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FLOOR DEBATE

April 16, 2003 LB 146, 162

SENATOR BRASHEAR: Thank you, Mr. Speaker. Members of the body, I rise certainly in support of Senator Pederson's LB 146 and want to acknowledge all of the work that he has done in cooperation with your Judiciary Committee with regard to this bill and the proposed committee amendments. The committee amendment makes several changes to the bill. LB 146 requires that the insurer for the medical service provider shall collect the surcharge and remit it to the Department of Insurance. Section 2 of the amendment further specifies the information that the insurance providers are to compile and remit to the department with the collected surcharge. With regard to the provision of the bill that allows for either party to request that a court terminate a proceeding before the medical review panel, the amendment clarifies that the decision to dismiss the pending action is discretionary with the court. The amendment also incorporates two other bills that relate to medical malpractice. Both of these bills were advanced by your Judiciary Committee. Accordingly, a committee statement, pursuant to the Stuhr doctrine...if you don't know what that is, why, ask me...accordingly, a committee statement is available for both of the bills if you wish to review that statement. Section 7 of the amendment is what was LB 162 before the committee, introduced by Senator Brown. As such, the bill was amended by the Judiciary Committee. LB 162 would provide a limited civil immunity for designated medical practitioners who provide volunteer professional services at free clinics or similar facilities. Those practitioners who would be included are physicians, dentists, osteopathic physicians, physician assistants, nurses, and physical therapists. There are limits to the immunity which is granted. The practitioner is entitled to immunity only if the practitioner has not been disciplined by the appropriate regulating authority in the five years prior to the act or omission which is the subject of the complaint and alleged injury. The practitioner is also not entitled to immunity for the designated professionals if the free clinic or other facility is operated by a licensed hospital. The exclusion of a hospital is indicative of our desire that the immunity only apply when practitioners provide free volunteer services and to minimize the possibility of a practitioner attempting to claim the immunity for an incident that occurs during his or her regular course of work for fee or profit. The