Exhibit No. 12
Date 3-4-05
Bill No. HB 222

In Support of House Bill No. 222

" AN ACT PROVIDING A LIMIT ON NONECONOMIC LOSS DAMAGES FOR LIABILITY ARISING FROM HOSPITAL CARE RELATED TO A TRAUMATIC CONDITION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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House Bill No. 222 seeks to limit awards for non-economic loss damages for medical malpractice claims arising from necessary care rendered in good faith for trauma situations in Montana emergency departments to $100,000. The intended initial benefit of this bill is to limit defendant's expenditures in medical malpractice actions (this is easily measured). The intended ultimate benefit of tort reform as a whole is (1) reduced malpractice insurance premiums, (2) greater availability of coverage, and (3) a more stable health care delivery system (these outcomes are more difficult to measure).

The American Medical Association has declared a medical malpractice crisis in 20 states, one of which is Wyoming. In these states as the amount of medical malpractice awards rise, the malpractice premiums of physicians also rise. In many of these states physicians have been forced by malpractice insurance premiums that have doubled and tripled from one year to the next to retire early, move to another state, or drop high risk services such as obstetrics or trauma care. This leaves patients without access to care, especially those who need it the most; those covered by Medicare and Medicaid. This bill is patterned after a similar bill in Nevada where women have delivered their own babies, and patients have died awaiting transfer to a hospital where the trauma specialists can still afford to practice medicine.

This bill seeks to target situations in Montana in which the medical liability is greatest (trauma in emergency departments), reducing the amount of non-tangible "pain and suffering" awards paid out by malpractice insurers. It is anticipated that this will have the effect of reducing malpractice insurance premiums, allowing physicians and hospitals to be financially able to continue providing higher risk trauma care. Other benefits may include (1) protecting rural physicians—who provide the majority of initial trauma care in Montana—from being held to the same standards as trauma specialists, and (2) discouraging medical malpractice actions that are without merit.

Evidence for Success of Limiting Non-Economic Damages

A retrospective study of California's Medical Injury Compensation Reform Act of 1975 (MICRA) revealed a 30% reduction in the dollar amount of final medical malpractice judgments from 1995 through 1999 (Capping Non-Economic Award in Medical Malpractice Trials: California Jury Verdicts Under MICRA. RAND Institute for Civil Justice).

A study commissioned by the Wyoming Healthcare Commission and completed in October of 2004 projected a 19% reduction in medical malpractice loss if non-economic damage awards were to be capped at $250,000 (Wyoming Healthcare Commission: Projected Effect of Capping Non-Economic Damages on Physicians and Surgeons Professional Liability Costs; October 13, 2004).

Wyoming OB/GYNs, family physicians delivering babies, neurosurgeons, and orthopedic surgeons pay at least $20,000 to $30,000 more for malpractice premiums than their counterparts in Colorado, which has a $250,000 cap on non-economic damages (http://www.carh.net/states.asp?state=wy).