EXHIBIT 2
DATE 3-16-05
SB 21

TESTIMONY FOR SB 21

For me, and most of us Montana physicians, our medical malpractice premiums have doubled in less than four years. Premiums are now at a level that many of us can no longer afford to do business.

There are many reasons why premiums have risen, some more pertinent to our situation in Montana that others.

Montana's medical liability premiums have not increased because of a burst of the stock market 'bubble'. The two mutual, cooperative carriers in Montana invest only in low-risk products, not in stocks or stock-based mutual funds.

Montana doctors and the medicine they practice probably are not twice as bad now as four years ago. The frequency of medical malpractice claims has gone up slightly, year by year, but the ratio of claims to the number of physicians has been steady, as the number of physicians has increased annually.

The 'severity' of claims, that is the cost to investigate and adjudicate claims, has nearly doubled, from an average of about $200,000 to $400,000 per case. The number of cases that actually come to trial is small, and most cases are 'settled' after financial negotiation. Inflation of settlement awards has occurred, in part, because of the creative efforts of attorneys to exaggerate the estimated economic loss of the plaintiff. "Loss of chance" is one of the many slippery, poorly defined categories that facilitate inflation.

SB 21 is an effort to give a more realistic and objective formula upon which to assess the validity of a claim for loss of chance, and to quantitate a monetary remedy.

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