

108TH CONGRESS
2D SESSION

H. R. 4124

To amend the Internal Revenue Code of 1986 to allow a business credit for qualified expenditures for medical professional malpractice insurance.

IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 2004

Mr. SANDLIN (for himself, Ms. KAPTUR, Mr. FROST, Mr. BELL, Mr. CROWLEY, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. BERKLEY, Mr. ROSS, Mr. LARSON of Connecticut, Mr. CARDOZA, Mr. STRICKLAND, Mr. GONZALEZ, Mr. BERRY, Mr. CLAY, Mr. ISRAEL, Mr. RUPPERSBERGER, Mr. MOORE, Mr. REYES, Ms. SOLIS, Mr. HONDA, Mr. LAMPSON, Mr. FORD, Mr. MEEKS of New York, Mr. EDWARDS, Mr. DOGGETT, Mr. TURNER of Texas, Mr. GREEN of Texas, Mr. BAIRD, Mr. LEWIS of Georgia, Mr. BOSWELL, and Mr. THOMPSON of California) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow a business credit for qualified expenditures for medical professional malpractice insurance.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medical Malpractice
5 Relief Act of 2004”.

1 **SEC. 2. CREDIT FOR QUALIFIED EXPENDITURES FOR MED-**
2 **ICAL PROFESSIONAL MALPRACTICE INSUR-**
3 **ANCE.**

4 (a) IN GENERAL.—Subpart D of part IV of sub-
5 chapter A of chapter 1 of the Internal Revenue Code of
6 1986 (relating to business tax credits) is amended by add-
7 ing at the end the following:

8 **“SEC. 45G. CREDIT FOR EXPENDITURES FOR MEDICAL PRO-**
9 **FESSIONAL MALPRACTICE INSURANCE.**

10 “(a) GENERAL RULE.—For purposes of section 38,
11 in the case of an eligible person, the medical malpractice
12 insurance expenditure tax credit determined under this
13 section for a taxable year is the amount equal to the appli-
14 cable percentage of qualified medical malpractice insur-
15 ance expenditures.

16 “(b) LIMITATION.—

17 “(1) IN GENERAL.—The amount of qualified
18 medical malpractice insurance expenditures taken
19 into account under subsection (a) for a taxable year
20 with respect to an eligible person shall not exceed
21 the amount equal to twice the average of costs of
22 qualified medical malpractice insurance for similarly
23 situated eligible persons.

24 “(2) AVERAGE COSTS.—For purposes of para-
25 graph (1), the Secretary of Health and Human
26 Services, after consultation with State boards of

1 medical licensure and State boards (or agencies) reg-
2 ulating insurance, shall—

3 “(A) determine average costs (rounded to
4 the nearest whole dollar) of providing or fur-
5 nishing general medical malpractice liability in-
6 surance to eligible persons, and

7 “(B) certify the amount of such costs to
8 the Secretary on or before the 15th day of No-
9 vember of each year.

10 “(c) DEFINITIONS AND SPECIAL RULE.—For pur-
11 poses of this section—

12 “(1) QUALIFIED MEDICAL MALPRACTICE INSUR-
13 ANCE EXPENDITURE.—

14 “(A) IN GENERAL.—The term ‘qualified
15 medical malpractice insurance expenditure’
16 means so much of any professional insurance
17 premium, surcharge, payment, or other cost or
18 expense which is paid or incurred in the taxable
19 year by an eligible person for the sole purpose
20 of providing or furnishing general medical mal-
21 practice liability insurance for such eligible per-
22 son.

23 “(2) ELIGIBLE PERSON.—The term ‘eligible
24 person’ means—

1 “(A) any physician (as defined in section
2 213(d)(4)) who practices in any surgical spe-
3 cialty or subspecialty, emergency medicine, ob-
4 stetrics, anesthesiology or who does intervention
5 work which is reflected in medical malpractice
6 insurance expenditures,

7 “(B) any physician (as so defined) who
8 practices in general medicine, allergy, derma-
9 tology, pathology, or any other specialty not
10 otherwise described in this section, and

11 “(C) any hospital, clinic, or long-term care
12 provider,

13 which meets applicable legal requirements to provide
14 the health care services involved.

15 “(3) APPLICABLE PERCENTAGE.—The applica-
16 ble percentage is—

17 “(A) 20 percent in the case of a person de-
18 scribed in paragraph (2)(A),

19 “(B) 10 percent in the case of a person de-
20 scribed in paragraph (2)(B), and

21 “(C) 15 percent in the case of a person de-
22 scribed in paragraph (2)(C).

23 “(4) SIMILARLY SITUATED.—The determination
24 of whether persons are similarly situated shall be
25 made on the basis of medical practices primarily lo-

1 cated within a statistical area (as defined in section
2 142(k)(2)) and shall differentiate between specialty
3 and subspecialty medical practices.

4 “(d) ELECTION NOT TO CLAIM CREDIT.—This sec-
5 tion shall not apply to a taxpayer for any taxable year
6 if such taxpayer elects to have this section not apply for
7 such taxable year.

8 “(e) TERMINATION.—This section shall not apply to
9 taxable years beginning after December 31, 2005.”.

10 (b) CREDIT MADE PART OF GENERAL BUSINESS
11 CREDIT.—Section 38(b) of such Code (relating to current
12 year business credit) is amended by striking “plus” at the
13 end of paragraph (14), by striking the period at the end
14 of paragraph (15) and inserting “, plus”, and by adding
15 at the end the following new paragraph:

16 “(16) the medical malpractice insurance ex-
17 penditure tax credit determined under section
18 45G(a).”.

19 (c) LIMITATION ON CARRYBACK.—Section 39(d) of
20 such Code (relating to transition rules) is amended by
21 adding at the end the following new paragraph:

22 “(11) NO CARRYBACK OF MEDICAL MAL-
23 PRACTICE INSURANCE EXPENDITURE TAX CREDIT
24 BEFORE EFFECTIVE DATE.—No portion of the un-
25 used business credit for any taxable year which is

1 attributable to the credit determined under section
2 45G may be carried back to any taxable year begin-
3 ning before January 1, 2004.”.

4 (d) DENIAL OF DOUBLE BENEFIT.—Section 280C of
5 such Code (relating to certain expenses for which credits
6 are allowable) is amended by adding at the end the fol-
7 lowing new subsection:

8 “(d) CREDIT FOR MEDICAL MALPRACTICE LIABILITY
9 INSURANCE PREMIUMS.—

10 “(1) IN GENERAL.—No deduction shall be al-
11 lowed for that portion of the qualified medical mal-
12 practice insurance expenditures otherwise allowable
13 as a deduction for the taxable year which is equal
14 to the amount of the credit allowable for the taxable
15 year under section 45G (determined without regard
16 to section 38(c)).

17 “(2) CONTROLLED GROUPS.—In the case of a
18 corporation which is a member of a controlled group
19 of corporations (within the meaning of section
20 41(f)(5)) or a trade or business which is treated as
21 being under common control with other trades or
22 business (within the meaning of section
23 41(f)(1)(B)), this subsection shall be applied under
24 rules prescribed by the Secretary similar to the rules

1 applicable under subparagraphs (A) and (B) of sec-
 2 tion 41(f)(1).”.

3 (e) GRANTS TO NON-PROFIT HOSPITALS, CLINICS,
 4 AND LONG-TERM CARE PROVIDERS.—

5 (1) IN GENERAL.—The Secretary of Health and
 6 Human Services, acting through the Administrator
 7 of the Health Resources and Services Administra-
 8 tion, shall award grants to eligible non-profit hos-
 9 pitals, clinics, and long-term care providers to assist
 10 such hospitals, clinics, and long-term care providers
 11 in defraying qualified medical malpractice insurance
 12 expenditures.

13 (2) ELIGIBLE NON-PROFIT HOSPITAL, CLINIC,
 14 OR LONG-TERM CARE PROVIDER.—To be eligible to
 15 receive a grant under paragraph (1) an entity
 16 shall—

17 (A) be a non-profit hospital, clinic, or long-
 18 term care provider;

19 (B) be an organization described in section
 20 501(c) of the Internal Revenue Code of 1986
 21 and exempt from tax under section 501(a) of
 22 such Code for the year for which an application
 23 is submitted under subparagraph (C); and

24 (C) prepare and submit to the Secretary of
 25 Health and Human Services an application at

1 such time, in such manner, and containing such
2 information as the Secretary may require.

3 (3) AMOUNT OF GRANT.—The amount of a
4 grant to a non-profit hospital, clinic, or long-term
5 care provider under paragraph (1) shall equal 15
6 percent of the amount of the qualified medical mal-
7 practice insurance expenditures of the hospital, clin-
8 ic, or long-term care provider for the year involved.

9 (4) QUALIFIED MEDICAL MALPRACTICE INSUR-
10 ANCE EXPENDITURE.—In this subsection, the term
11 “qualified medical malpractice insurance expendi-
12 ture” means so much of any professional insurance
13 premium, surcharge, payment or other cost or ex-
14 pense which is incurred by a non-profit hospital,
15 clinic, or long-term care provider in a year for the
16 sole purpose of providing or furnishing general med-
17 ical malpractice liability insurance for such hospital,
18 clinic, or long-term care provider as does not exceed
19 twice the average of such costs for similarly situated
20 hospitals, clinics, or long-term care provider homes.

21 (5) AUTHORIZATION OF APPROPRIATIONS.—
22 There are authorized to be appropriated to carry out
23 this subsection such sums as may be necessary for
24 each of fiscal years 2005 and 2006.

1 (f) CLERICAL AMENDMENT.—The table of sections
2 for subpart D of part IV of subchapter A of chapter 1
3 of such Code is amended by adding at the end the fol-
4 lowing new item:

“Sec. 45G. Credit for expenditures for medical professional malpractice insur-
ance.”.

5 (g) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years beginning after
7 December 31, 2003.

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