

EXHIBIT NO. 4DATE: 3.27.13HB 450**HB 450 – No To Insurers**

This is a bill that can, if you are injured in an accident, ~~destroy your chance~~ of financial survival. This bill takes a victim's recovery ~~against the person~~ that injured her and in essence gives that benefit entirely to the victim's health insurer, who had agreed to cover the loss in return for premiums paid. Likewise, those of you who have purchased additional insurance to cover yourself and your family should someone with no insurance, or insufficient insurance, harm you, this bill in essence gives those benefits to the your health insurer, who had agreed to cover the loss in return for premiums paid, by diverting it to healthcare providers.

The mandate in Section (1) that that all auto policies must be exhausted, before health insurance is billed would allow health insurers to avoid payment of medical benefits, when there is **third-party liability or 1st party un and underinsured coverage**, medical benefits that the injured person paid for and expects to be used for their health care. The auto coverage is intended to pay other damages such as lost wages, disability, pain and suffering, **first**, and then medical payments.

**This bill:**

- **strips insureds of their individual, constitutional right to be made whole;**
- **leaves injured people with no money to compensate them for lost wages, disability, uncovered health needs or any other damages they may suffer;**
- **denies insureds of the insurance benefits they paid for; and,**
- **unjustly enriches healthcare providers by allowing them to charge more for services than the injured persons health insurer .**

This bill presumes that auto insurers pay immediately, just by the injured person asking for payment. That is so far from reality as to be ludicrous.

**Please read the accounts from people who have actually gone through this process.**

**Who is better able to protect and assert their interests:** insurance companies with their resources, knowledge of the system and lawyers at their beck and call; healthcare facilities with their resources, knowledge of the system and lawyers at their beck and call; or, you and your constituents who have few resources, no knowledge of the system and no lawyer to consult with. The current system at least gives you a chance to protect and assert your rights, this bill does not.

The idea that an injured person will be on equal footing to get lost wages and other damages before hospitals and their lawyers get a hold of the auto liability money is also ludicrous - take a look at page 2, line 16. Hospitals attempt to get patients to assign these liability monies while they are still in the hospital. Line 17 requires documentation of the damages - the hospital will have it's full bill to present long before an injured person can document all their lost wages.

So how does this work, do health care providers get access to all your auto and umbrella insurance policies? Your private policy is being used to subsidize health insurers.

This bill is completely contrary to the individual's constitutional rights and it leaves the insureds with no further recourse. This legislation attempts to do what the Montana Insurance Commissioner and the Montana Supreme Court have denied - give insurers the right to take third-party liability coverage money that rightfully belongs to the insured before the insured has been made whole for the damages they have suffered. HB 450 is bad public policy that places insurers and healthcare facilities above the individuals they are supposed to be serving. This is a bill that can, if you are injured in an accident, destroy your chance of financial survival.

**Constitution of Montana -- Article XIII** -- Section 1. Nonmunicipal corporations. (1) Corporate charters shall be granted, modified, or dissolved only pursuant to general law.

**(2) The legislature shall provide protection and education for the people against harmful and unfair practices by either foreign or domestic corporations, individuals, or associations.**

(3) The legislature shall pass no law retrospective in its operations which imposes on the people a new liability in respect to transactions or considerations already passed.

**This bill asks you to do the exact opposite - pass legislation that harms people through unfair practices.**

Al Smith, Montana Trial Lawyers (439-3124)

## **This is what happens now.**

Tom is injured by Bob in an auto accident, Tom goes to ER, admission form notes auto accident, police follow with Bob's liability insurance (AutoInsure) information. Tom asks that his health insurer Big Blue be billed.

Hospital and doctors (Providers) do not bill Big Blue, tell Tom to have AutoInsure pay. Tom sends bills to Big Blue, they refuse to pay and tell him to send to AutoInsure. Tom contacts AutoInsure who refuses to pay. After a while, hospital and doctors have Tom's bills sent to collection, who start calling Tom and sending him collection notices. Tom finally gets AutoInsure to pay and they finally pay the \$25,000 in medical bills from Bob's liability insurance – collection calls & letters stop.

Tom finally contacts a lawyer, the lawyer contacts Big Blue, tells them Tom has \$25,000 in lost wages and other damages, and he demands that Big Blue pay the Providers for the medical bills; and, he demands that Providers reimburse Tom the \$25,000 that AutoInsure paid them from Bob's liability insurance. Tom uses the \$25,000 for his lost wages and other damages.

- \* Big Blue pays **once** for medicals – what they promised to do when they took Tom' premium.
- \* AutoInsure pays **once** for liability – what they promised to do when they took Bob's premium.
- \* Tom has his medicals paid for, and he gets paid **once** for his lost wages and other damages – he's made whole.

## **What Insurers Get With HB 450:**

Tom finally contacts a lawyer, the lawyer tells Tom "Sorry, payment was made by AutoInsure, that's it, end of story, thanks to legislation passed in 2013 your health insurer doesn't have to pay anything, the \$25,000 from AutoInsure went to the hospital, and there is nothing left for your lost wages and other damages."

- \* Big Blue pays **\$\$ zero** for medicals – NOT what they promised to do when they took Tom's premium.
- \* AutoInsure pays **once** for liability – what they promised to do when they took Bob's premium.
- \* Providers get paid more than they would have received if Big Blue had paid at their negotiated rate.
- \* Tom has his medicals paid for, BUT he gets paid **\$\$ zero** for his lost wages and other damages – he loses \$25,000.