

HOUSE BILL 426

Introduced by J. Rice, et al.

1/29	Introduced
1/29	Referred to Judiciary
1/29	First Reading
2/14	Hearing
	Died in Committee

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL NO. 426
INTRODUCED BY *Jack Dozier*
Lee *Jack Dozier*

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING IMMUNITY FROM LIABILITY FOR RENDERING OBSTETRICAL CARE OR ASSISTANCE IN CERTAIN EMERGENCY SITUATIONS, EXCEPT FOR LIABILITY FOR DAMAGES CAUSED BY GROSS NEGLIGENCE OR BY WILLFUL OR WANTON ACTS; AND PROVIDING AN APPLICABILITY DATE."

WHEREAS, 22 counties in Montana are without health care providers who deliver babies; and

WHEREAS, because of the lack of physicians, the obstetrical unit in many local hospitals closes, with the inevitable consequence of a new barrier to women who are forced to turn to other cities or towns and other providers for perinatal services, which is an added expense and hardship, particularly to the economically disadvantaged; and

WHEREAS, the high costs of obstetrical liability insurance contribute to the decreasing availability of obstetrical services in Montana; and

WHEREAS, physicians who no longer carry obstetrical liability insurance will be reluctant to provide obstetrical services even in emergency situations.

THEREFORE, it is the public policy of this state to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

provide incentive and protection for health care providers who, despite these hardships, respond to calls to provide emergency obstetrical care.

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

NEW SECTION. Section 1. Definitions. As used in [sections 1 through 3], the following definitions apply:

(1) "Emergency situation" means a situation occurring in a health care provider's office, a hospital, or a medical assistance facility that requires immediate services for the alleviation of severe pain or immediate diagnosis and treatment of medical conditions that, if not immediately diagnosed and treated, could lead to serious disability or death.

(2) "Health care provider" means:

(a) a physician, osteopath, registered professional nurse, licensed practical nurse, or physician assistant-certified, duly approved or licensed under the provisions of Title 37;

(b) a hospital; or

(c) a medical assistance facility.

(3) "Health care provider's office" means the place used by a health care provider for the examination, care, treatment, and provision of other services to patients.

(4) "Hospital" means a licensed hospital, infirmary, or



1 health care facility as defined in 50-5-501.

2 (5) "Medical assistance facility" means a medical
3 assistance facility as defined in 50-5-101.

4 NEW SECTION. Section 2. Limits on liability for care
5 rendered in emergency obstetrical situations in health care
6 providers' offices, hospitals, or medical assistance
7 facilities. (1) Except as provided in subsections (2) and
8 (3), a health care provider who in good faith renders
9 obstetrical care or assistance in an emergency situation is
10 not liable for civil damages for acts or omissions committed
11 in rendering the emergency care or assistance.

12 (2) A health care provider is liable for damages caused
13 by gross negligence or willful or wanton acts or omissions.

14 (3) Subsection (1) does not apply if a health care
15 provider had a continuous and ongoing patient relationship
16 for the provision of obstetrical care at the time of
17 rendering the emergency care or assistance.

18 NEW SECTION. Section 3. Authority of licensing
19 agencies not limited. The provisions of [sections 1 and 2]
20 do not limit the authority of a governmental licensing or
21 regulatory agency to regulate or discipline health care
22 providers and hospitals.

23 NEW SECTION. Section 4. Codification instruction.
24 [Sections 1 through 3] are intended to be codified as an
25 integral part of Title 27, chapter 1, part 7, and the

1 provisions of Title 27, chapter 1, part 7, apply to
2 [sections 1 through 3].

3 NEW SECTION. Section 5. Saving clause. [This act] does
4 not affect rights and duties that matured, penalties that
5 were incurred, or proceedings that were begun before [the
6 effective date of this act].

7 NEW SECTION. Section 6. Severability. If a part of
8 [this act] is invalid, all valid parts that are severable
9 from the invalid part remain in effect. If a part of [this
10 act] is invalid in one or more of its applications, the part
11 remains in effect in all valid applications that are
12 severable from the invalid applications.

13 NEW SECTION. Section 7. Applicability. [This act]
14 applies to causes of action arising on or after October 1,
15 1991.

-End-