

SENATE FILE NO. SF0093

Health care providers at correctional facilities.

Sponsored by: Senator(s) Job, Caller, Coe and Larson and
Representative(s) Martin, McOmie and Parady

A BILL

for

1 AN ACT relating to civil actions; providing for waiver of
2 governmental immunity for specified contract health care
3 providers 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; providing definitions; making
7 conforming amendments; specifying applicability; and
8 providing for an effective date.

9

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

11

12 **Section 1.** W.S. 1-39-103(a)(iv)(C), by creating new
13 paragraphs (viii) and (ix) and by renumbering (viii) as
14 (x), 1-39-110, 1-41-102(a)(v)(C), by creating new
15 paragraphs (x) and (xi) and by renumbering (x) as (xii),

1 1-41-103(c) (v), 1-42-201(a) (vi) and 1-42-202(b) by creating
2 a new paragraph (iv) are amended to read:

3

4 **1-39-103. Definitions.**

5

6 (a) As used in this act:

7

8 (iv) "Public employee":

9

10 (C) Includes contract ~~physicians~~ health
11 care providers in the course of providing contract services
12 for state institutions or county jails;

13

14 (viii) "Health care" means any care, treatment,
15 service or procedure to maintain, diagnose or treat an
16 individual's physical or mental condition;

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18 (ix) "Health care provider" means a person
19 licensed to practice professional nursing, a physician,
20 dentist or physician assistant, who is licensed to practice
21 in this state and is acting within the scope of that
22 license;

23

1 ~~(viii)~~(x) "This act" means W.S. 1-39-101 through
2 1-39-121.

3

4 **1-39-110. Liability; health care providers.**

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6 (a) A governmental entity is liable for damages
7 resulting from bodily injury, wrongful death or property
8 damage caused by the negligence of health care providers
9 who are employees of the governmental entity, including
10 contract ~~physicians~~health care providers who are providing
11 a service for state institutions or county jails, while
12 acting within the scope of their duties.

13

14 (b) Notwithstanding W.S. 1-39-118(a), for claims
15 under this section against a ~~physician~~health care provider
16 employed by ~~the state of Wyoming~~a governmental entity
17 based upon an act, error or omission occurring on or after
18 May 1, 1988, the liability of the ~~state~~governmental entity
19 shall not exceed the sum of one million dollars
20 (\$1,000,000.00) to any claimant for any number of claims
21 arising out of a single transaction or occurrence nor
22 exceed the sum of one million dollars (\$1,000,000.00) for
23 all claims of all claimants arising out of a single
24 transaction or occurrence.

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1-41-102. Definitions.

(a) As used in this act:

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

(C) Includes contract ~~physicians~~ health care providers in the course of providing contract services for state institutions.

(x) "Health care" means as defined in W.S. 1-39-103;

(xi) "Health care provider" means as defined in W.S. 1-39-103;

~~(x)~~ (xii) "This act" means W.S. 1-41-101 through 1-41-111.

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

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

4
5 (v) Claims against contract ~~physicians~~health
6 care providers brought under the Wyoming Governmental
7 Claims Act or federal law, provided:

8
9 (A) The contract ~~physician~~health care
10 provider is unable to procure medical malpractice insurance
11 coverage up to the limits specified in W.S. 1-39-110(b) or
12 1-39-118(a) as applicable;

13
14 (B) The liability of the state shall not
15 exceed limits specified in W.S. 1-39-118(a) except as the
16 limitation may be increased by W.S. 1-39-110(b) both
17 reduced by the amount of the contract ~~physician's~~health
18 care provider's malpractice insurance coverage applicable
19 to such claim; and

20
21 (C) The claim arises from services
22 performed by the contract ~~physician~~health care provider
23 for a state institution.

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1 **1-42-201. Definitions.**

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3 (a) As used in this act:

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5 (vi) "Public employee" means any officer,
6 employee or servant of a local government including elected
7 or appointed officials and persons acting on behalf or in
8 service of the local government in any official capacity,
9 whether with or without compensation, including individuals
10 engaged in search and rescue operations under the
11 coordination of a county sheriff pursuant to W.S.
12 18-3-609(a) (iii). ~~The term~~ "Public employee":

13

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

18

19 (B) Includes contract health care providers
20 in the course of providing contract services for county
21 jails.

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23 **1-42-202. Local government self-insurance program;**
24 **creation; authorized payments.**

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

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6 (iv) Claims against contract health care
7 providers brought under the Wyoming Governmental Claims Act
8 or federal law, provided:

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10 (A) The contract health care provider is
11 unable to procure medical malpractice insurance coverage up
12 to the limits specified in W.S. 1-39-110(b) or 1-39-118(a)
13 as applicable;

14

15 (B) The liability of the county shall not
16 exceed limits specified in W.S. 1-39-118(a) except as the
17 limitation may be increased by W.S. 1-39-110(b) both
18 reduced by the amount of the contract health care
19 provider's malpractice insurance coverage applicable to
20 such claim; and

21

22 (C) The claim arises from services
23 performed by the contract health care provider for a county
24 jail.

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2 **Section 2.** This act shall apply to acts or omissions
3 occurring on or after July 1, 2004.

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5 **Section 3.** This act is effective July 1, 2004.

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(END)