

Testimony of Mark C. Rumans, M.D.
Chief of Staff, Deaconess Billings Clinic

EXHIBIT 9
DATE 1-26-05
NO. HB 26

In Support of House Bill Nos. 25 and 26

January 26, 2005

Madam Chairwoman and members of the committee, my name is Dr. Mark Rumans, Chief of Staff at Deaconess Billings Clinic in Billings Montana. I am also a practicing gastroenterologist and have been a physician at Deaconess Billings Clinic for almost nineteen years. Deaconess Billings Clinic is an integrated, foundation model organization like Mayo Clinic. It is a 200 physician multi-specialty group practice which is integrated with a 272 bed tertiary referral, Level II trauma hospital. DBC also has 6 regional branch clinic sites in Montana ranging from Bozeman to Miles City as well as two branch sites in Wyoming. We also have affiliate agreements to provide management services to 8 rural hospitals and every year 52 physicians in 18 specialties provide outreach specialty clinics for residents of rural Montana, Wyoming, and North Dakota. This last year, DBC spent nearly \$7 million in malpractice insurance coverage. All though we have had some success in controlling our malpractice premiums by participating in a captive insurance pool with several other organizations, malpractice premiums continue to be a major expenditure of dollars for DBC. This is money that is subsequently unavailable for patient care staff as well as new technology to benefit our patients. We have also seen the effect that rising malpractice premiums have had in the ability to attract and retain high quality physicians in rural Montana. I believe the set of bills that are before you today are a good first step in addressing this problem and I would like to speak in favor of House Bills 25 and 26, focusing my comments on House Bill 26, which deals with ostensible agency

HOUSE BILL NO. 26

House Bill 26 addresses the liability of a hospital when a physician practicing in the hospital may be considered an ostensible agent. Deaconess Billings Clinic, like many other organizations, has an open medical staff to any physician in Billings. A significant number of physicians not employed by DBC (such as anesthesiologists) provide care on a daily basis to patients within the hospital. Other organizations rely almost solely on physicians in private practice, not employed by the hospital to provide care to patients in the hospital. These physicians are not acting on behalf of the hospital nor are they agents of the hospital all though it can be difficult for patients to know if the physician is employed or not by the hospital. Currently, DBC and other hospitals can be found liable for the acts of these physicians even though the physician does not have the authority to act for the hospital. I would like to speak as a proponent for House Bill 26 as it significantly clarifies the organization's liability when an act or omission occurs by an individual who is not acting under authority for the organization. Hospitals still need to be diligent in privileging and credentialing physicians on its medical staff as this is one of the first key steps in ensuring quality of care delivered to patients within the hospital. DBC through its bylaws requires members of the medical staff to have insurance. We therefore support the amendment offered in section 3.

Madam Chairwoman and members of the committee, I would like to thank you for your attention and I am available for recall should the committee have any questions.

CONTACT:

Jani McCall
Lobbyist
406-670-3084