

Exhibit No. ~~24~~Date 1-9-09Bill No. SB 514085 HELENA AVENUE  
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TO: Members, Senate Public Health, Welfare, and Safety Committee  
FR: Mary K. McCue, Esq., representing Montana Medical Association

The members of the Montana Medical Association oppose SB 51 as the proposal goes beyond what is needed or warranted to address the issue of providing notice to a patient of whether a health care provider might have a self interest in making certain referrals. The proposed legislation is unnecessary and will place a costly burden on a broad range of health care providers, including physicians, to comply. This burden will serve to further drive up the costs of health care.

MMA oppose SB 51 for the following reasons:

- Presently federal law contained in the Stark Act, which applies to the Medicare and Medicaid programs, regulates referrals by a physician if the physician has a financial relationship with the entity to which the patient is referred. The federal law is complex, far-reaching, and contains significant penalties for a violation of its provisions.
- The proposal requires that the required disclosure must be in writing. It must be conveyed to existing and "prospective" patients. It must be delivered to the patient separately from the other notices and general paperwork that are required upon delivery of medical care. This creates an onerous burden upon the physician to disclose a relationship to the patient which in most instances should be readily apparent to the patient.
- Although the bill allows the written disclosure notice to be posted, it will be virtually impossible for the health care provider to document that the patient has received the notice, unless it provided directly to the patient, in a separate piece of paper, and the patient has signed a statement, indicating the patient has received the notice.
- Written disclosure of a financial interest is not necessary because in nearly each instance in which disclosure would be required, it should be evident to the patient that an employment or contractual interest exists between the referring physician and the entity to which the patient is referred for a health care service. If the patient is referred to a health care service down the hallway from the physician's office or in the same building, it should be apparent that the relationship exists

For these reasons, we urge "do not pass" on SB 51.