Title 50, chapter 5, part 2, that:
 - 23 (i) provides medical services or treatment;
 - 24 (ii) has an office maintained by a health care provider; and
 - 25 (iii) is approved by the department to participate in the program.
- 26 (3) "Health care provider" or "provider" means:
 - 27 (a) a physician, physician assistant, nurse, chiropractor, podiatrist, dentist, OPTOMETRIST, or dental
28 hygienist licensed pursuant to Title 37; or
 - 29 (b) a student enrolled in an accredited program that prepares the student for licensure as any of the
30 providers listed in subsection (3)(a)(i).

- 1 (4) "Low-income" means:
- 2 (a) a person eligible for the medical assistance program provided for in Title 53, chapter 6; or
- 3 (b) an uninsured individual whose annual household income does not exceed 200% of the federal
- 4 poverty level as defined by the U.S. department of health and human services.
- 5 (5) "Program" means the volunteer health services program provided for in [sections 1 through 4].
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8 **NEW SECTION. Section 2. Volunteer health services program -- immunity -- exceptions --**

9 **continuing education.** (1) (a) There is a volunteer health services program for health care facilities and providers
 10 registered with the department to provide free health care services to low-income people in accordance with
 11 [sections 1 through 4].

12 (b) A physician assistant may participate in the program only to the extent allowed under the duties and
 13 delegation agreement the physician assistant has signed with a supervising physician.

14 (2) Except as provided in subsection (3), a health care facility or provider that participates in the program
 15 is immune from liability in any action arising out of the medical care or treatment provided in accordance with
 16 [sections 1 through 4] to:

- 17 (a) a low-income person; or
- 18 (b) a person who received treatment based on preliminary income information provided to the facility or
- 19 provider but who was found to be ineligible after treatment was provided because the person's income exceeded
- 20 200% of the federal poverty level.

21 (3) The immunity provided by subsection (2) does not apply to:

- 22 (a) damages that were the result of gross negligence or willful or wanton acts or omissions by a health
- 23 care facility or provider; or
- 24 (b) health care facilities operated by the state or its political subdivisions or to health care providers
- 25 employed by the state or its political subdivisions.

26 (4) A health care provider who participates in the program is eligible for 1 continuing education credit
 27 for each hour of free medical care provided, up to a maximum of 8 continuing education credits per licensure
 28 period.

30 **NEW SECTION. Section 3. Volunteer health services registry.** (1) The department shall establish

1 and maintain an online registry of health care facilities and providers participating in the volunteer health services
2 program.

3 (2) The registry must:

4 (a) outline the income requirements for a patient's participation in the program;

5 (b) provide the days and hours that participating health care facilities and providers are available to
6 provide volunteer health services; and

7 (c) clearly state that the participating health care facilities and providers are immune from suit for the
8 medical services they provide pursuant to [sections 1 through 4].

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10 **NEW SECTION. Section 4. Department requirements.** The department shall:

11 (1) maintain the volunteer health services registry established pursuant to [section 3];

12 (2) refer reports of adverse incidents or adverse treatment outcomes to the appropriate licensing board
13 for review; and

14 (3) report on the program by August 30 of each year to the children, families, health, and human services
15 interim committee. The report must include:

16 (a) the number and types of volunteer health services provided;

17 (b) the number of health care facilities and providers participating in the program and the amount of
18 volunteer health services provided;

19 (c) the number of patients served by the program;

20 (d) the value of the health care goods and services provided; and

21 (e) the number of claims filed in court and complaints filed with professional licensing boards involving
22 the goods and services provided.

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24 **Section 5.** Section 27-1-736, MCA, is amended to read:

25 **"27-1-736. Limits on liability of medical practitioner or dental hygienist who provides services**

26 **without compensation.** (1) (a) A medical practitioner, as defined in 37-2-101, or a dental hygienist licensed
27 under Title 37, chapter 4, who renders, at any site, any health care within the scope of the provider's license,
28 voluntarily and without compensation, to a patient of a clinic, to a patient referred by a clinic, or in a
29 community-based program to provide access to health care services for uninsured persons is not liable to a
30 person for civil damages resulting from the rendering of the care unless the damages were the result of gross

1 negligence or willful or wanton acts or omissions by the medical practitioner or dental hygienist. Each patient must
 2 be given notice that under state law the medical practitioner or dental hygienist cannot be held legally liable for
 3 ordinary negligence if the medical practitioner or dental hygienist does not have malpractice insurance.

4 (b) A health care facility or health care provider, as those terms are defined in [section 1], is immune from
 5 liability as provided in [section 2] when delivering volunteer health care services in accordance with [sections 1
 6 through 4].

7 (2) For purposes of ~~this section~~ subsection (1)(a):

8 (a) "clinic" means a place for the provision of health care to patients that is organized for the delivery of
 9 health care without compensation or that is operated as a health center under 42 U.S.C. 254b;

10 (b) "community-based program to provide access to health care services for uninsured persons" means
 11 a local program in which care is provided without compensation to individuals who have been referred through
 12 that community-based program and in which the medical practitioner or dental hygienist has entered into a written
 13 agreement to provide the service;

14 (c) "health care" has the meaning provided in 50-16-504;

15 (d) "without compensation" means that the medical practitioner or dental hygienist voluntarily rendered
 16 health care without receiving any reimbursement or compensation, except for reimbursement for supplies.

17 (3) Subsection (1)(a) applies only to a medical practitioner or dental hygienist who:

18 (a) does not have malpractice insurance coverage because the medical practitioner or dental hygienist
 19 is retired or is otherwise not engaged in active practice; or

20 (b) has malpractice insurance coverage that has a rider or exclusion that excludes coverage for services
 21 provided under this section."

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23 **Section 6.** Section 37-1-306, MCA, is amended to read:

24 **"37-1-306. Continuing education -- certification -- other qualifications for continued licensure --**
 25 **audit.** (1) A board may require licensees to participate in flexible, cost-efficient, effective, and geographically
 26 accessible continuing education or continued state, regional, or national certification for licensure.

27 (2) A board that requires continuing education or state, regional, or national certification may not audit
 28 or require proof of continuing education or certification as a precondition for license renewal. However, a licensee
 29 who reactivates a license after the license has expired, as provided in 37-1-141, is subject to a mandatory
 30 continuing education audit.

