

SENATE FILE NO. SF0066

Volunteer health care.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to public health and safety; authorizing
 2 the department of health to contract for volunteer health
 3 care services for low income persons; providing that claims
 4 against volunteering medical facilities and health care
 5 providers are subject to the Wyoming Governmental Claims
 6 Act; authorizing licensing boards to provide continuing
 7 education credit as specified; amending the Wyoming
 8 Governmental Claims Act to provide for claims under this
 9 act; providing for coverage under the state self insurance
 10 program; and providing for an effective date.

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

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14 **Section 1.** W.S. 35-31-101 through 35-31-103 are
 15 created to read:

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CHAPTER 31

VOLUNTEER HEALTH SERVICES PROGRAM

35-31-101. Definitions.

(a) As used in this act:

(i) "Contract" means an agreement executed in compliance with this act between:

(A) A medical facility and the department that authorizes the medical facility to deliver volunteer health care services to low income persons in consideration for being deemed a medical facility of the state under the Wyoming Governmental Claims Act when performing duties under the contract; or

(B) A health care provider and the department that authorizes the health care provider to deliver volunteer health care services to low income persons in consideration for being deemed a public employee of the state under the Wyoming Governmental Claims Act when performing duties under the contract.

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2 (ii) "Department" means the department of
3 health;

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5 (iii) "Health care provider" means any person
6 licensed, certified or otherwise authorized by the law of
7 this state to diagnose, cure, treat or prevent impairments
8 of the normal state of the mind and body, including but not
9 limited to physicians, physician assistants, nurses,
10 pharmacists, optometrists, dentists, psychiatrists,
11 psychologists and social workers;

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13 (iv) "Low income person" means a person with an
14 income not greater than two hundred percent (200%) of the
15 current poverty line as specified by the poverty guidelines
16 updated periodically in the Federal Register by the United
17 States Department of Health and Human Services under the
18 authority of 42 U.S.C. 9902(2) and:

19

20 (A) The person is not a covered individual
21 under a health insurance or health care policy, contract or
22 plan; or

23

1 (B) The person is a covered individual
2 under a health insurance or health care policy, contract or
3 plan, but was denied coverage by the policy, contract or
4 plan.

5

6 (v) "Medical facility" means:

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8 (A) A hospital, clinic, office, nursing
9 home, or other facility where a health care provider
10 provides health care to patients; and

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12 (B) Provided that neither the medical
13 facility nor individual health care provider receives
14 compensation from or on behalf of the patient, "medical
15 facility" includes all individuals, regardless of whether
16 the individual receives wages, salary or other fees or
17 compensation from the medical facility, who:

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19 (I) Are employed by or under contract
20 with the medical facility to provide health care to
21 patients; or

22

1 (II) Have been granted privileges by
2 the medical facility to provide health care to patients.

3

4 (vi) "Patient" includes clients of health care
5 providers or medical facilities as defined by paragraph
6 (iii) or (v) of this subsection;

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8 (vii) "Volunteer health care" means services
9 intended to diagnose, cure, treat or prevent impairments of
10 the normal state of the mind and body when the provider of
11 those services does not charge or receive compensation for
12 the services from, or on behalf of, the patient;

13

14 (viii) "This act" means W.S. 35-31-101 through
15 35-31-103.

16

17 **35-31-102. Volunteer health services; application of**
18 **claims act; exclusiveness of remedy; contract requirements.**

19

20 (a) The department may execute contracts with health
21 care providers and medical facilities to deliver volunteer
22 health care services to low income persons as a deemed
23 public employee or medical facility of the state.

1

2 (b) A health care provider who delivers volunteer
3 health care services to a low income person pursuant to a
4 contract that complies with the requirements of this act,
5 and regardless of whether the low income person who is
6 treated is later found to be ineligible, shall be
7 considered a public employee of the state while acting
8 within the scope of duties under the contract, but only for
9 the purposes of the applicability of the Wyoming
10 Governmental Claims Act, including W.S. 1-39-110. The state
11 of Wyoming shall have the duty to defend a health care
12 provider alleged to have been negligent in the provision of
13 volunteer health care pursuant to a contract under
14 subsection (a) of this section provided the health care
15 provider cooperates as described in W.S. 1-41-103(e)(iv).

16

17 (c) A medical facility while providing volunteer
18 health care services to a low income person pursuant to a
19 contract that complies with the requirements of this act,
20 and regardless of whether the low income person who is
21 treated is later found to be ineligible, shall be
22 considered a medical facility of the state, but only for
23 purposes of the applicability of the Wyoming Governmental

1 Claims Act, including W.S. 1-39-109(b). The state of
2 Wyoming shall have the duty to defend a medical facility
3 alleged to have been negligent in the provision of
4 volunteer health care pursuant to a contract under
5 subsection (a) of this section provided the medical
6 facility cooperates as described in W.S. 1-41-103(e)(iv).

7

8 (d) Volunteer health care providers and medical
9 facilities shall determine patient eligibility using
10 patient self attestation.

11

12 (e) The department, health care provider or medical
13 facility retains the right to terminate the contract upon
14 written notice of its intent to terminate the contract at
15 least five (5) business days before the contract
16 termination date unless the department determines that
17 immediate termination is necessary to protect the safety of
18 patients.

19

20 (f) A contract under this section shall contain
21 provisions binding the parties to the requirements of
22 subsections (b) through (e) of this section.

23

1 (g) The exclusive remedy for any injury or damage
2 suffered as the result of any negligence of the health care
3 provider or the medical facility, while acting within the
4 scope of a contract under this act is an action against the
5 state of Wyoming brought under the Wyoming Governmental
6 Claims Act. Neither the patient nor any person claiming by
7 or through the patient shall have any claim whatsoever
8 against the health care provider or medical facility on
9 account of health care provided to such patient within the
10 scope of a contract under this act.

11

12 **35-31-103. Disclosure; continuing education credit;**
13 **rulemaking.**

14

15 (a) Before a low income person receives volunteer
16 health care services pursuant to this act, he or his legal
17 representative shall sign a disclosure statement that
18 informs the low income person of the following:

19

20 (i) The health care provider shall be considered
21 a public employee of the state under the Wyoming
22 Governmental Claims Act while providing volunteer health
23 care under this act and that the provider's liability will

1 be limited by the provisions of the Wyoming Governmental
2 Claims Act;

3

4 (ii) The medical facility shall be considered a
5 facility of the state and any individual included in the
6 definition of medical facility in W.S. 35-31-101(a)(v)
7 shall be considered a public employee of the state under
8 the Wyoming Governmental Claims Act while providing
9 volunteer health care under this act and that the
10 facility's liability, including the liability of any
11 individual included in the definition of medical facility,
12 will be limited by the provisions of the Wyoming
13 Governmental Claims Act;

14

15 (iii) Commencement of an action against the
16 state of Wyoming pursuant to the Wyoming Governmental
17 Claims Act shall be the exclusive remedy for any injury or
18 damage suffered as the result of any negligence of the
19 health care provider or the medical facility, as defined in
20 W.S. 35-31-101(a)(v), while acting within the scope of a
21 contract that exists between the department and the health
22 care provider or medical facility. Neither patient nor any
23 person claiming by or through the patient shall have any

1 claim whatsoever against the health care provider or
2 medical facility on account of health care provided to such
3 patient within the scope of the contract;

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5 (iv) The low income person may elect to decline
6 treatment under the provisions of this act.

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8 (b) Licensing boards may grant continuing education
9 credit to health care providers for the performance of
10 volunteer health care services to low income persons
11 pursuant to this act.

12

13 (c) The department shall adopt rules necessary to
14 implement this act.

15

16 **Section 2.** W.S. 1-39-103(a)(iv) by creating a new
17 subparagraph (G), 1-39-109, 1-39-110(b) and 1-41-102(a)(v)
18 by creating a new subparagraph (E) are amended to read:

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20 **1-39-103. Definitions.**

21

22 (a) As used in this act:

23

1 (iv) "Public employee":

2

3 (G) Includes any health care provider, as
4 defined by W.S. 35-31-101(a)(iii), and any individual
5 included in the definition of medical facility in W.S.
6 35-31-101(a)(v), under a contract with the state to deliver
7 volunteer health care services to low income persons under
8 W.S. 35-31-101 through 35-31-103 while providing the
9 contracted services. Nothing in this subparagraph alters
10 the requirement that any action for damages must be brought
11 against the state of Wyoming as provided by W.S.
12 35-31-102(h).

13

14 **1-39-109. Liability; medical facilities.**

15

16 (a) Except as provided in subsection (b) of this
17 section, a governmental entity is liable for damages
18 resulting from bodily injury, wrongful death or property
19 damage caused by the negligence of public employees while
20 acting within the scope of their duties in the operation of
21 any public hospital or in providing public outpatient
22 health care.

23

1 (b) The state of Wyoming is solely liable for damages
2 resulting from, and the sole responsible party for, bodily
3 injury or wrongful death to a patient treated under the
4 provisions of W.S. 35-31-101 through 35-31-103 caused by
5 the negligence of a health care provider or a medical
6 facility while performing health care services pursuant to
7 a contract to deliver volunteer health services under W.S.
8 35-31-101 through 35-31-103.

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10 **1-39-110. Liability; health care providers.**

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12 (b) Notwithstanding W.S. 1-39-118(a), for claims
13 under this section against a physician, physician
14 assistant, nurse, optometrist or dentist who is employed by
15 a governmental entity or who is deemed to be a public
16 employee of the state by virtue of a contract pursuant to
17 W.S. 35-31-101 through 35-31-103, based upon an act, error
18 or omission occurring on or after May 1, 1988, the
19 liability of a governmental entity shall not exceed the sum
20 of one million dollars (\$1,000,000.00) to any claimant for
21 any number of claims arising out of a single transaction or
22 occurrence nor exceed the sum of one million dollars

1 (\$1,000,000.00) for all claims of all claimants arising out
2 of a single transaction or occurrence.

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4 **1-41-102. Definitions.**

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6 (a) As used in this act:

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

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11 (E) Includes health care providers and
12 medical facilities delivering volunteer health care
13 services to low income individuals under a contract
14 pursuant to W.S. 35-31-101 through 35-31-103.

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16 **Section 3.** This act is effective July 1, 2018.

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(END)