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No. SB 473

Testimony in support of SB 473

Mr. Chairman, Members of the Committee:

For the record, my name is Eric Schiedermayer, representing the Montana Catholic Conference.

I'll have to admit, that as I dug through Montana law trying to understand why this bill was being introduced, I had to shake my head at some of the strange inconsistencies and inequities I found.

A lot of things must happen before this bill would come into play. A doctor must screw up in a significant way to be subject to a malpractice claim to begin with. Secondly, Montana law says that punitive damages can only be awarded if "the defendant has been found guilty of fraud or actual malice," that has been proven by "clear and convincing evidence." So, before this bill can even come into play, we've got a doctor who has really screwed somebody up and did it *maliciously*.

Now, the question becomes, what's different about *this* situation than any *other* malpractice situation that it's deserving of lifting a cap on punitive damages? The answer of course is that the person who has been damaged – maliciously, mind you – is a *child*, and the doctor's judgment and competence is the **ONLY** protection this young girl has.

Let me put this into perspective. I quote here from Montana law outlining what must happen for *any* punitive damages to be awarded in any context.

If your 14-year-old daughter got pregnant, went to a doctor to abort the pregnancy, and the doctor "*intentionally disregards facts that create a high probability of injury ... and ... deliberately proceeds to act in conscious or intentional disregard of the high probability of injury,*" and kills your 14-year-old daughter or destroys her reproductive system so that she can never bear children, he can only be punished via 3% of his net worth.

I'll have to admit that I'm curious to see if anybody opposes this bill, particularly anybody who claims to do so out of a desire to protect and empower women. That would be an interesting twist of logic indeed.

This bill does not restrict abortion in any way. It merely says that if a doctor is going to take it upon himself to act as the *sole protector* of your 14-year-old daughter's life and health, without any input from you, then he had better do so carefully with regard to all the facts.

Respectfully submitted,

Eric Schiedermayer

Executive Director, Montana Catholic Conference