

Amendments to House Bill No. 222
3rd Reading Copy

Requested by Senator Dan McGee

For the Senate Judiciary Committee

Prepared by Valencia Lane
March 10, 2005 (7:35am)

1. Page 1, line 7.

Following: line 6

Insert: "WHEREAS, many health care providers in Montana, including hospitals, physicians, and dentists, are alarmed at the rising cost of medical liability insurance; and

WHEREAS, the Legislature has determined that a shortage of health care providers in the state and an inability to attract health care providers to the state would pose a serious threat to the health, welfare, and safety of the people of the state; and

WHEREAS, the number of insurance carriers that provide liability insurance for hospitals, physicians, and dentists has declined significantly in the past few years; and

WHEREAS, dramatic hikes in the prices paid by hospitals, physicians, and dentists for liability insurance are a major contributor to the escalation in the cost of providing medical treatment; and

WHEREAS, increased premiums for liability insurance for health care providers are forcing physicians and other providers in Montana to consider either curtailing certain medical services, including trauma care, or, in the alternative, to relocate to other states where premiums are stabilized; and

WHEREAS, the lack of available and affordable liability coverage has had a disproportionate impact on health care providers in rural areas and threatens access to emergency services in critical access and other rural hospitals; and

WHEREAS, no Montana hospitals are designated as Level 1 trauma centers, thus increasing the importance of community hospital trauma care services; and

WHEREAS, incidences involving traumatic conditions are more likely to result in a medical malpractice claim being filed as opposed to the rendering of other medical services; and

WHEREAS, the State of Montana and its citizens have a compelling state interest in the access to and the affordability of timely and quality trauma care treatment; and

WHEREAS, a \$100,000 cap on noneconomic damages arising from care related to a traumatic condition is narrowly tailored to effectuate that compelling state interest; and

WHEREAS, the cap on noneconomic damages is the least onerous path that can be taken by the state and its citizens to achieve its objective."

(OVER)

2. Page 1, line 25 through line 27.

Strike: subsection (3) in its entirety

Insert: "(3) For purposes of this section, "traumatic condition" means an acute condition resulting from an incident, including but not limited to an accident, fall, burn, wound, drowning, stroke, heart attack, and emotional or psychological shock, that:

- (a) involves a significant risk of death; or
- (b) has a substantial likelihood of precipitating medical complications or permanent disability."

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