

Montana State Senate

EXHIBIT 1
DATE 4.4.05
SB 1



SENATOR TRUDI SCHMIDT
SENATE DISTRICT 11
SENATE MAJORITY WHIP

HELENA ADDRESS:
PO BOX 200500
HELENA, MONTANA 59620-0500
PHONE: (406) 444-4800

HOME ADDRESS:
4029 6TH AVENUE SOUTH
GREAT FALLS, MONTANA 59405
(406) 452-7215

The Big Sky Country

COMMITTEES:
FINANCE - VICE CHAIR
TAXATION
PUBLIC HEALTH, WELFARE AND SAFETY - VICE CHAIR
ETHICS

March 29, 2005

Representative Scott Mendenhall, Chair
House Transportation Committee
Montana State Capitol, Room 172
Helena, MT 59620

Re: Legislative Intent of SB 1

Dear Chairman Mendenhall:

The purpose of this letter is to clarify some of the liability issues associated with Senate Bill No. 1 (SB 1) and urge your committee to reconsider the bill's merit. Shortly before the hearing was held on March 4th, I was approached by a representative of the health care provider community who was concerned about some of the liability issues associated with SB 1. From what was shared with me about the discussion which took place during executive action, some of the committee members apparently shared some of the same concerns. Upon additional research, I believe the following discussion clarifies those concerns.

Rest assured, my intention in bringing SB 1 before the Legislature for its consideration is not to impose any additional liability on a health care provider who administers life-sustaining treatment to an injured person. Pursuant to Montana Code Annotated § 50-9-105, a declaration becomes operative when: (1) it is communicated to the attending physician or attending advanced practice registered nurse (APRN); and (2) the declarant is determined by the attending physician or APRN to be in a terminal condition and no longer able to make decisions regarding administration of life-sustaining treatment. By application of law, SB 1 would not apply to emergency medical services personnel, nor does it impact or affect the Comfort One program currently in place. Furthermore, because living wills can come in a variety of different formats, "communicated" within the context of the statute presumes the attending physician or APRN has actually reviewed a copy of the declaration.

If this explanation does not resolve the committee's concerns about liability, then I would accept an amendment to accomplish the same. Please share a copy of this letter with your committee members, and I am available for any questions you or the committee might have.

Sincerely,

A handwritten signature in cursive script that reads "Trudi Schmidt".

Trudi Schmidt, SD 11