



AN ASSOCIATION OF  
MONTANA HEALTH  
CARE PROVIDERS

SENATE PUBLIC HEALTH, WELFARE & SAFETY	
EXHIBIT NO.	<u>1</u>
DATE:	<u>2-16-05</u>
BILL NO.	<u>SB 440</u>

## Facts About SB 440

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### **Background**

The delivery of health care is changing rapidly. This is fueled by many factors, including the development of new technology, new treatment techniques and new settings in which to deliver medical treatment.

One trend in recent years has been the development of facilities that focus on specific conditions or procedures – e.g. heart, orthopedic and surgical services. The American Hospital Association estimates that there are over 100 limited-service hospitals currently operating – nearly triple the number in 1997. Most of these facilities are either partially or fully-owned by physicians. Two operate in Montana – in Great Falls and Kalispell.

Their development raises a number of difficult public policy questions:

- **Should physicians be allowed to refer patients to facilities that they own?** The financial incentives created by physician ownership can lead to higher referral rates for services and potentially unnecessary utilization – both of which drive up overall health care costs.
- **How do these facilities affect access to care in communities with not-for-profit, community-based hospitals?** The owners of these facilities have the ability to shift the well-reimbursed services and patients to their own facility. This practice can undermine the financial stability of the local community-based hospital, which relies on these patients to offset losses from essential community services and care for low-income populations. In some cases, full-service hospitals may not be able to maintain services, thus reducing access to care for the whole community and surrounding area.
- **How does the quality of care compare in specialty hospitals versus general acute care facilities?** The Medicare Payment Advisory Commission (MedPAC) – an independent commission that advises Congress on Medicare policy – has called for “a better understanding of the quality of care provided in alternative settings, including safety, regulatory oversight and clinical considerations.”
- **What impact does the development of a specialty hospital have on the overall cost of health care?** Specialty hospitals usually duplicate the services already provided at the local full-service hospital. Duplication of these services adds to the overall cost of health care.

1720 Ninth Avenue P.O. Box 5119  
Helena, Montana 59604-5119  
tel: 406-442-1911 fax: 443-3894  
www.mtha.org

### **Current Law**

Under a 1989 federal law, physicians cannot refer Medicare patients to a clinical laboratory in which the physician or an immediate family member has a financial interest. In 1993, this law was extended to cover referrals for additional health care services including radiology and inpatient and outpatient hospital services.

However, this law contains a number of exceptions that allow physicians to continue to invest in facilities to which they refer patients. As a result, the number of specialty hospitals has continued to grow dramatically.

The **Medicare Modernization Act of 2003** – the bill that established the Medicare prescription drug benefit – addressed this issue in two ways:

- Congress imposed a moratorium on the development of new specialty hospitals until June 2005.
- During this moratorium, Congress commissioned two studies to examine the public policy issues raised by specialty hospitals. Before January 2007, Congress is expected to use these studies to further refine federal policy.

While these studies may be completed prior to expiration of the moratorium, Congress is not expected to act on legislation until later this year – well after the moratorium ends.

For this reason, MedPAC has recommended extending the federal moratorium until January 2007. MedPAC also has recommended modifying the Medicare reimbursement structure to level the playing field for all hospitals.

### **How does SB 440 Fit Into This Picture?**

SB 440 provides a moratorium on limited service hospitals through June 30, 2007, which allows the Montana Legislature, if necessary, an opportunity to discuss these public policy issues during the 2007 session.

In the meantime, Congress will examine the two studies they commissioned in 2003 and explore public policy options for addressing this important issue.

SB 440 gives the Montana Legislature flexibility. If Congress does not act to resolve this issue between now and June 30, 2007, the Montana Legislature will have an opportunity to do so during the 2007 session.