

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Chief Financial Officer

Natwar M. Gandhi
Chief Financial Officer



MEMORANDUM

TO: The Honorable Linda W. Cropp
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer

DATE: June 17, 2002

SUBJECT: Fiscal Impact Statement: "Free Clinic Assistance Program
Extension Amendment Act of 2002"

REFERENCE: Bill 14-296 as Introduced

Conclusion

Funds are not sufficient in the proposed FY 2003 and FY 2004 budget and financial plan to implement the Free Clinic Assistance Program Extension Amendment Act of 2001. While the Department of Insurance and Securities Regulation (DISR) can absorb the administrative expense associated with registering and monitoring compliance of clinics participating in the program for an additional two years, extension of the program will continue to expose the District to liability for any claims of medical malpractice brought against any free clinic in the program. This liability is open-ended and potentially large.

Protection against such liability may now be available to the District through the purchase of medical malpractice liability insurance in light of the General Accounting Office June 3, 2002 decision in B-287209, holding that the District may procure commercial insurance to cover its catastrophic tort liabilities. **Estimates of the annual cost of such insurance are likely to be in the range of \$200,000-\$300,000** based on information from a professional liability insurer. Assuming the District obtained protection against malpractice claims through the purchase of insurance, **implementation of the proposed legislation would result in unbudgeted costs of \$200,000-\$300,000 in FY 2003 and \$224,000-\$336,000 in FY 2004.**

Background

The Free Clinic Assistance Program, administered by DISR, was enacted on January 1, 1986. The proposed legislation would extend the program for two additional years until September 23, 2004. The program provides indemnification from the Government of the District of Columbia for health clinics that are unable to obtain medical liability insurance in the private market.

In order to participate in the Free Clinic Assistance Program, clinics must submit evidence to DISR that they were unable to obtain private insurance coverage. It is the responsibility of DISR to create and update the application for the Free Clinic Assistance program, determine eligibility of applicants to receive liability coverage, monitor clinics for compliance and monitor claim activities. DISR also provides a list of insurance companies offering insurance in the District to participating clinics in an effort to assist them with obtaining private insurance.

No claims have been filed against a free clinic in the 16 years of the Program's history. Nevertheless, without some form of protection against potential malpractice suits, the District will remain financially exposed to unlimited liability. The recent June 3, 2002 General Accounting Office decision holding that the District has legal authority to procure commercial insurance to cover catastrophic tort liabilities provides the District with an alternative to self-insurance. It should be noted that the GAO's opinion expresses the view that a specific appropriation is not necessary for the purchase of medical liability insurance, if "the District's approved annual budget contains appropriations for non-personal services and other activities that, consistent with the government's mission as a whole and the missions of specific government agencies, would authorize the purchase of such insurance."

One estimate from a District medical liability insurance company indicates that a policy covering the free clinics currently participating in the program based on current medical services being provided would cost approximately \$200,000-\$300,000 per year. This coverage would provide insurance of \$1 million per claim with an aggregate amount of \$3 million. The enrollment of additional clinics and the delivery of additional and/or other types of medical services would naturally increase annual premium costs. It should be noted that medical liability insurance premium costs have increased significantly during recent years. Also, health clinics in the District, who are not current participants in the Free Clinic Assistance Program, have reported substantial increases in premiums during the past few months.

Financial Plan Impact

Funds are not sufficient in the proposed FY 2003 and FY 2004 budget and financial plan to implement the Free Clinic Assistance Program Extension Amendment Act of 2001, without exposing the District to open-ended liability. To obtain some protection for the District against medical malpractice claims, **implementation of the proposed legislation would result in estimated unbudgeted costs of \$200,000-\$300,000 in FY 2003 and \$224,000-\$336,000 in FY 2004.**

Net Impact to the Financial Plan				
*Program expires September 23, 2004				
FY 2002	FY 2003	FY 2004	FY 2005	4-Year Total
\$0	\$200,000-\$300,000	\$224,000-\$336,000	\$0*	\$424,000-636,000