



**Property Casualty Insurers
Association of America**

Shaping the Future of American Insurance

EXHIBIT 4
DATE 2-2-05
HB 331

**Montana House Bill 331
Business and Labor Committee
Hearing
February 2, 2005
Property Casualty Insurers Association of America (PCI)
Comments**

Property Casualty Insurers Association of America (PCI) was formed in January of 2004 by the merger of two highly respected national trade associations -- the Alliance of American Insurers and the National Association of Independent Insurers. PCI is comprised of more than 1,000 member companies, many write business in Montana. PCI members write \$173.6 billion in annual premium, 39.1 percent of the nation's property/casualty insurance. In Montana, PCI members write approximately 38.2 percent of the commercial lines market including medical malpractice.

House Bill 331 proposes to provide the Commissioner with the authority to establish a Joint Underwriting Association, which will provide medical malpractice insurance. As drafted, all insurers authorized to write casualty insurance on a direct basis in Montana will be members of the association and will be subject to assessment. PCI has strong concerns regarding the establishment of a Joint Underwriting Association. We appreciate the opportunity to express our concerns regarding Montana House Bill No. 331:

- Joint Underwriting Associations (JUA's) are makeshift insurance arrangements, which do not solve the basic problem. A JUA does not attack the issue of the excessive cost of the system; but merely provides a way to carry these costs for the next few years.
- The problem is the tort law environment with climbing awards and settlements.
- JUA's are never adequately funded and thus, insurers are assessed to cover deficits. Ultimately, these assessments are passed onto consumers. An insurance consumer should not have to pay for losses of the JUA through the individual's premium.
- Significant unintended consequences may result from implementing a JUA because the cost drivers operating in the current environment are still present and active. If the tort environment does not change, the role of the JUA may change from its stated role of an insurer of last resort to a direct, and likely, primary writer in the medical malpractice market. The JUA may acquire an increasing market share - causing more losses for insurance consumers to absorb.
- A medical malpractice JUA can be perceived as a "take all comers" mechanism due to the lack of strong underwriting criteria and again causing more losses.
- PCI opposes short-term solutions to liability insurance availability problems because they do not address the underlying problems within the civil justice system.

- A joint underwriting association mechanism merely pools medical malpractice risks, but does not address the underlying problems of rising claims costs and growing exposure of healthcare practitioners to suit.

PCI policy advocates tort reform as the best means of reducing claims costs and lawsuits and will continue to work toward that goal.

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