

HOUSE BILL NO. HB0204

Excess medical noneconomic damages.

Sponsored by: Representative(s) Simpson, Buchanan, Esquibel, Harshman, Hinckley, Nicholas, Parady, Reese and Ross and Senator(s) Coe, Decaria and Vasey

A BILL

for

1 AN ACT relating to noneconomic medical damages payments;
2 creating the noneconomic medical damages payments account;
3 proving legislative findings and purposes; authorizing
4 payments of excessive noneconomic medical damages awards
5 against physicians as specified; requiring agreements;
6 providing requirements; specifying duties of attorney
7 general; providing an appropriation; and providing for an
8 effective date.

9

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

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12 **Section 1.** W.S. 9-2-125 and 9-2-126 are created to
13 read:

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1 **9-2-125. Noneconomic medical damages payments**
2 **account; findings; purpose.**

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4 (a) The legislature finds that there have been
5 unprecedented increases in medical malpractice insurance
6 premiums for doctors practicing in some specialties in
7 Wyoming. These large, unprecedented increases may result in
8 decreased availability of necessary medical care for
9 Wyoming citizens throughout the state. The legislature
10 further finds that Wyoming, as a demographically frontier
11 state, has difficulty recruiting sufficient numbers of
12 physicians to practice in many areas of the state.

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14 (b) It is the purpose of this section and W.S.
15 9-2-126:

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17 (i) To encourage students who attend medical
18 school under the provisions of W.S. 9-2-118 or 21-17-109 to
19 return to Wyoming to practice medicine in the state;

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21 (ii) To retain physicians who may otherwise
22 close their practices in Wyoming because of excessively
23 high medical malpractice insurance premiums and the threat
24 of excess noneconomic medical damage payments;

1

2 (iii) To maintain an adequate number of
3 physicians in the state to meet the needs of Wyoming
4 citizens, particularly those citizens who are unable to
5 otherwise afford or obtain necessary medical care.

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7 **9-2-126. Noneconomic medical damages payments**
8 **account; creation; duties of state treasurer and attorney**
9 **general; contract required; terms of assistance;**
10 **recoupment.**

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12 (a) There is created a noneconomic medical damages
13 payments account within the trust and agency fund. The
14 account and any investment income earned from the account
15 shall be held in trust and invested and reinvested by the
16 state treasurer pursuant to W.S. 9-4-711.

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18 (b) Any medical student who completes an accredited
19 residency program under the provisions of W.S. 9-2-118 or
20 21-17-109 and obtains a license to practice medicine in
21 Wyoming, or a practicing physician who is licensed in
22 Wyoming, and who enters into an agreement under this
23 section shall be eligible to have any final judgments for
24 noneconomic damages in excess of three hundred fifty

1 thousand dollars (\$350,000.00) paid by the attorney general
2 from the noneconomic medical damages payments account
3 created by this section. As a condition of receiving
4 assistance under this section, the physician shall enter
5 into an agreement with the state, wherein the physician
6 shall agree:

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8 (i) To practice in Wyoming for a period of not
9 less than five (5) years; and

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11 (ii) To provide medical care for the entire
12 period of the contract to any Wyoming resident qualified
13 under the Wyoming Medical Assistance and Services Act, the
14 Wyoming Health Insurance Pool Act or the Wyoming uninsured
15 child health insurance program who seeks medical care which
16 the physician is qualified to provide.

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18 (c) The attorney general may enter into contracts
19 with:

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21 (i) Medical students or primary care physicians
22 graduating from accredited residency programs who agree to
23 the terms required under subsection (b) of this section;

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1 (ii) Any physician licensed and practicing in
2 the state for not less than one (1) year who agrees to the
3 terms required under subsection (b) of this section.

4
5 (d) The attorney general shall administer the account
6 created by this section. Upon application from any
7 physician who has entered into an agreement under this
8 section and proof of a final judgment for noneconomic
9 damages in excess of three hundred fifty thousand dollars
10 (\$350,000.00) as a result of a medical negligence claim
11 against the physician, the attorney general may pay the
12 noneconomic damages in excess of three hundred fifty
13 thousand dollars (\$350,000.00) from the funds within the
14 noneconomic medical damages payments account.

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16 (e) Any physician who enters into an agreement under
17 this section and who fails or refuses to fulfill the terms
18 of the contract required under subsection (b) of this
19 section, shall be deemed to be in default of the agreement.
20 The attorney general shall institute an action to recoup
21 any payments from the account created by this section that
22 were made on behalf of the defaulting physician under the
23 agreement.

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1 **Section 2.** W.S. 21-17-109(d) (intro) and (ii) is
2 amended to read:

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4 **21-17-109. Course in field of professional health**
5 **services; authority to offer; contracts with students;**
6 **repayment of funds expended; deposit of repayments.**

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8 (d) In addition to the requirements of subsection (c)
9 of this section, and before expending any funds the board
10 of trustees shall obtain an agreement with the state of
11 Wyoming from each student whereby the student agrees to:

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13 (ii) Actively engage in professional practice or
14 other professional pursuits in Wyoming for not to exceed
15 ~~three (3)~~ five (5) years as the board requires and enter
16 into an agreement with the attorney general under W.S.
17 9-2-126. The taking of a family practice residency program
18 in the state shall not be substituted in lieu of the
19 practice requirements; or

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21 **Section 3.** There is appropriated from the budget
22 reserve account to the noneconomic medical damages payments
23 account within the trust and agency fund, five million
24 dollars (\$5,000,000.00) to implement the purposes of this

1 act, including payment of qualified payments under W.S.
2 9-2-126(d) and administrative costs incurred by the
3 attorney general in the implementation of the act.

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5 **Section 4.** Any agreements entered into under W.S.
6 9-2-118 or 21-17-109 prior to July 1, 2004, shall not be
7 affected by the provisions of this act.

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

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(END)