

EXHIBIT NO. 3DATE: 3.27.13BILL NO. HB 450

February 13, 2013

Honorable Members of the Montana Legislature:

My name is Tiffany Gouge and I live at 417 Slough Creek Drive in Bozeman, Montana. I am a Senior studying elementary education at Montana State University in Bozeman.

On April 4, 2011, a drunk driver with no driver's license, whose car was uninsured, crossed the center line at high speed and ran directly into the front of the pickup in which I was riding. The Highway Patrol estimated the drunk driver's speed exceeded 80 mph. The force of the impact pushed the pickup's engine into the driver's compartment. Both of my legs were fractured, my ankle pulverized. My spine was fractured in five (5) places. After stabilizing me and my spinal fractures, I was air flighted to Seattle for care of my legs. My spine was repaired with metal plates and bars and my fractured ankle was fused with metal rods. My medical bills exceeded \$475,000.

At the time of the wreck, I was employed in the medical office which did not provide medical insurance for me. Even though it was difficult for me to afford medical insurance, I purchased medical insurance on my own.

At first, the Bozeman hospital refused to submit my medical bills to my medical insurance company even though I had sacrificed to purchase medical insurance for an event like this. The hospital instead insisted that I assign to it the small amount of uninsured benefits available to compensate me for my injuries under the automobile policy of insurance paid for by my fiancé.

Fortunately, I was advised not to do so. The medical bills were eventually submitted to my medical insurance carrier which paid them without incident pursuant to its contract with me. I was able to use the uninsured benefits to cover other costs such as my lost wages as well as medical costs that were not covered by my medical insurance such as air ambulance to Seattle for emergency surgery.

I am told that the legislature is now considering a bill that would allow hospitals to do what it unsuccessfully tried to do to me. If that bill passes, it would have deprived me of any compensation for a lot of my injuries caused by a drunk driver. Even though my fiancé and I were students, we had done the responsible thing by purchasing medical insurance and insuring our vehicle against the hazards of uninsured drunk drivers. Why punish us or people like us by enacting this bill, which allows health insurers to avoid paying the benefits it agreed to pay under our contract?

As I understand it, the legislation now being proposed would deprive us of the contract benefits for which we paid, allowing the medical insurance company to not pay as it agreed to pay when it sold insurance. It would have deprived us of the small amount of compensation for the permanent disabilities caused by the drunk driver.

Please do not pass this very unfair legislation.

Tiffany Gouge

Tiffany Gouge
417 Slough Creek Drive
Bozeman, Montana 59718
(406) 570-3116

March 19, 2013

Montana State Capitol
Helena, MT

Dear Legislators:

My name is Wade Russell. I live at 1236 Second Street, Havre, Montana 59501. I worked for more than 12 years as a carman for the BNSF railroad. Because of a pulmonary condition I am unable to travel to speak to you in person.

5 years ago, I was blindsided by a pickup truck as I was riding my motorcycle on Main Street in Havre. The collision knocked me off my bike and severely injured my leg. I was air flighted to Harbor View Medical Center in Seattle for specialized treatment and surgery, due to the complicated, life-threatening nature of the injury. I was off work for several months as I went through treatment and rehabilitation.

The police determined that the pickup driver was at fault in the accident. The driver had liability insurance. I had underinsured motorist coverage in my auto policy. My medical bills alone exceeded the combined amount of liability and underinsured motorist coverage. I submitted my medical bills to my health insurer for payment, and then used the liability and underinsured motorist coverage proceeds to pay my monthly expenses and keep a roof over my head during the long months that I wasn't able to work and earn my wages.

I understand that the legislature is considering two bills (HB450 and HB473) that would require auto liability and underinsured motorist coverages to go directly to health care providers for accident-related medical treatment. I am grateful for what my doctors did to help me, and believe they should have been paid for their services – and they were, through my health insurance. As I understand it, the legislation being proposed would have required that all of the auto insurance proceeds go to the doctors, with none left for me to keep my head above water while I was recovering and out of work. And my health insurer wouldn't have paid any of my medical bills.

The proposed legislation is unfair and would put ordinary Montanans like me who are unlucky enough to have been seriously injured in an accident at unnecessary risk of losing everything – despite having health insurance and auto accident coverage.

It also seems to me that this proposed legislation is bad for people who, in a moment of carelessness, cause an accident. Even if they're responsible enough to carry liability insurance to cover the consequences of their mistakes, if that coverage is used up to pay the doctors, their personal assets may have to be used to pay for other losses, like lost wages, resulting from their carelessness. If this were the law in my case, I know that as a matter of my own basic necessity and survival, I would have been forced to take a hard look at going after the personal assets of

the responsible driver; as I recall, he was a young man with a young family.

Please vote no to HB450 and HB473.

Sincerely,

Wade Russell

A handwritten signature in cursive script, appearing to read "Wade Russell", written in black ink.

February 13, 2013

Barbara "Bobbi" Devereaux
91 Pfeifer Road
Bridger, MT 59014

Hello. My name is Bobbi Devereaux. I currently live at 91 Pfeifer Road, Bridger, Montana 59014. I wanted to attend this hearing in person but with the short notice and with all of my physical problems, I was not able to do that. I am hoping that my letter will show you how important it is to keep this bill from becoming law.

Two years ago my children and I were leaving a school function at West High in Billings. It was a Tuesday evening around 9:30 p.m. The light turned green and I pulled out into the intersection making a left hand turn. I do not know what happened next except from reports. A 70 year old driver ran a red light and smashed into my van. The man was drunk as well as high on drugs. The drunk and high man t-boned my van smashing in my door. My daughter and son were passengers in the front and back seats of the van.

The wreck was horrific and terrifying. All three of us had to be sent by ambulance to St. Vincent's Hospital for emergency treatment. My pelvis, left leg, and lower back were severely injured in the wreck. I was admitted to the hospital and had to have surgery. My initial stay at the hospital lasted almost a week. The hospital charges alone were \$52,911. Additionally the charges for outside doctors, radiologists and various medical team providers for that visit came to over another \$11,000. At the time I felt I was lucky to have health insurance through my place of employment.

In spite of all my treatment, my pelvis, legs and spine remain severely damaged from the wreck. I cannot walk normally. In order to get around I have to use a wheelchair although for extremely limited distances I am able to use crutches. When on crutches I drag my foot behind me like dead weight. The doctors cannot tell me how much more treatment I will need. They cannot tell me if I will ever recover.

My life for the past two years has included a series of doctors' visits, additional surgery, and discussion of even more medical care. During the time after that initial stay, I have incurred another \$77,797 in additional medical costs. There is still no end in sight for my medical treatment.

The driver that hit me had a total of \$30,000 of liability coverage. That's all. My life has been turned upside down by this wreck.

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Before the wreck I had worked at a job I loved as a dental hygienist. Immediately following the wreck it became apparent that I would not be able to return to the job. No one was willing to have a dental hygienist that cannot be on her feet, moving around a patient, and moving around to help the dentist. My employer had to let me go from my dream job. At the time I was earning a little over \$35 an hour and working 32 hours a week, i.e., around \$58,240 a year. I have not been able to work since the wreck. To date I have lost around \$99,680 and that amount is growing.

I had lost my job but with all of my medical problems I knew I had no choice but to keep my health insurance. Since the accident I now have "COBRA" coverage, for which I continue to pay over \$1200 every month. I pay that amount so I will have health insurance to pay the doctors and hospitals. I also had long term disability coverage that helped for a while but came no where near my previous earnings.

I thank the lord I had medical insurance. But those coverages, for which I paid considerable money, (and still do) did not cover the total medical bills. In spite of having medical insurance and long term disability, I am currently in collection and owe various medical providers over \$9,300 for expenses not covered. I receive calls from medical collection agencies almost daily. I have no answers for them. They continue to add penalties and interest to those medical charges growing the bills daily.

Before the wreck my husband and I owned a house in Billings. We had to give the home back to the bank because we could no longer afford it.

I had to buy a new vehicle to replace the one that the drunk driver totaled. I had to pay an additional \$8,500 out of my own pocket for the replacement vehicle. I had to purchase my own wheelchair as there was no insurance to cover it. That cost an additional \$5,000.

As I can no longer work, I am attending school to be re-trained into a job that can be done by a person who is confined to a wheelchair. I have no income and am now incurring even more expenses so that one day I can work again.

Recently I had to sign up for public assistance due to my circumstances. Each month we just get farther and farther behind.

But if you think I have received the \$30,000 from the insurance company I want you to know that I have received nothing to date.

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At first, the drunk driver's insurance company fought with me about who was at fault. I could not believe it. My son was a witness. There were drug tests and alcohol tests which he failed. Yet the company was fighting me. When they finally quit fighting, my health insurance company, as well as my long term disability company, sent letters to my attorneys saying any money that was paid to me by the drunk driver would have to be re-paid to the health care insurer and the disability insurer. The insurances are covered by ERISA. As I understand that term, that means they have a right to be reimbursed for any payment they made on my behalf that was a result of the wreck. Also, because I am now on Medicaid, I understand that the government will be looking to receive some of the money as well. The \$30,000 is being held by the drunk driver's insurance company because everyone is claiming it belongs to them.

At the time of the wreck I also had "underinsured coverage" but only in the amount of \$25,000. So there is a total of \$55,000 of car insurance in my case. Nothing else. The drunk driver has had problems his whole life and cannot pay for my injuries either.

At this time my attorney is fighting with the various insurance companies and medical providers in the hope that they will agree to allow me and my family to have the \$55,000 to cover all of the expenses that continue to add up. So far no one has budged. Without that money I may have file for bankruptcy.

Additionally my children also suffered physical injuries in the wreck. They were taken by ambulance to the hospital. My daughter's jaw was broken. Their bills came to around \$8,000 and my son only suffered from relatively minor injuries.

I could talk to all of you for days about how devastating this has been for me and my family. Simply put, we will never be the same. The things I am missing out on are one thing. But the things my children are missing out on, due to financial problems as well as my inability to participate fully in their lives, are devastating. I try to be positive but some days it just becomes overwhelming.

The bill you are considering would take the \$30,000 of liability coverage and the \$25,000 of my underinsured coverage - coverage I paid for to protect me and my family - and give it all to my medical providers. The medical providers agreed to take my insurance coverage and I paid for that coverage. They got paid. They have hired collections people to pursue me for the amounts my insurance hasn't paid. The only person who has not received any compensation has been me, the victim in this case. I did nothing wrong and I and my family are the ones who are suffering the consequences!

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I am grateful to my doctors, nurses, and all of those medical providers who have helped me. But I cannot imagine that they need the money more than I and my family do. At least they have received payment for their services in connection with this wreck. I and my family are the victims of this wreck and we have received nothing.

While the \$55,000 would not cover my losses, it would provide a lifeline for me and my family. I do not see how this bill is fair. As long as I carry health insurance the medical providers get paid the amount they agreed was fair. I do not understand why my misfortune should entitle them to be paid more than they agreed to simply because I was the victim of a high and drunk driver. If this legislation goes into law, not only would people like me be victims of careless drivers, we will be victims of this legislation. I am asking that you please, please consider the victims of these wrecks and do not pass this bill.

Thank you for your time.

Barbara Bobbi Devereaux
Barbara "Bobbi" Devereaux

STATEMENT OF TYSON PALLISTER

I am Tyson Pallister. I operated a business called TP Plumbing and Heating. I was a general and subcontractor. My business did both large and small projects. I had a car accident on February 25, 2005. I suffered severe head trauma, which still affects me. My sternum was split all the way down the middle. The metatarsals and my cuboid were totally crushed in my left foot. The dash hit me in the knee and literally blew my leg out my back side, so I don't have a hip anymore. I now have an 8-inch plate on the outside of my hip, an 11-inch rod that runs from the top of my hip down underneath my pelvis, and 8 pins. I have two plates in my foot. My arms were broken. My shoulder was dislocated causing permanent irreversible damage. Because of my injuries, I could not continue with my contracting business and couldn't work at anything for a long time.

My medical bills were about \$130,000. At first, I wasn't worried because my wife, Nikki, took care of the insurance. She made sure we had all kinds of insurance. We had health insurance with Blue Cross, auto insurance, all the insurance we needed. I didn't hire a lawyer because I thought Blue Cross would pay. After I got back from Harborview Hospital in Seattle, we tried to get Blue Cross to pay my medical bills but it refused. First, they wouldn't pay because they said it was a workers' compensation claim. I hired a lawyer and he explained I wasn't on the job when I was injured and so there was no work comp. Then Blue Cross paid some of the bills, about \$22,000 of the \$130,000. They said they wouldn't pay anymore because there was auto insurance.

Even though I was a passenger in the car and the accident wasn't my fault, automobile insurance didn't pay for a few years so I had to sue. In the meantime, my wife and I got turned in for collection on medical bills Blue Cross refused to pay. We mortgaged two pieces of property to pay bills. My wife, my kids and I went through hell. I went from having a successful contracting business to having threats of having our power shut off. We went through bankruptcy. All this time I was recovering from my injuries. When we got the auto insurance money, there wasn't enough to pay our debts because of the accident. We lost land we were buying and wanted to give to our kids. None of this would have happened if Blue Cross had paid the medical bills it was supposed to pay.

We're back on our feet now. I work for the City of Helena. I have health insurance and automobile insurance. I'm here today because I feel if I have health insurance, my medical bills should be paid. Why else do you have insurance? We still owe money we borrowed to pay the medical bills. We have a lawsuit against Blue Cross to pay the medical bills and they still refuse because of the automobile insurance. But there wasn't enough automobile insurance to pay all the our bills even when my attorney cut his fee. When I needed Blue Cross to step forward and pay the bills, they didn't. HB 450 would make what they did to me legal and let them get away with this. I don't want this to happen to anybody else.

STATEMENT IN OPPOSITION TO HB 450

My name is Cherilyn Raulston. I reside at 1315 Boulder Avenue in Helena, Montana. I am sorry I could not come to the hearing but I work full-time.

On July 19, 2011, I was stopped in a line of cars at a red light on Lyndale Avenue. I had my three children in the car. A young woman failed to stop behind me and ran into my car at twenty miles per hour according to the police report. She admitted that she had looked to north briefly and did not see my car.

She was insured by GEICO. My medical providers tendered bills to GEICO for payment but it did not make payment. In order to make sure my medical bills got paid so my children and I could continue with our medical treatment, I submitted the bills to my health insurance company. My health insurance company made the payments, but only after I had to pay my deductible and co-pays.

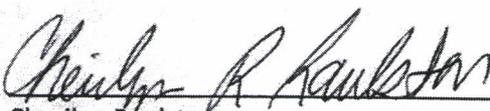
Finally, after GEICO had not paid for a long time, I had to hire a lawyer. Once I hired a lawyer, GEICO immediately started paying the bills.

If HB 450 is passed, I am afraid that other people like me will get denied by the car insurance company and their own health insurance company and they will end up not getting the medical care they need due to the carelessness of another person and even going to collections or worse.

My husband and I both work hard to provide for our family. We pay our premiums for our health insurance every month because we know that if something terrible happens, we are covered. There are a lot of other things we could do with that money but we choose to pay it to the health insurance company so we have that coverage.

This bill would make it easy for the health insurance company to not pay for medical expenses in a situation where a car insurance company is not doing its job. It seems to me that it is unfair to prioritize what insurer pays first and that would only result in the person injured in the car wreck, who had faithfully paid their premiums to the health insurance company, to be penalized.

Thank you for considering my perspective on this case.

 2-13-2013
Cherilyn Raulston Date



Lori A. Harshbarger, Attorney

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WHITEHALL, MT 59759
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JDLaw Firm, P.C.

LICENSED IN MONTANA, ARIZONA & TEXAS

February 26, 2013

Montana Legislature
Helena, Montana

RE: HB 450

Honorable Members of the Montana Legislature:

I am writing this letter to you to share two very real life stories of the negative impact HB 450 could have on individuals like the clients I have represented. I have identified these clients by fictitious names to protect their identity at this time but after obtaining their consent, would be more than willing to share their identities.

Jones:

A middle-aged couple were driving home from work one Thursday at about 4:30 p.m., heading south on Highway 41 between Whitehall and Twin Bridges, Montana. As they neared the flashing light at an intersection, a large truck drove into their vehicle. Mr. Jones died immediately. Mrs. Jones did not. She suffered severe head and body trauma, was transported to St. James Healthcare in Butte, then flown via life flight to Harborview in Seattle.

Mrs. Jones lay in a coma for two weeks while her two children, Margaret, who was a senior in college and Howard who was a junior in high school, sat by her side, wondering what to do. Finally, Mrs. Jones' children made the decision to turn off the life support and she passed away.

Mrs. Jones had been a teacher so she had health insurance coverage. Her medical bills were approximately \$400,000. The policy limits for the truck driver were \$1 million.

These two children were stripped of their parents for no wrong doing on their part. The health insurance carrier paid ALL medical expenses promptly. The children were able to receive the entire \$1 million for compensation for their parents wrongful deaths. While the \$1 million won't bring back their parents, those two children were able to go on and complete their college education and go forward with their lives.

Their mother had paid those health insurance premiums to cover medical expenses. Had that health insurance carrier not paid the expenses, those children would only have received \$600,000 or \$300,000 each for their parents' lives.

Incidentally, I did not take that case on a contingency fee basis. I charged the kids hourly, so they did receive the bulk of the policy.

Ranchers:

A rancher was traveling to town for the county fair. He was struck by a driver who negligently crossed the center line. He suffered a severe brain injury and was also life flighted out to Harborview in Seattle. Mr. Rancher was in a coma for three weeks. He came out of it but still suffers and will forever suffer from the brain injury. His wife has been by his side ever since.

They also had two children. One daughter was in college, the other just in high school. Those two girls have lost the father they knew. Mrs. Rancher no longer has the husband that she knew.

Mr. Rancher incurred approximately \$1 million in medical expenses. The policy limits available for coverage at this time are \$1.25 million. Mr. Rancher's health insurance carrier, at first wanted to deny payment of any claims until the tortfeasor's liability insurance had been expended. I argued Ridley, et al stating that that Mr. Rancher and his family would not be made whole. The health insurance carrier agreed to pay the claims. As a result, the Ranchers received the entire policy limits. The extent of their damages in in the \$7 million range.

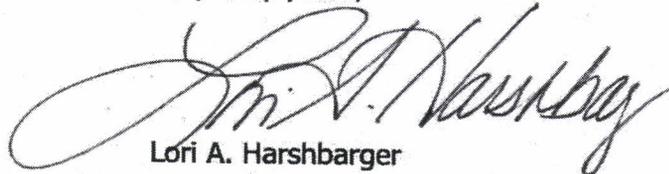
Had that health insurance carrier been allowed to refuse payment, the Ranchers would have received \$250,000 for this injury. How can you, as the lawmakers of Montana, say that it would be okay for the Ranchers to have paid for health insurance coverage for 30 years only to allow that health insurance carrier to not have to pay out those premiums?

These folks, as insured folks of Montana, deserve you, as their representatives, to protect their hard earned dollars and to see that they receive the benefit of the contract they have bargained for. In both of these instances, had the health insurance carriers not paid those expenses, these clients would be without anything. Who wins? The pocket books of the health insurance carriers.

I urge you to consider carefully reject this Bill. Take the step toward justice and righteousness and protect the folks who put you in office.

Should you have any questions, please feel free to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lori A. Harshbarger", written in a cursive style.

Lori A. Harshbarger

LAH/ms

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February 25, 2013

Montana Legislators
State Capitol
Helena, MT

Re: HB 450

Dear Ladies and Gentlemen:

Helena resident Vilma Guzman, the single parent of a disabled child, injured her neck in a rear end collision in a grocery store parking lot in June 2012. She has authorized me to tell her story.

The liability carrier for the other driver determined that its insured was only partially responsible, and would therefore pay only a portion of the bills. Vilma's medical payments coverage limit in her own policy was \$1,000. She had health insurance through Medicaid (via her son's disability). Vilma speaks broken English, is dyslexic, and was facing the confusing, complicated task of getting the medical care she needed for her neck injury – and getting that medical care paid for. I agreed to help on a pro bono basis.

Given the limited extent of the auto coverages, it was clear that depleting them through payment of medical bills would leave Vilma's other losses uncompensated and would still leave some of the bills unpaid. On the other hand, if all of the medical bills were submitted by the health care providers to Medicaid, all of the bills would be covered (though at a lower rate) and the auto insurance proceeds could be used to address Medicaid's lien – with, hopefully, a balance remaining to go to Vilma to apply toward the remainder of her losses.

The success of this plan depended first on the willingness of all of the health care providers to submit their bills to Medicaid – not their first choice ordinarily, but the right thing to do under the circumstances. When I explained Vilma's predicament, they all agreed to do so.

Next, I continued with my investigation of the liability and medical aspects of the case, provided the records to the liability carrier, discussed the accident and Vilma's injuries with the adjuster, and negotiated a settlement of Vilma's claim which provided compensation for her injuries – though not full compensation, in light of the shared-responsibility nature of the accident.

The next step involved requesting Medicaid that it reduce if not waive its lien in order to free up as much of the auto insurance proceeds as possible for Vilma to apply to non-medical expenses

and losses resulting from the accident. Under the particular circumstances of Vilma's case, Medicaid agreed to waive its lien, so the modest amount of auto insurance was able to go directly to Vilma – who, for example, was in dire need of a vehicle (to replace the one totaled in the collision) so that she could drive her son to his appointments, go to the grocery store, etc.

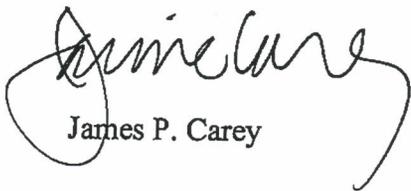
Vilma's story worked out the way it should – health care providers, health insurers, and auto insurers cooperating in a plan of priority of payment that promoted the best interests of the patient/insured/accident victim. I fear that HB450, with its formalized priority of payment system, will eliminate the flexibility and compromise that is often necessary to resolve cases with limited auto insurance proceeds and contested liability (a very common scenario). This bill will not promote the interests of Montana citizens who are injured in an accident. Nor will it promote the interests of health care providers in getting their services compensated: is a health care provider, who is not the party in interest in a patient's accident claim, going to investigate and prove the defendant's responsibility for payment when negligence or causation (or both) are contested? Is it going to sort out and coordinate, on behalf of the patient, the auto and health care coverages so that the medical bills are paid and the patient's other damages are properly addressed as well?

The system that is in place now has the indirect effect of attorneys for injured persons acting as collection agents for the health care providers; we deal with liens, subrogation and reimbursement claims, contested liability, and coordination of benefits every day. After the expenditure of the attorney's time and money to investigate and prove liability (and, therefore, his client's entitlement to compensation), medical bills get paid, reimbursement claims are handled, and clients/patients are as fully compensated as possible for their injuries. No two cases are the same, but all cases require some flexibility and creativity in the coordination of benefits process to reach a just result. HB450 would unnecessarily and unfortunately take that away.

Thank you.

Sincerely,

LAMB & CAREY



James P. Carey

BOTTOMLY EDDY & SANDLER

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February 25, 2013

Kalispell Regional Medical Center
Attn: Wendy, Patient Accounts Representative
310 Sunnyview Lane
Kalispell, MT 59901

Re: *My Client:* [REDACTED]
Date of Birth: [REDACTED]
Health Insurer: Allegiance Life & Health Insurance Company
Group Name: [REDACTED]
Covered Person: [REDACTED]
Employee ID No. [REDACTED]
Group ID No. [REDACTED]

Dear Wendy:

This office represents [REDACTED] in regards to injuries he suffered on August 18, 2012 in a motorcycle accident. His injuries were caused by the negligence of a driver who was insured by Allstate Insurance with \$25,000 per person in minimum policy limits.¹ [REDACTED] suffered significant injuries in the accident, and the records and bills we have to date reflect he has incurred over \$32,000 in medical expenses to date, \$29,109.83 of which was incurred at KRMC. [REDACTED] had \$5,500 in medical payment coverage under his own policy, which has already been exhausted in payments to KRMC.

Allstate has informed me that KRMC has now filed liens that exceed the Allstate's policy limits for this case. KRMC's assertion of a lien against the Allstate policy limits not only deprives [REDACTED] from recovering for other harms he has suffered, but it also deprives all other medical providers from being paid out of this potential recovery, including the independent (not owned by Northwest Healthcare) ER physicians, surgeons and orthopedic specialists, with whom [REDACTED] has also incurred accident-related medical expenses.

This is despite the fact [REDACTED] has health insurance through Allegiance Life & Health Insurance Company ("Allegiance"), and despite KRMC being a preferred provider under that policy. It is [REDACTED]'s position that Allegiance is legally obligated to pay these bills under the terms of [REDACTED]'s health insurance policy, and KRMC's refusal to bill Allegiance and instead lien the auto liability recovery deprives [REDACTED] of the benefit not only of the auto policy, but also of the insurance premium he has been paying to Allegiance.

¹ The Allstate policy is actually a \$15,000/\$30,000 policy, which is permissible under Montana law. Thanks to the efforts of this office, Allstate has agreed to convert the policy to \$25,000/\$50,000 policy to conform to minimum requirements in Montana.

As I am sure you know, the Montana Supreme Court ruled on a case in which BlueCross and BlueShield of Montana attempted to get approval of forms containing a coverage exclusion stating that BCBS would not pay for health care costs of its injured beneficiaries if the beneficiaries received, or were entitled to receive, benefits from any automobile or premises liability policy. The Court explained that such an exclusion violated Montana law:

¶ 18 Subrogation is an equitable doctrine designed to compel the ultimate payment of an obligation by the person “who in justice, equity and good conscience should pay it.” *Skauge v. Mountain States T. & T.*, 172 Mont. 521, 524, 565 P.2d 628, 630 (1977). Montana public policy requires that an insured must be totally reimbursed for all losses including costs and attorney fees incurred in recovering those losses, before the insurer can exercise any right of subrogation, whatever an insurance policy may provide to the contrary. *Swanson v. Hartford Ins. Co.*, 2002 MT 81, ¶ 28, 309 Mont. 269, 46 P.3d 584; *Oberson v. Federated Mutual Ins. Co.*, 2005 MT 329, ¶¶ 14–15, 330 Mont. 1, 126 P.3d 459.

¶ 19 The BCBS exclusions effectively allow it to exercise subrogation before paying anything to its insured, contrary to § 33–30–1101, MCA, which allows reimbursement “for benefits paid.” The exclusions allow BCBS to avoid any payment of benefits to its insured if the insured is “entitled to receive” benefits from any other auto or premises liability policy, whether or not the insured actually receives any of those benefits, and whether or not the insured has been made whole. Only when the insured is made whole as defined in Montana law, and then only after BCBS has paid out benefits to its insured, could BCBS be entitled to claim subrogation. It is contrary to Montana law for BCBS to enjoy the benefits of subrogation in the circumstances allowed by the disputed exclusions. The BCBS exclusions therefore violate Montana statutory and case law on subrogation.

Blue Cross Blue Shield of Montana, Inc. v. Montana State Auditor, 2009 MT 318, ¶¶ 18 and 19, 252 Mont. 423, 218 P.3d 475. I have enclosed a copy of this case for your review.

To that end, this letter will serve as a demand that KRMC bill Allegiance for all bills [REDACTED] has incurred, and release the liens that it has filed with Allstate Insurance. If KRMC refuses to bill Allegiance, or refuses to release the liens it has filed with Allstate, please provide me with a written explanation.

Please let me know if you have any questions or concerns.

Sincerely,

BOTTOMLY, EDDY & SANDLER Trial Attorneys, pllp

/David Sandler/

David M. Sandler

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Marianne Roose

From: Marianne Roose [mroose@libby.org]
Sent: Wednesday, April 13, 2011 10:19 PM
To: 'mcuffe@interbel.net'; 'Jerry Bennett'
Subject: HB555

Dear Mike and Jerry

I am writing to you tonight to respectfully request that you vote No on HB555. I am writing as an individual constituent, not as a Commissioner. Three years ago Kent was seriously injured in a car accident. It was not his fault, yet he was left with his health ruined forever, his lifestyle changed and constant pain. The other driver had the minimum amount of liability insurance, so needless to say we were personally left with staggering doctor bills and expenses incurred from the accident, with ongoing medical, prescription costs and travel to doctor appointments forever.

Even though we had health insurance the health insurance thought they should have the right to force the hospital to claim the liability dollars to cover Kent's health care costs first even though that is what our health insurance was for. That is why health insurance premiums are paid, to cover health care costs, not liability issues. We believe that HB555 does nothing but look out for health insurance companies not have to live up to their responsibility to cover health costs. Liability insurance is to cover other expenses related to an accident. Please vote No on HB555 and help protect individual victims such as Kent not have to suffer this injustice.

Thank You,
Kent and Marianne Roose

A handwritten signature in black ink, appearing to be 'Cory', is written on the right side of the page. There are two diagonal lines drawn on either side of the signature, one extending upwards and to the right, and another extending downwards and to the left.

Charma Rolan
2624 Fantasy Rd
Helena MT 59602

To Whom It May Concern:

A pickup truck driver turned into the Winston Bar from Highway 12. His truck caused a high speed collision. My daughter, Dana, was riding in the passenger seat of the car that got hit. She was asleep and never saw it coming. The collision broke her back and caused a brain injury. A surgeon tried to paste Dana's lower spine and pelvic bone back together. He was only partially successful. Because of the brain injury, Dana will never be the same. She was only 16 when this happened.

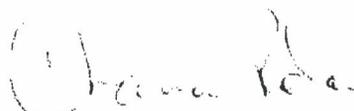
Fortunately, the man who caused the collision had insurance. Fortunately, Dana had health insurance through me. At first, we didn't hire a lawyer. We trusted the insurance companies would do the right thing. We should not have.

Our health insurance company decided not to pay Dana's medical bills, which added up to over \$100,000. They indicated the person who caused the collision was legally required to pay instead. In the end, there was not enough money to pay damages for everything Dana lost. Dana could have used the money. She still can given her life-long injuries.

We later found out our health insurance company had no legal right to avoid paying the medical costs. We asked our insurance company to reimburse Dana, but it refused. Dana was forced to file a lawsuit. We then found out our health insurance company had done the same thing to other Montanans.

The lawsuit drags on. Now we have learned our insurance company is one of those lobbying the Montana legislature to change the law so it won't have to pay Dana back and can keep doing this. Please don't let them do so.

Sincerely,



Charma Rolan

Robert J. Savage
Admitted in Montana
& North Dakota

Diane E. Savage
Admitted
in Montana

Luke R. Savage
Admitted
in Montana

March 8, 2013

Montana State Legislature
Helena, Montana

RE: House Bill 450

Dear Citizen Legislators:

It has come to my attention that House Bill 450 is now before the State Senate for consideration. As a practicing attorney in eastern Montana for over 30 years, I have represented a vast multitude of individuals and their families who had their lives turned upside down by reckless or otherwise negligent tortfeasors. The vast majority of my clients have had the benefit of health insurance which they paid for and depended upon in getting their lives back together in conjunction with third party liability insurance, as well as their own uninsured, underinsured and medical payment coverage. For those who didn't have health insurance, life as they knew it was no more. The not so subtle effect of House Bill 450 is to abrogate Montana's long standing public policy of making accident victims whole rather than diminishing their recovery, which often includes substantial wage losses and loss of earning capacity. In effect, House Bill 450 in "prioritizing" payments from a wide assortment of insurance policies would leave the innocent injured citizen with no compensation if his or her medical expenses exceeded the limits of those policies, which is often the case. In every other case, their rightful recovery will be seriously impaired.

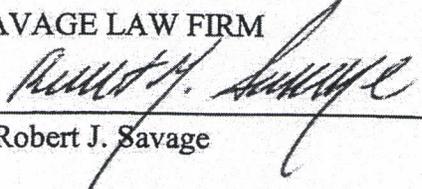
In those states, other than Montana, which deny their citizens full legal redress for injury to their persons it is not uncommon that the citizen becomes impoverished, files bankruptcy, and goes on public assistance which includes Medicaid. I do not know whether a fiscal note was assigned to House Bill 450, however, the legislature needs to know the fiscal impact of imposing the burdens of this bill on the people of Montana and eventually the state itself. House Bill 450 fails to address this burden on the state of Montana but rather focuses in the short term on the "significant health care cost shifts to the **private sector**". For you legislators who have had the misfortune of being in a horrific accident involving yourself or family members, I would respectfully ask you to reflect upon that and the situation that you or your loved ones would have been faced with if House Bill 450 was the law of Montana.

Thank you for what I know will be your thoughtful deliberation on behalf of the people of Montana.

Sincerely yours,

THE SAVAGE LAW FIRM

By


Robert J. Savage

MEMORANDUM

TO: House Business and Labor Committee members
SUBJECT: HB0450
DATE: February 13, 2013

The following events are shared to assist in understanding the ramifications if HB0450 passes.

A 50 year-old gentleman (Steve) was rear-ended while stopped at a light in Missoula, Montana in May 2012. The other driver was cited by the police. He was not at fault in any way. He was treated at the local emergency room and advised to follow up with his treating physician right away, which he did. He was advised by his physician to get immediate surgery consultation for his neck and back injuries and was referred to a neurosurgeon. When he called to schedule an appoint, he was told he had to pay \$350 up front because this was an auto liability claim. The office also advised that they would not bill health insurance for these charges, even though he had health insurance through his employer.

Eight days after the accident the auto liability carrier for the driver who caused the accident wrote Steve, advising him:

“[y]ou are responsible for your own medical treatment and bills that are incurred as a result of this loss. Any medical bills that are reasonably necessary and accident related will be taken into consideration at the time of your bodily injury settlement.”

Steve called back to the neurosurgeon's office explaining that the auto liability carrier was refusing to pay any of the accident-related bills until time of settlement and he did not have \$350 to pay. He again asked if the doctor would bill his health insurance. The office refused. He asked his treating physician to refer him to another surgeon who did not require \$350 up front and would be willing to bill his health insurance. The treating physician's office said they could not do so.

Steve was left with no choice but to seek legal assistance. He does not care for attorneys nor had any intent in pursuing legal action. He just wanted to obtain the medical care he needed. He was experiencing severe pain in this neck and back and was losing feeling in one of his arms. He had daily headaches and could not sleep. He has worked hard his whole life and always carried insurance to protect him and his family. He did not understand why this was happening.

The auto liability carrier reversed its position after Steve's attorney wrote advising that its position was in violation of Montana law. The auto carrier then agreed to pay the up front cost so Steve could see the surgeon if statements were received from both the referring doctor and the surgeon. After receiving both requested statements, the auto carrier reversed its position again, noting that Steve's x-rays showed some pre-existing spinal degeneration. Steve was prevented from receiving the medical care he needed, even though he had health insurance.

Steve's attorney called an attorney who frequently represents that auto carrier in litigation. Within 24 hours, the auto liability carrier hand-delivered a check to Steve's surgeon. The surgeon recommended surgery.

The auto liability carrier then agreed to advance pay Steve's medical expenses

related to the accident. Over the next several months, at least 15 letters requesting payment of Steve's ongoing medical bills were sent to the auto liability carrier. All requested post-accident and pre-accident records were provided.

The auto liability carrier failed to pay many of the bills. Steve received late notices, final notices, and was threatened with collection. When one of his doctors threatened to turn him over to collection if they did not receive payment within two weeks, Steve was left with no choice but to file suit against the auto carrier. A declaratory judgment action was filed requesting the court declare that the carrier was responsible for the ongoing medical expenses. Within days of sending the carrier a copy of the complaint, it paid all of the outstanding medical bills.

HB0450 assumes that the auto carriers (liability, uninsured, underinsured, etc.) will pay the bills as they should. As this situation shows, and which is not uncommon, carriers often fail to pay the accident-related bills timely, if at all. If the health insurance does not have to pay until the auto liability carrier does, this in effect, leaves the injured individual with no coverage, even though he pays monthly premiums for health insurance. Also, many health insurance policies try to exclude coverage for expenses that should be covered by an auto liability policy. An individual should have the right to use his health insurance he pays for year in and year out.

HB0450 appears to be an attempt for doctors to increase their income at the expense of Montana citizens. Doctors agree to charge a reduced rate for their services as part of their agreements with health insurance companies. Individuals and businesses purchase insurance to enjoy the benefit of paying those reduced fees for their medical bills. They pay monthly premiums relying on that benefit of insurance. But

doctors want to charge a higher price for those same services if there is also auto liability insurance involved. This results in far less money going to the person who was hurt, through no fault of his own, as amounts paid by the auto carrier for medical bills are subtracted from the amount paid at the end of the claim.

Cherry Beatty
General Delivery
Helena, MT 59601

February 28, 2013

To Whom It May Concern:

On April 20, 2009, I was injured in a collision on Montana Avenue in Helena, Montana. My injuries required a lot of medical care and cost me my job. I got a job in a gas station for a little while, but again my injuries would not let me continue.

My health insurance company would not pay for my medical costs. It said the man who hit me should pay. He only had \$25,000 in insurance to pay for my losses. After deducting for the medical bills payments, there was not enough money left over to pay for my loss of wages and other expenses.

I eventually sought legal advice. I was told the health insurance company had no right to make the other insurance company pay because that money is designed to compensate me for all my losses.

I could have used the money the health insurance company took from me. Eventually, I have had to rely on the charity of friends for food and shelter. It is something that plagues me to this day.

I have been told that the insurance companies have created a bill that would make it legal for health insurance companies to do to others what they did to me. Please don't let them get away with it.

Sincerely,

Cherry Beatty

March 19, 2013

Montana State Capitol
Helena, MT

Re: HB 450

Dear Legislators:

I ask you to oppose HB 450. I am currently out of state and therefore unable to speak to you in person. Please accept this letter as a summary of my comments about this bill.

Most of us, myself included, don't think about things like this until we or one of our loved ones is injured. Then we realize how important insurance coverage is to get back on our feet.

Two years ago, my wife and I were about to cross a street in Helena to join friends for dinner when a young man who wasn't paying attention while he was driving struck my wife with his car, severely injuring her right in front of my eyes. She was taken by ambulance to the hospital, where she underwent a number of medical procedures. After many days in the hospital, she was able to come home. She still required constant care, medical devices, and some modifications to our home to accommodate her disabilities.

We had health insurance, as well as underinsured motorist coverage in our automobile policy. The driver who hit my wife had liability insurance, but the limits of coverage were less than the amount of my wife's medical costs.

My health insurance company refused to pay the medical bills, claiming that the liability carrier should pay them. The liability carrier wouldn't pay, claiming it was not responsible for the accident. With my wife badly injured, we did not need all this extra stress.

I eventually had to hire a lawyer. We pointed out to my health insurer that under the law it had no right to refuse payment. It eventually started paying the medical expenses. The liability carrier eventually accepted its accountability, but there still was not adequate insurance to pay for all the damage that was done to my wife.

If HB 450 had been the law at the time of my wife's accident, things would have turned out a lot worse. She would have recovered nothing for her severe injuries because all of the liability coverage would have been used up to pay her medical bills. Our health insurer – to whom we'd paid premiums to cover medical expenses in the event of injury or sickness – would have paid nothing at all.

There are, in my view, many problems with HB 450, but among the worst is that it is unfair and harmful to Montana citizens who have been unlucky enough to have been injured in an accident. It can happen to any one of us.

I respectfully request that you oppose HB 450.

Sincerely,

A handwritten signature in black ink, appearing to read "John Warner". The signature is fluid and cursive, with a long horizontal stroke at the end.

Hon. John Warner, Montana Supreme Court Justice (ret.)