EXHIBIT 4
DATE 2/19/13
HB 473

February 18, 2013

The Honorable Representative Tom Berry, Chair
House Business and Labor Committee
Room 172, State Capitol
Helena, Montana 59620

RE: House Bill 473

Dear Chairman Berry and Members of the House Business and Labor Committee:

Thank you for the opportunity to voice Kalispell Regional Healthcare's (**KRH**) support of House Bill 473, which proposes several revisions to Montana's Healthcare Provider/Facility Lien laws[1].

As background, the purpose of Montana's healthcare lien law is to establish lien rights for healthcare providers and facilities when a person receiving treatment is: (1) injured through the fault or neglect of another; or (2) is either insured or a beneficiary under insurance.[2]

Allowing healthcare providers/facilities to establish the lien rights ultimately protects both healthcare providers/facilities and healthcare consumers by ensuring more transparency, certainty, and reliability about the resources available for paying the consumer's healthcare costs in a lien situation. The dollars intended to pay healthcare providers and facilities are made for that purpose.

HB 473 proposes generally to revise the healthcare lien law in order to:

- Include rehabilitation and long term care facilities in all sections of the statute;
- Assist in the identification of parties potentially liable for the healthcare services provided and promote the timely service of healthcare provider/facility liens; and
- Remove all uncertainty on the payment for services under these healthcare provider/facility liens.

The proposed changes, along with support for each change, are listed below:

1. <u>Addition of rehabilitation and long term care facilities to §§71-3-1111, 71-3-1112, 71-3-1114, 71-3-1115, 71-3-1117, 71-3-1118</u>

   Rehabilitation and long term care facilities are an appropriate provider for lien protection as in many cases an automobile accident victim will need to access rehabilitation and long term care services, which may be provided by a facility separate from a hospital.

2. <u>Require that payments under a lien be made directly to the healthcare facility/provider who filed the lien – §71-3-1114(2)(b)</u>

   The proposed addition provides needed protection for health care consumers.

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[1] MCA §71-3-1111 *et. seq.*
[2] MCA §71-3-1112.

a. When a patient's attorney takes a contingency fee out of insurance proceeds/funds that are meant to pay the patient's medical bills, the patient is harmed by being subject to collection of the balance of their medical bills. If a patient doesn't have money to pay the hospital for what their attorney took, then they are at risk for amounts an insurance company had paid for, and as a result perhaps bankruptcy as well.
b. This language is analogous to current government practice regarding student loan checks. Loan companies used to make the check payable to the student. However, since students would sometimes use the loan proceeds for things other than tuition or school related expenses, the rules were changed so that now the checks are made payable to the school for the benefit of the student. Insurance proceeds (especially Ridley payments or advance medical payments) that are for the payment of medical expenses should go to the patient and not the patient's attorney.

3. Deletion of attorney lien priority language – §71-3-1114(3)

a. Healthcare Provider/Facility Liens are typically first in time and should not automatically be superseded by the provision in MCA §37-61-420 that provides for attorney liens. Removal of this sentence would bring this statute back in line with the priority of lien typically found in the lien laws of other states.
b. In addition, the Montana Supreme Court has ruled that there is no implied contractual obligation on the part of the hospital to pay the patient's attorneys for their services. Yet the current practice of attorneys holding or taking funds intended to pay healthcare costs goes against that principle.

4. Addition of "Ambulance Services" to §§ 71-3-1111, 71-3-1112, 71-3-1115, 71-3-1117, 71-3-1118

This addition reconciles all sections in the Healthcare Provider/Facility Lien statute with §71-3-1114 – Liens of certain health care providers and health care facilities (which already includes ambulance services).

5. Require notice to all potential payers when action commenced and notice of lien filed – 71-3-1116

This proposed language ensures the timely service to those who may be liable for the healthcare services provided to the consumer of the Healthcare Provider/Facility Notices of Liens, which: (a) serves the ultimate purposes of the statute and (b) protects all parties to the action. Since plaintiffs and their attorneys/representatives determine which parties will be sued, the plaintiff is in the best position to communicate any Healthcare Provider/Facility Notices that are filed with the court.

Thank you for your time and consideration.

Best regards,

J.A. (Tony) Patterson, Jr.
General Counsel & Chief Administrative Officer
Kalispell Regional Healthcare System

cc: Bart Campbell, Business & Labor Committee Staff