BRAIN INJURY ASSOCIATION OF MICHIGAN

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THE VOICE OF BRAIN INJURY

WRITTEN TESTIMONY

Submitted to
Michigan House Committee on Insurance Committee
Regarding H.B. 4936

By
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Brain Injury Association of Michigan

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Chairman Lund and Members of the Michigan House Insurance Committee,

My name is Michael Dabbs and I am President of the Brain Injury Association of Michigan. The mission of our Association is simple – to serve as the "Voice of Brain Injury" by our efforts "to enhance the lives of those affected by brain injury through education, advocacy, research, and local support groups, and to reduce the incidence of brain injury through prevention." Having served as the Association's president since 1993, I have seen the frequent attempts to change Michigan's Auto No-Fault Insurance system in both the legislature and in our courts. However, the one thing that has remained constant in all of these years has been the desire of Michigan's voters – 60% of Michigan voters **do not** want this law modified to the extent that it would take away the benefits that are critically necessary in the event of a car crash that causes catastrophic injuries.

H.B. 4396 is hardly any different than these previous failed attempts and thus, we are staunchly opposed to this bill.

Allow me to give you some context about brain injuries. Prior to 1981, medical science had limited means by which to diagnose or treat a serious brain injury. However, in 1981 with the use of CT scans, surgeons began to have a better understanding of brain injuries and thus provide treatment. A good example of this is Jim Brady, Press Secretary to President Ronald Regan who you will recall sustained a critical brain injury from a gunshot. Jim's treatment and subsequent rehabilitation truly represents the pioneer days of brain injury. In comparison, look at Congresswoman Gabrielle Giffords' case wherein her rehabilitation allowed her to return briefly to Congress within seven

months of her injury. Granted no two brain injuries are alike; however, I believe this is an indicator of the progression we are seeing in the brain injury rehabilitation field.

In Michigan, there are **1,530 deaths, 10,400 hospitalizations**, and **over 46,000 emergency department visits** that are treated and released attributable to a traumatic brain injury. The Centers for Disease Control conservatively estimates that there are over **200,000 Michigan residents** that have a life-long disability due to a traumatic brain injury. Think about that – **ENOUGH TO FILL THE BIG HOUSE TWO TIMES!**

Unlike Professor Tennyson's flawed assertion that we have more brain injuries in Michigan, I can assure you that data from the Centers for Disease Control does not bear this out. In other states where auto insurance coverage is limited, it would stand to reason they have less brain injury claims simply because there are far fewer services available and either no or limited (at best) insurance to pay for such services.

Insurance companies point to the injured person's health care insurance as one solution to limit the auto insurance companies' claims. A couple of points that should be considered, first, statistically the greatest number of auto crash victims are those in the 15 – 24 years of age range. Given Michigan's excellent trauma system, many of these victims will survive – many of whom have been attending these hearings and/or have submitted testimony. I would urge you to give some thought to just how many 15 – 24 years old individuals that you know of have health insurance. Second, for those that have health insurance, consider the fact that typical health insurance provides for only 45 days of acute rehab and/or 60 days of visits for out-patient therapy. You don't need to be in the medical field to understand that this limited coverage is woefully inadequate for a car crash victim. Again, think of Congresswoman Gifford, do you think that has been all of the acute rehab or therapy visits she has required to get to the stage in her recovery where she is now?

Attendant Care is critical to our families for so many reasons. First, let me point out that the American with Disabilities Act REQUIRES the individual to have choice in determining their care and be in the least restrictive environment. If you were faced with a catastrophic injury wouldn't you want to live in your home being supported by your loved-ones? Second, there is no one size fits all solution for Attendant Care as proposed in the current bill. To arbitrarily determine a reimbursement rate, or limit the hours of care to fit the insurance companies' desires, is simply wrong. As I mentioned earlier, every brain injury is unique. The need of the individual varies widely and thus, Attendant Care must be structured to be responsive to these varied needs. Let me point out, each insurance company has the ability to negotiate what they believe to be reasonable and medically necessary care. Reasonableness and medically necessary has 38 years of legal precedent. One last thought on this issue, do any of you have staff members that are making $11.00 or less? This wage effectively will force families to have their loved-one in a nursing home where the costs are likely to be much greater. So what has provision solved – nothing from my point of view. What is proposed in the current bill is simply a non-starter.

You have heard reports from the Coalition Protecting Auto No-Fault (CPAN) and the Michigan Brain Injury Providers Council (MBIPC) indicating the potential cost impact to Michigan's economy, as well as the shift of insurance companies' expenses onto the backs of Michigan taxpayers through Medicaid. Other aspects of the state budget to be impacted, which I am not an expert on that are very likely to be impacted by millions of dollars are Vocational Rehab, Education and the Corrections System. If crash victims do not receive appropriate and timely care, these systems along with Medicaid will be the only social safety net available – because insurance companies want you to limit their future liability.

Persons who suffer a severe brain injury need immediate care and rehabilitation. Every day that passes when care is not received will limit the person's recovery. It is intolerable to think that we would rather have our injured victims – many of whom were simply unfortunate victims of an automobile crash file a lawsuit and delay their care and their potential for returning to the work place. Michigan has proven itself to be "the leader and the best" in the nation for brain injury, let's not buy into the in the insurance companies' calls for change.

Finally, let me leave you with these thoughts. We buy insurance to cover us from a possible risk that we could not afford to have happen to us. The point of insurance is to bundle all persons with a similar risk and create a reasonably priced insurance product to cover us for such a risk – isn't that exactly what auto insurance does? So why then, are we talking about suddenly limiting the insurance companies' exposure that they were aware of when they sold us their product? Furthermore, why should Michigan taxpayers have to pick up the cost of what is the insurance companies' liability?

There has been much talk in Lansing about the creation of jobs, tort reform, and no new taxes. Yet this bill violates all three of these ideals. This bill through its consequences whether unintended or directly stated would cause a significant loss of jobs, cause over a $200 M economic impact on the states' economy; force an injured party to file a law suit in order to recover expenses; and would cause a minimum of a $30 M cost shift to Medicaid in the first year, which would be compounded annually. If you believe in the principles mentioned above, then you simply must vote **NO on H.B. 4396**.