

TESTIMONY OF TOM EBZERY: SAINT VINCENT HEALTHCARE, HOLY ROSARY HEALTHCARE AND ST. JAMES HEALTHCARE IN SUPPORT OF HB 222 (REPRESENTATIVE DON ROBERTS)

Madam Chair and Members of the House Judiciary Committee. For the record my name is Tom Ebzery, Billings attorney appearing today in strong support of HB 222 by Representative Don Roberts. I represent Saint Vincent Healthcare in Billings, Holy Rosary Hospital in Miles City and St. James Healthcare in Butte.

A brief history for the Committee on the origin of HB 222. During the 2003 legislative session we advised various committees of the spiraling costs of medical liability insurance for hospitals and physicians alike and something needed to be done. SJR 32, a subcommittee composed of members of the Legislative Counsel was created and chaired by Representative Golie. Over the past 18 months the subcommittee studied the problem and at one time nearly a year ago nearly 65 proposals were on the menu for consideration. Amongst those was an idea to apply the Good Samaritan law to emergency departments of hospitals. We had the concept but it was difficult to fit into a statute and the idea did not advance. During the summer Representative Roberts and a number of us met and he advised that Nevada in 2002 passed a statute nearly identical to the one before you as part of a Special Session on Medical Liability that threatened to desecrate the provider community.

We did research and the statute before you represent what we are attempting to do. Emergency departments do not advertise, and provide care to everyone regardless of choice. Dr. Roberts has provided real life examples of incidents that occur in the hospital emergency departments. Enactment of a cap on civil damages for liability arising from care related to a traumatic condition is tightly drawn and gross negligence or reckless or willful misconduct is clearly excluded from the statute.

We believe enactment of this statute will go a long ways to stabilizing hospital, physician and dental medical liability premiums.

The definition of "traumatic condition" is taken from Nevada but after review of the legislation our physicians have suggested that the definition of trauma would be those acute conditions meeting criteria for inclusion in the American College of Surgeons National Trauma Registry. They have volunteered to take this definition and insure that the language for Trauma includes language "of a sufficient severity to lead to risk of death or the precipitation of complications or disability."

We also would change "emergency room" to include "emergency department." Representative Roberts is in accord and will prepare amendments for your consideration in Executive Session.

Although the bill hails from Nevada this is no gamble and I urge adoption.