180 5th St. E. Ste. 260
St. Paul, MN 55101

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March 4, 2024

House File 4100 (Reyer)

Dear Chair Stephenson and House Commerce Committee Members,

The National Federation of Independent Business (NFIB) represents over 10,000 small businesses across Minnesota. Our mission is to promote and protect the right of our members to own, operate, and grow their businesses.

NFIB Minnesota appreciates the opportunity to comment on HF 4100 and Rep. Reyer's willingness to engage with concerned stakeholders.

The proposal reduces the time period for seeking and collecting on a judgment for debt owed, while also restricting the income and property subject to garnishment or collection. Restricting the ability to recover will have a negative impact on consumer and small business credit, hindering sales, financing, and investment – the latter of which has been an increasing concern of small business owners as interest rates rise and remain high.

Further, we believe it is unfair to impose regulations that were designed for professional debt collectors on small business owners who are seeking payment for goods or services. Section 9 would prevent a small business from detailing the consequences of non-payment, restrict who the small business could use to aid in recovering debt, and limit their ability to extend offers of settlement and other agreements without the use of an attorney.

For small businesses seeking recovery of funds to help them meet payroll and keep their doors open, the legal process is already complex enough. Most small operations have thin or nonexistent margins and do not have in-house attorneys or accountants to help. We urge the committee not to make it even harder for them to recover legitimate debts.

Sincerely,

John L. Reynolds
Minnesota State Director
National Federation of Independent Business
john.reynolds@nfib.org

March 4, 2024

The Honorable Zack Stephenson
Chair, House Commerce Finance and Policy Committee
449 State Office Building
St. Paul, MN 55155

The Honorable Tim O'Driscoll
Ranking Member, House Commerce Finance and Policy Committee
237 State Office Building
St. Paul, MN 55155

Re: Support for House File 4100, The Minnesota Debt Fairness Act

Dear Representative Stephenson, Representative O'Driscoll, and members of the committee:

Our organizations represent thousands of Minnesotans who know the toll that consumer debt, including medical debt, can take on families' livelihoods, stability, and health. We thank Representative Reyer for introducing HF 4100, and we hope your committee will support it.

Patients face significant costs when seeing a doctor or going to the ER. These costs can cause financial hardship and stress for patients and their families, even those with health insurance. Medical debt disproportionately affects lower-income households, Black and Hispanic households, and rural households, and people who are in poor health.[1]

According to a January 2021 survey report, 51% of Minnesotans have experienced at least one healthcare affordability burden. 58% of Minnesotans earning less than $50,000 a year faced affordability challenges, as did 33% of those earning more than $100,000 per year. 76% are worried about affording healthcare in the future.[2]

Patients are much more likely to delay or avoid medical care when facing debt. Others reported becoming depressed or anxious because of their debt. Medical debt is often cited as the primary reason for families who file bankruptcy. Many feel they will never be able to pay off their debt.[3]

Minnesotans should not feel trapped by their medical debt. HF 4100 will help. It will ban the withholding of medical care due to unpaid debt, reduce medical debt interest rates, keep medical debt off credit scores, protect spouses from liability for a partner's medical debt, and shield tax refunds from revenue recapture, among other valuable consumer protection measures.

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[1] S. Rakshit, et al. Peterson-KFF Health System Tracker. "The Burden of medical debt in the United States." February 12, 2024. https://www.healthsystemtracker.org/brief/the-burden-of-medical-debt-in-the-united-states/

[2] Healthcare Value Hub. "Minnesota Residents Struggle to Afford High Healthcare Costs; COVID Fears Add to Support for a Range of Government Solutions Across Party Lines." January 2021. https://www.healthcarevaluehub.org/advocate-resources/publications/minnesota-residents-struggle-afford-high-healthcare-costs-covid-fears-add-support-range-government-solutions-across-party-lines

[3] Ibid.

Nationally, people agree that these policies are needed. An October 2023 poll commissioned by the American Cancer Society Cancer Action Network, The Leukemia & Lymphoma Society, and RIP Medical Debt found that over 90% of US adults agreed that elected officials should pass policies that protect people with serious illnesses from medical debt and harassment from collection agencies.[4]

The opportunity HF 4100 provides you to make our medical, economic, and legal systems work more fairly for Minnesotans is tremendous, and we urge you to take it. We would also urge you to look at steps other states have taken, such as prohibiting wage garnishment by medical debt collectors, as they have done in New York, North Carolina, Pennsylvania, and Texas.

Please contact Dana Bacon, Senior Director, State Government Affairs at The Leukemia & Lymphoma Society, at dana.bacon@lls.org or 612.308.0479 if you have any questions or comments on this letter.

Sincerely,

ALS Association
American Cancer Society Cancer Action Network
The Arc Minnesota
Cancer Legal Care
The Leukemia & Lymphoma Society
Minnesota Association of Community Health Centers
Minnesota Budget Project
Minnesota Nurses Association
National Kidney Foundation
National Multiple Sclerosis Society

[4] The American Cancer Society Cancer Action Network, The Leukemia & Lymphoma Society, and RIP Medical Debt. "Nearly 1 in 2 Patients with Medical Debt Feel "Trapped", New Poll from Leading Healthcare Orgs Finds." October 30, 2023. https://www.lls.org/news/nearly-1-2-patients-medical-debt-feel-trapped-new-poll-leading-healthcare-orgs-finds

Chair Stephenson and Committee Members,

I am writing on behalf of the American Diabetes Association (ADA), the nation's largest voluntary health organization concerned with the health of people with diabetes to express our support for House File 4100. In particular, we want to express our support for the medical debt provisions in the legislation.

We know that there is a large financial burden put on people living with diabetes. For people diagnosed with diabetes, their medical expenditures are 2.6 times higher than would be expected without diabetes.[1] For families impacted by diabetes, they are also twice as likely to have medical debt when compared to families that do not have a member with diabetes. We strongly support efforts to minimize financial burdens that put treatment and access to care out of reach for people with diabetes.

People with medical debt have reported it as a driving factor for delaying care or not filling their prescriptions.[2] For people with diabetes, it is critical that we eliminate financial barriers that may result in them forgoing the care that they need to manage the disease. Unmanaged diabetes can lead to costly and devasting complications including heart disease, amputations, kidney failure and death.

In the United States, people with chronic diseases are disproportionately more likely to deal with medical debt[3] and it is also impacting communities of color across the country. In 2021, 13% of Black people had medical debt compared to 7% of white people.[4] This legislation is essential in addressing this inequitable financial burden put on minority communities in Minnesota and on people living with chronic diseases.

The ADA applauds efforts to ensure that people with diabetes can access the care that they need without the stress and burden of medical debt. We encourage the committee to support the following provisions which will positively impact the lives of people with diabetes.

Prohibit withholding medical care
People with diabetes who have medical debt should not be prohibited from seeing their doctor. Diabetes requires ongoing treatment and disruption to access to care can be detrimental for their health.
Limiting interest on medical debt
Limiting interest from accruing on medical debt will help minimize the financial burden on patients. Large interest rates increase the amount that patients owe, significantly impacting their ability to afford medical treatment.
State limit on credit reporting
An individual's credit score impacts many aspects of their life. Medical debt reported to the credit bureaus lowers an individual's credit score, making it more difficult to secure loans and housing, and impacting the interest rate an individual may qualify for.

Thank you for the opportunity to express our support for House File 4100. We are encouraged to see the legislature address the burden of medical debt and ensure that people with diabetes can afford the tools they need to manage the disease and thrive. On behalf to the American Diabetes Association, please support House File 4100.

Thank you,

Carissa Kemp
Director of State Government Affairs, American Diabetes Association

Rep. Zack Stephenson
Chair, House Commerce Finance and Policy Committee
449 State Office Building
St. Paul, MN 55155

Rep. Tim O'Driscoll
Ranking Member, House Commerce Finance and Policy Committee
237 State Office Building
St. Paul, MN 55155

March 4, 2024

Enclosed please find our letter in support of the proposed Minnesota Debt Fairness Act. Please be in touch if you have questions or if Cancer Legal Care can help in any other way. Thank you for your consideration, efforts, and leadership on this very important legislation.

Regards,

Lindy Yokanovich, Esq.
Founder and Executive Director
Cancer Legal Care

Erin Hartung, Esq.
Director of Legal Services and Managing Attorney,
ICARE Program
Cancer Legal Care

Catherine London, Esq.
Advocacy Chair,
Board of Directors
Cancer Legal Care

Cc: Simon Brown, Committee Administrator (Simon.Brown@house.mn.gov)
Abdulaziz Mohamed, Government Affairs & Public Policy Coordinator (abdulaziz.mohamed@ag.state.mn.us)
Rep. Liz Reyer, HF 4100 Author (rep.liz.reyer@house.mn.gov)

Cancer Legal Care Official Statement on Proposed Minnesota Debt Fairness Act (HF 4100/SF4065)

Cancer Legal Care (CLC) is a 501(c)(3) legal services organization whose mission is to engage the law to resolve the complex challenges facing people and communities affected by cancer. We do this by providing free legal care services to the Minnesota cancer community, from diagnosis to treatment to survivorship. We advise on matters of employment, insurance, disability, financial issues, housing, and estate planning. Our programs are open to all Minnesotans affected by any cancer, residing anywhere in the state, with 75 percent of our clients each year living in the Twin Cities metro area, and 25 percent living in Greater Minnesota. Since 2007, CLC's programs have provided over $20.1 million in free legal care to over 13,000 Minnesotans affected by cancer.

Cancer brings with it financial toxicity, defined as "the detrimental effects of the excess financial strain caused by the diagnosis of cancer on the well-being of patients, their families, and society."[1] Financial toxicity is reflected in very startling statistics:

1. 42 percent of newly-diagnosed people over 50 will lose their life savings within two years of diagnosis.[2]
2. Cancer patients are, on average, 2.5 times more likely to file bankruptcy than those without cancer. Furthermore, cancer survivors who file for bankruptcy are 80 percent more likely to die than cancer patients who do not.[3]
3. 62 percent of personal bankruptcies filed are due in part to significant medical debt. Yet, of these bankruptcy filers, 78 percent had health insurance.[4]
4. 79 percent of oncology care providers are concerned with their cancer patients refusing treatment because of financial worries, and 49 percent have had a cancer patient refuse treatment because of a financial concern.[5]
5. From 2003-2006, more than two million cancer survivors in the United States did not get one or more needed medical service because of financial concerns.[6]

Our clients' lived experiences reflect these very disturbing trends. The following are some examples.

A client, whose spouse was the family's main income earner and passed away from cancer, was left with over $50,000 in cancer treatment bills after a series of health insurance denials for their spouse's treatment. They told us that having to pay those bills would "wipe me out" financially, leaving them without means to afford a home and daily living expenses for their three small children. Relatedly, clients have come to us

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[1] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7152810/

[2] 2 https://www.amjmed.com/article/S0002-9343(18)30509-6/fulltext

[3] Mapes D. Cancer bankruptcy and death: study finds link. Fred Hutch News Service. January 25, 2016

[4] Himmelstein DU, Thorne D, Warren E, et al. Medical Bankruptcy in the United States, 2007: Results of a National Study. The American Journal of Medicine. 2009;122:741-746

[5] Highlights from the 2018 Trending Now in Cancer Care Survey. Association of Community Cancer Centers, Oncology Roundtable

[6] Weaver KE, Rowland JH, Bellizzi KM, Aziz NM. Forgoing medical care because of cost: assessing disparities in healthcare access among cancer survivors living in the United States. Cancer. 2010 Jul 15;116(14):3493-504. doi: 10.1002/cncr.25209. PMID: 20549763; PMCID: PMC3018838

with questions about divorcing in order to avoid burdening their spouses with their medical debt arising from their cancer care. One recent client even phrased it as “a medical divorce.” At a time in our clients’ lives when support and family structure is as important as ever, no one should ever have to contemplate legal dissolution of their marital union in order to protect their spouse’s financial viability. **Repealing the statutory liability for one’s spouse’s medical debt would prevent these situations and protect family structures.**

A client was billed directly for lab services after their healthcare provider incorrectly omitted a billing code modifier in its claim to their insurance, causing a coverage denial. Although the bill was relatively small, being on a strict fixed and limited monthly income, this client had no way to pay the bill without foregoing other imperative needs such as rent, food, or the continuation of their cancer treatment. Minnesotans deserve better than to face these choices. **A prohibition against charging patients fees for coding errors would have prevented this situation.**

Another client required a specialized scan in order to determine the exact nature of their rare cancer and the most appropriate treatment plan, but the scan was denied by their insurance for unclear reasons. Although this client qualified for the healthcare provider’s financial assistance program, because the insurance company refused to cover the scan, the healthcare provider refused to provide the scan without first receiving an up-front down payment from the client of at least $8,000. The impossibility of this payment left our client without means to receive the necessary scan unless and until Cancer Legal Care was able to make a successful argument to the provider’s legal department regarding an exception clause in the financial assistance policy. Minnesotans should be able to access necessary care without having to overcome the hurdle of an impossible-to-pay bill. **Banning the withholding of medical services due to unpaid debt could have prevented this situation and allowed this patient to proceed with their care in a timely fashion.**

The Minnesota Debt Fairness Act has the power to make a real and significant positive impact on the lives of Minnesota cancer patients who uniformly face an uphill battle in preserving their lives- both medically and financially.

On behalf of our clients, Cancer Legal Care wholeheartedly supports the Minnesota Debt Fairness Act and urges the committee to vote in approval.

Consumer Data Industry Association
1090 Vermont Ave., NW, Suite 200
Washington, D.C. 20005-4905

P 202 371 0910

CDIAONLINE.ORG

March 1, 2024

Representative Zack Stephenson
Chair
Committee on Commerce Finance and Policy
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

Representative Carlie Kotyza-Witthuhn
Vice Chair
Committee on Commerce Finance and Policy
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

Representative Liz Reyer
Sponsor of HF4100
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

RE: CDIA Opposition to HF4100 Section 9(a)(25) & Section 10, Regarding Medical Debt

Chair Stephenson, Vice Chair Kotyza-Witthuhn, Representative Reyer, and Members of the Committee:

On behalf of the Consumer Data Industry Association, I write to oppose HF4100 given its conflicts with federal law, rulings from the U.S. District Court for the District of Minnesota, and an overly broad and disruptive definition of medical debt applying both to collections agencies and consumer reporting agencies, which were it to become law could disrupt the accuracy and reliability of consumer reports opening the door to unintended and negative consequences for Minnesota consumers. However, CDIA and its members recognize the legitimate concerns around medical debt and wish to highlight the changes made by the three national credit bureaus regarding medical debts that provide consumers greater flexibility and more time to address these items.

CDIA, founded in 1906, is the trade organization representing the consumer reporting industry, including agencies like the three nationwide credit bureaus, regional and specialized credit bureaus, background check companies and others. CDIA exists to promote responsible data practices to benefit consumers and to help businesses, governments, and volunteer organizations avoid fraud and manage risk.

Section 10(a) of HF4100 would prohibit a consumer reporting agency (CRA) from including information that a CRA knows or should know concerns medical information or medical debts, referencing the Fair Credit Reporting Act (FCRA) to define medical information. Section 9(a)(25) would prohibit a collecting party from reporting information it knows or should know concerns medical information or medical debts to a credit reporting agency. In both Section 9(a)(25) and Sectoin10(a), HF4100 establishes a problematic and expansive definition of medical debts.

I. Prohibition on Reporting Medical Debt is Pre-Empted by the FCRA

Consumer Reporting Agencies are tightly regulated by the FCRA, which also preempts any state legislation that limits or prohibits the kind of information that can go on a credit report or attempts to limit or prohibit the furnishing of medical debt information to a consumer reporting agency is preempted by the FCRA at 15 USC §1681t(b)(1)(E) and 15 USC §1681t(b)(1)(F), respectively. The FCRA governs the contents of consumer reports and the obligations of furnishers in reporting data to consumer reporting agencies at 15 USC §1681c and 15 USC §1681s-2, respectively.

As such, Section 9(a)(25) and Section 10(a) are preempted by the Fair Credit Reporting Act. The U.S. District Court for the District of Minnesota ruled on this question and held that the FCRA broadly and clearly preempts states from regulating on "subject matter" covered by the FCRA, which would include the matters covered in Sections 9(a)(25) and Section 10(a) of HF4100. With that in mind, CDIA respectfully requests that these sections be removed from the bill before it receives further consideration by the Committee.

II. Credit Bureaus Have Adjusted Policies on Medical Debt, Providing Consumers Additional Flexibility & Time to Address Unpaid Amounts

While these sections are preempted by the FCRA, CDIA and its members acknowledge that medical debt is distinct from other types of consumer debt. As such, the national credit bureaus have established uniform procedures regarding how and when a consumer's unpaid medical debts can be included in a credit report to help consumers by providing more time and flexibility.

Unpaid medical debts must be more than $500 and outstanding for more than 365 days before any of the three national credit bureaus will show the account in a consumer report. For unpaid amounts greater than $500 and more than 365 days past due, upon repayment of outstanding amounts, these accounts are removed immediately from a consumer's report, unlike other debts.
The yearlong grace period provides consumers ample time to work with providers and insurers to correct any errors on a bill, pay the bill or get an insurance company to pay it, figure out a payment plan or otherwise resolve the problem and avoid having unpaid debts reach collections and appear on credit reports.

Further, amounts less than $500 are no longer included by the credit bureaus or reported to them by collections agencies. For consumers with outstanding medical debts less than $500, those accounts have been removed from their reports. In addition, credit scoring models have changed how they consider medical debt, eliminating or reducing how it affects a consumer's score. For example, the Vantage Score 3.0 and 4.0 models ignore medical accounts in collections altogether.

While concerns regarding medical debt and the impact of unpaid debts on consumer's credit histories are understandable, blanket prohibitions on the inclusion of medical debts in consumer reports do not address the underlying concerns about the costs of medical care. On the other hand, the changes made by the three national credit bureaus have provided consumers with substantial flexibility to address outstanding amounts through a variety of approaches.

III. The Definition of Medical Debt is Over-Broad and Risks Unintended Consequences

Setting aside the U.S. District Court's FCRA preemption ruling, and the changes made to how unpaid medical debts are treated by the three national credit bureaus, CDIA remains concerned by the overly broad definition of medical debts established in HF4100.

In Section 9(a)(25) and Section 10(a) medical debts are defined, without limitation, as debt arising from the provision of medical care, treatment, services, devices, medicines, or debt arising from procedures to maintain, diagnose, or treat a persons physical or mental health.

Although these sections are preempted, they would also create confusion for furnishers and consumer reporting agencies alike, who do not have or desire access to transaction level data that would be required to parse amounts reported as debts.

For example, if a consumer were to use a personal credit card to pay for medical care in an office setting, turn around and spend several thousand dollars on unrelated items and let the account fall into arrears, CRAs could be required to remove the entirety of the credit account from a report under this definition. In the same vein, were a consumer to use a personal credit card at a convenience store to purchase over the counter medicines and let the overall account fall into arrears, a CRA could be forced to remove the entire account from the consumer's file.

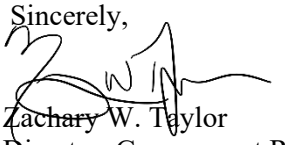
As a result, consumer reports in Minnesota could become less reliable and CRAs could run afoul of FCRA requirements to maintain reasonable procedures to ensure accuracy. In these instances, substantial amounts of unpaid debts could be forced from a consumers' file, making the reports less reliable for lenders and other users. As a result, it would be more difficult for these entities to accurately price risk and result in higher costs or loss of access to services for Minnesota consumers.

While CDIA opposes Sections 9(a)(25) and Section 10 of HF4100 in their entirety based on FCRA preemption, we believe it is important that these definitions be adjusted to avoid the unintended consequences that could undermine the overall accuracy of the consumer reporting ecosystem and harm Minnesota consumers in the process.

While CDIA acknowledges the validity of concerns surrounding the cost of care and its impacts on Minnesotans, we respectfully request that the Committee remove Sections 9(a)(25) and Section 10 of HF4100 dealing with the furnishing and reporting of medical debt information, as they are preempted by the Fair Credit Reporting Act (FCRA) at 15 USC §1681t(b)(1)(E) and 15 USC §1681t(b)(1)(F).

Thank you for your time and consideration.

Sincerely,



Zachary W. Taylor
Director, Government Relations
Consumer Data Industry Association

Expansive Debt Collection Legislation (HF 4100/SF4065) Will Result in Unintended Harm to Minnesota Consumers & Small Business

The trade associations and companies listed above understand the state's goal to protect consumers in the debt collection process, however, we strongly oppose the enactment of SF4065/HF4100 as introduced due to its broad proposals creating an unbalanced framework for collecting debts which will make Minnesota an outlier and result in unintended harm to consumers and small business.

This "Minnesota Debt Fairness Act" is being promoted as a way to reform medical debt and protect Minnesota patients but in reality, the legislation is very wide ranging and would impact all businesses and consumers in the state. If enacted, the legislation would result in a decrease in available and affordable credit to all Minnesotans, especially those with the lowest credit scores. Consumers will be in court much sooner, resulting in a longstanding impact that could be avoided under current law. It will make debt collection more difficult for small businesses, who may face their own financial distress when debts are uncollectable.

The following are just some of the provisions in the bill that will have negative consequences which apply to all debt collection, not just medical debt.

<u>Statute of Limitations / Non-Renewal of Judgments</u>

The proposed legislation would reduce Minnesota's six-year statute of limitations to three years on all consumer debts. A three-year statute of limitations would drive creditors to seek judicial solutions, which are usually a last resort for recovery, much earlier in the collections process. This is further

exacerbated by provisions reducing the statute of limitations for consumer judgments from 10 years to 5 years and prohibiting renewal of consumer debt judgments.

Changing the statute of limitations to three years creates a compressed timeframe that will reduce the amount of time consumers have to resolve their obligation before creditors need to file a lawsuit. Looking at the proposal for health care receivables, this compressed timeframe is particularly problematic because providers need time for insurance processing and most have generous amounts of time allotted to billing patients prior to referring delinquent accounts to third parties for collection. If this legislation is passed, creditors will most certainly need to expedite their accounts receivable processes and go to court earlier to recover outstanding debts.

No other state has a three-year statute of limitations AND non-renewal of judgments. This would place Minnesota lenders and businesses at a disadvantage when compared to businesses in neighboring states and would decrease access to affordable credit for Minnesota consumers.

Expansion of Exemptions for Garnishment

The proposed legislation would essentially eliminate garnishment options on consumer debt in the state through a massive expansion of existing consumer protection exemptions. Though one of the last options for collection efforts, garnishment may be the only way to collect debts in some cases.

The proposal of a flat exemption amount of $5,000 on bank accounts will render bank garnishment ineffective in Minnesota because few debtors maintain that high of an account balance and those that do could move money between accounts to avoid repayment of their obligations.

Further, changing disposable (net) weekly earnings completely exempt from 40 times to 80 times the state's large employer minimum wage goes beyond the intent of ensuring that consumers have funds protected necessary to meet basic needs. This proposed change would ban wage garnishment of all debtors with *gross* earnings of $27/hr ($56,500/yr) or less, needlessly exempting them from any wage garnishment, and making them "judgment proof." This exemption is not need-based and would automatically apply to all debtors based just on individual pay.

For those not entirely exempt from garnishment, HF 4100/SF4065 would cut the allowable garnishment percentage from 25% to 10% of net wages. This reduction will harm consumers by extending the timeline of wage garnishment and increasing their total interest paid to satisfy the judgment.

Harmful Impact to the Access and Cost of Credit

The unintended consequence of this legislation is that if creditors are unable to recover on outstanding debts using the last option of wage garnishment, access to affordable credit will be further restricted for consumers who need it the most. There is a significant amount of

academic research finding that creating barriers to the legitimate collection of debt results in higher interest rates and less access to credit for low credit score consumers. Most recently, research by the Consumer Financial Protection Bureau in 2023 showed that decreasing garnishment by just $1 per week decreases median credit card limits by $10.04, and that the National Consumer Law Center's Model Family Financial Protection Act (which this proposal appears to emulate) would decrease credit limits by $1,294 per consumer[1].

To address the concerns of debtor hardship, we would support garnishment exemptions for debtors who notify their creditors of a medical or financial hardship. Unfortunately, rather than consider a need-based proposal, this legislation would largely eliminate bank and wage garnishment for the vast majority of judgment debtors.

Medical Debt Credit Reporting

In addition to the areas outlined above and many other provisions not covered in this memo, the legislation aims to make significant changes in medical billing cycle that creates problematic areas for medical providers and their revenue cycle partners. One of those provisions is the proposal to prohibit credit reporting of all medical debt in the state.

Now is not the time for states to act in this area. Last year, the three credit bureaus, Equifax, Experian and TransUnion, agreed to remove medical debts of $500 or less from credit reports, which represented roughly 70% of all medical debts. We still do not know the full impact of this action on large or small medical facilities, rural facilities, or a wide range of medical service providers. We also do not know the long-term impact on a consumer's access to future credit outside of the medical space.

Additionally, the CFPB is in the early stages of rulemaking in credit reporting and considering an all-out ban on medical debts appearing on credit reports. This process will include extensive comment periods allowing for additional research and input from all entities involved. Any new law in Minnesota could almost immediately conflict with federal law. Moreover, credit reporting of medical debt is already prohibited for Minnesota non-profit hospital systems via law passed in 2023 that codified their 2005 Agreement with the Minnesota Attorney General's Office.

Conclusion

The collections process plays a critical role in a healthy credit ecosystem. Lenders rely on the ability to collect to be able to lend to consumers of all means with diverse financial backgrounds. Without a balanced collections process, some consumers' ability to obtain credit cards or other unsecured credit would be greatly limited. This would be a disadvantage to many consumers who face more limited options for credit and services.

[1] *Using the Courts for Private Debt Collection: How Wage Garnishment Laws Affect Civil Judgments and Access to Credit*. Consumer Financial Protection Bureau (2023)

We support the underlying goals of the proposed legislation to protect consumers and provide clarity throughout the debt collection process. Our industry has a history of working collaboratively with advocates to improve Minnesota's debt collection law, but we were not engaged in the process of crafting this legislation and the result is an unbalanced proposal. The legislation as written would make the collections process prohibitively difficult, resulting in unintended consequences that would ultimately harm consumers in Minnesota.

We encourage the Committee to reject SF4065/HF4100 as written and provide all parties an opportunity to discuss the best ways to ensure Minnesota's collections process provides proper consumer protections, while balancing the need for debts to be paid.

Legal Services Advocacy Project

RON LUNDQUIST, ATTORNEY AT LAW

March 1, 2024

The Honorable Zack Stephenson
Chair, Commerce Finance & Policy Committee
Minnesota House of Representatives
449 State Office Building
St. Paul, MN 55155

The Honorable Tim O'Driscoll
Republican Lead, Commerce Finance & Policy Committee
Minnesota House of Representatives
237 State Office Building
St. Paul, MN 55155

Re: HF 4100 – Minnesota Debt Fairness Act

Dear Chair Stephenson, Lead O'Driscoll, and Members of the Commerce Finance and Policy Committee:

The undersigned individuals and organizations write in support of HF 4100 – the Minnesota Debt Fairness Act. We provide civil legal services to consumers in debt and consumers filing for bankruptcy.

HF 4100 addresses many pressing problems that plague Minnesotans who find themselves financially strapped or who are forced to file for bankruptcy while fighting to pay their rent or mortgage, put food on the table, and pay their utilities and other basic needs. Being in debt or filing for bankruptcy should not mean that a family should face homelessness or hunger or pay for medicine or other necessities of life.

Of the many reforms in the bill, of particular note are the provisions updating the garnishment and bankruptcy exemptions under section 550.37, making our garnishment laws more fair, and setting up a process to revise our hard-to-understand garnishment forms into plain language to help consumers understand and exercise their rights.

Thank you for your consideration.

Sincerely,

Ron Elwood

Ron Elwood, Supervising Attorney, Legal Services Advocacy Project

Andrew C. Walker, Attorney at Law, Walker & Walker Law Offices, PLLC, a Minneapolis consumer bankruptcy firm.

Jeffrey J. Bursell
Attorney at Law, Solvent Law, PLLC

Ronald Lundquist
Attorney at Law

EXODUS
LENDING

March 1, 2024

The Honorable Zack Stephenson
Chair, Commerce Finance and Policy Committee
Minnesota House of Representatives
449 State Office Building
St. Paul, MN 55155

The Honorable Tim O'Driscoll
Republican Lead, Commerce Finance and Policy Committee
Minnesota House of Representatives
237 State Office Building
St. Paul, MN 55155

Re: HF4100

Dear Chair Stephenson, Lead O'Driscoll, and Members of the Commerce Finance and Policy Committee,

I write today on behalf of Exodus Lending to express our strong support of the Minnesota Debt Fairness Act (HF4100). Exodus lending is a statewide nonprofit that works with financially excluded Minnesotans to offer a way out of predatory debt - refinancing high-cost loans that carry interest rates over 36% and often in the triple-digits. Since we opened our doors in 2015 we have reached more than 715 Minnesotans across 46 counties and refinanced more than 1,000 predatory loans which in turn saved our community nearly $2.2 million that otherwise would have been spent on fees and interest.

While our organization focuses on predatory loan debt, the Minnesotans who seek our services are experiencing a complex web of circumstances that include significant debts of all kinds and we see firsthand how the brokenness of Minnesota's debt collection system destabilizes families who often then turn to predatory products out of desperation. The reforms offered by HF4100 will serve to keep Minnesotans out of crisis while they work their way out of debt.

Our loans serve as credit-building tools for the people we serve, and we accompany our program participants as they build or rebuild credit. Banning medical debt from being reported

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exoduslending.org

to credit bureaus will protect those who have worked hard to build good credit from having their financial goals shattered by unplanned medical bills.

Many of the Minnesotans we work with have experienced troubling misconduct by debt holders and collectors of all types - harassment that compounds financial trauma and deepens distrust of financial institutions. Ensuring that those who hold and collect debt are complying with the rules will protect the peace of mind that Minnesotans deserve when working to repay debt.

We strongly urge you to adopt HF4100 and thank you for the opportunity to provide these written comments and for your thoughtful attention to this important issue.

Sincerely,

Anne Leland
Executive Director
Exodus Lending

MINNESOTA COUNCIL of HEALTH PLANS

CAPITOL OFFICE BUILDING
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March 4, 2024

House Commerce Finance and Policy Committee
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

Dear Chair Stephenson and Members of the Committee:

The Minnesota Council of Health Plans is an association of nonprofit health plans whose mission is to get Minnesotans the affordable, equitable and quality-based care they need today and in the future. Our members – BlueCross and BlueShield of Minnesota, HealthPartners, Medica, Sanford Health Plan of Minnesota, and UCare – provide more than 4.6 million Minnesotans with health care coverage. The Council is concerned about the language in Section 1 regarding the application of copay assistance to insurance deductibles. The goal of HF 4100 is to reduce medical debt and although the language in Section 1 is intended to lower costs for patients, it entrenches a policy that leads to higher costs overall and increased profits for drug manufacturers.

Copay assistance programs are a tactic used by drug manufacturers to acquire and maintain patient market share and maximize profits. These programs are typically used for the most expensive drugs on the market to promote these drugs and encourage patients to stay on them. This leads to incentivizing the use of an expensive drug when a cheaper alternative may be available or when a more effective drug enters the market. If drug manufacturers are sincere in their effort to decrease patient costs at the pharmacy counter, they should lower their prices for everyone.

Council member plans in the fully insured market do not prohibit enrollees from using copay assistance programs, however those amounts do not count towards an enrollee's deductible because that portion of the copay is not being paid by the enrollee. A deductible is a set amount of money the enrollee agrees to pay out of pocket for health care expenses which helps offset premium costs. Who is making these payments is especially important for those with high deductible plans with health savings accounts. Those enrollees are granted the tax benefit of an HSA assuming they are paying their deductible. If a third party is paying towards the deductible this will have implications with tax laws governing HSAs.

The high costs of prescription drugs is a serious problem facing many Minnesotans. However, there is no language in HF 4100 to address the root cause of the problem, which is the price manufacturers charge for their drugs. Drug manufacturers will claim copay assistance is needed because of increases in deductibles and cost sharing, but they fail to acknowledge this is in response to the increasing costs of health care, largely due to drug manufacturers increasing the costs of their medications year after year.

We appreciate Representative Reyer reaching out to the Council to discuss Section 1 and we are committed to working with her as this bill progresses to ensure its impact is to lower health care costs, maintain stability in the market, and help Minnesotans gain access to needed care.

Sincerely,

Lucas Nesse
President and CEO

March 3, 2024

The Honorable Zach Stephenson, Chair, Commerce Finance and Policy Committee
Minnesota Commerce Finance and Policy Committee Members
Minnesota House of Representatives
449 State Office Building
St. Paul, MN 55155

Re: **HF 4100 – Debt collection, garnishment and consumer finance governing provisions modified; debtor protections provided; and statutory forms review required.**

PCMA Testimony – Oppose Out-of-pocket Maximum or Cost-sharing Requirement; Enrollee Contribution Calculation (a/k/a "Copay Accumulators")

Dear Chair Stephenson and Members of the Commerce Finance and Policy Committee:

My name is Michelle Mack and I represent the Pharmaceutical Care Management Association, commonly referred to as PCMA. PCMA is the national trade association for pharmacy benefit managers (PBMs), which administer prescription drug plans for more than 275 million Americans with health coverage provided by large and small employers, health insurers, labor unions, and federal and state-sponsored health programs.

PCMA appreciates the opportunity to provide written testimony on HF 4100 and respectfully is opposed to Section 1, found on page 1, lines 1.14 through 1.21. This is commonly referred to as "Copay Accumulators." The language in this section of the bill will result in higher costs for health plans, and ultimately patients, while codifying the business interests of pharmaceutical manufacturers.

Copay coupons are a tool used by drug manufacturers to steer patients away from generic drugs toward more expensive brand drugs. They are prohibited under Medicare and Medicaid as illegal kickbacks. That is, under federal law, copay coupons are considered an illegal inducement to care. However, copay coupons are still allowed in the commercial market. While we do not object to patients getting discounted medications, allowing that same patient to then apply that discount to their deductible is both misguided and unfair to other patients taking drugs for which manufacturers do not offer discounts or coupons.

A study published in the American Economic Journal[1] estimates that copay coupons increased drug spending by up to 4.6%. According to the study, each 1% increase equates to approximately $1.5 billion in higher drug spending annually. The study concluded that for every $1 million drug manufacturers provide in coupons results in them reaping $20+ million in profits.

[1] American Economic Journal: Economic Policy 2017, 9(2): 91-123 http://doi.org/10.1257/pol.20150588

Pharmaceutical Care Management Association
325 7th Street, NW, 9th Floor
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In 2016, researchers from Harvard, Kellogg, and UCLA released an analysis of the impact coupons have on generic utilization and drug spending.[2] They found coupons increase brand drug sales by more than 60%, increasing drug makers' revenue by $700 million. More importantly, they concluded consumers paid between $700 million and $2.7 billion more in health care spending because of coupons.

Copay accumulator programs are used by health plans to thwart drug manufacturers' efforts to force employers, unions, and commercial health plans to pay for expensive, unnecessary brand medications. Copay coupons may come in the form of a coupon, debit card, or some other arrangement to disguise the source of payment. The language in Section 1 of HF 4100 seeking to stop payers from managing their costs by prohibiting the use of accumulator programs would eliminate an important tool in their fight against rising prescription drug costs.

Thank you for your time and consideration. Please feel free to contact me should you have any questions.

Sincerely,

Michelle Mack
Senior Director, State Affairs
Phone: (202) 579-3190
Email: mmack@pcmanet.org

CC: Rep. Liz Reyer

[2] When Discounts Raise Costs: The Effect of Copay Coupons on Generic Utilization, October 4, 2016. https://www.hbs.edu/faculty/Publication%20Files/DafnyOdySchmitt_CopayCoupons_32601e45-849b-4280-99922c3e03bc8cc4.pdf

Chair Stephenson and Members of the House Commerce Committee,

I'm Andrew Rodrigo Nigrinis, an economist at Legal Economics LLC and former enforcement economist at the Consumer Financial Protection Bureau (CFPB) for almost six years, beginning with Director Cordray. With expertise in economic analysis of consumer financial services, I've led evaluations of over 70 cases involving unfair practices, fair lending, mortgage and student loan servicing, credit card fees, debt collections, and dark paterns. I'm providing my professional opinion on Minnesota's House File 4100, focusing on limitations on medical debt reporting. Recognizing the substantial impact of medical debt on consumers, I commend the legislature for taking an interest in alleviating some of the burden on Minnesota residents. My recommendation, however, is against ratifying the bill in its current form due to potential unintended consequences for the broader consumer finance sector.

Among other things, the bill would prohibit a consumer reporting agency from making a consumer report containing information that the consumer reporting agency knows or should know concerns medical information or debt arising from the provision of medical care, treatment, services, devices, medicines, or procedures to maintain, diagnose or treat a person's physical or mental health. In not specifying that the debt is owed directly to the entity providing such treatment, services, devices or medicines, the bill inadvertently, though unintentionally prohibits credit reporting on all credit card accounts as well as medical debt.

Making the Ability to Repay Analysis More Difficult in Minnesota

Under federal law, lenders must verify a borrower's ability to repay a loan by considering underwriting factors like current debt obligations and monthly debt-to-income ratios. Typically, lenders rely on consumer credit reports to confirm this information. However, excluding medical debt from credit reports can distort the accuracy of these reports, potentially hindering lenders' ability to make accurate underwriting decisions. Research by the CFPB[1] indicates that medical debts are less predictive of default – but still predictive. The implication is that these Bills to limit credit reporting of medical reporting of medical debts will damage the market.[2] This exclusion goes against the Fair Credit Reporting Act's objective of ensuring accuracy and fairness in credit reporting. Lenders may struggle to assess borrowers' accurate financial positions and capacity to fulfill loan obligations without access to complete credit reports, including medical debt information. As a result, removing medical debt from credit reports complicates the ability-to-repay analysis mandated by federal law, undermining the fairness and precision of the lending process.

Financial Infrastructure

If the ability to report medical debts is eliminated, some consumers will not have medical debts reported, and some will see litigation. There will be a substitution from reporting medical debt to not reporting medical debts; undeniably, some consumers will initially benefit from the change. However, on the other end of the continuum, some firms will substitute credit reporting for litigation. Unfortunately, the social costs of litigation will be increased and borne by consumers. As more debt collectors and health care providers turn to the legal system, the consumers the proposed legislation is intended to benefit will be forced to pay for litigation and court expenses. Ultimately, all consumers may face increased

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[1] Kenneth P. Brevoort and Michelle Kambara "Data point: Medical debt and credit scores", *Washington, DC: CFPB* (2014)

[2] There is a claim being made that medical debt is not predictive – at all. The CFPB's research suggests that while medical debt may not be as predictive as other types of debt, it still holds value for credit scores and risk assessment. Delinquency due to medical debt does lead to a decrease in credit scores, but the score is less significant in predicting delinquency than for non-medical debt. This indicates that medical debt contributes to assessing creditworthiness, albeit to a lesser extent. Therefore, excluding medical debt from credit reports will result in the loss of valuable predictive information, potentially leading to less accurate risk assessments by lenders. Hence, despite its lower predictive power, medical debt should still be considered in credit reporting and risk assessment processes.

financing costs or experience providers refusing patients who rely on credit, resulting in losing access to healthcare and making them net losers if the State's proposals are enacted.

Market Wide Effects

On a market level, if there is no litigation over medical debts, the proposed legislation would make medical debt payment voluntary. Since litigation is expensive for all parties (including debt collectors), the result would be a voluntary payment system if litigation is never used as a substitute for the loss of credit reporting. If health providers cannot expect to be paid for services rendered (even if it is just a deductible or co-payment), they will react by protecting themselves. One option could be to raise prices to account for losses due to uncollectable medical debt. Other options would be to refuse to see patients who require financing, to require payments of cash up-front for the co-pay and deductible, or to require levels of collateral for patients based on their credit scores. It's realistic to expect some mixture of these options to unfold in the market. All these scenarios are inefficient and destructive for consumers. Small or rural physicians and dentists may be particularly frustrated by this change in public policy and may relocate to urban areas or shift to a concierge model, leaving low-income community members without adequate access to healthcare.

Credit Repair

Limiting credit reporting can have significant implications for consumers seeking to improve their credit scores and repair their credit history. One important avenue for improving credit scores is addressing and resolving negative tradelines. If all medical debts – and credit card debts - are removed from credit reports, while this may temporarily raise credit scores, it would also make credit scores less predictive of an individual's creditworthiness. Limiting credit reporting prevents consumers who diligently work to raise their credit scores from differentiating themselves from those who do not take similar actions to address their financial obligations. Instead, all consumers may be lumped into a general risk pool, making it more challenging for responsible borrowers to demonstrate their improved risk profile and access better financing options. Limiting credit reporting undermines consumers' ability to signal their creditworthiness to lenders effectively.

Wrong Tool for the Problem of Access to Health Care

If these Bills aim to enhance access to healthcare providers, this approach is misguided. While the scope of this letter doesn't permit a comprehensive solution to the broader issue of healthcare access, it is essential to recognize the potential unintended negative consequences that may arise from them. Credit is granted with the expectation of repayment. Although restricting accountability may appear to protect consumers initially, it ultimately results in reduced credit and elevated interest rates. In such scenarios, consumers may resort to high-interest or unfavorable alternatives. I strongly advocate against its passage.

Andrew Rodrigo Nigrinis, Ph.D.

March 1st, 2024

MNASCA

March 4, 2024

RE: HF 4100/SF 4065 Minnesota Debt Fairness

Dear Chair Stephenson, Vice Chair Kotyza-Witthuhn, Rep. Reyer, and Members of the Committee,

The Minnesota Ambulatory Surgery Center Association (MNASCA) is a statewide association representing Minnesota's ASCs in their commitment to delivering high-quality, value-driven surgical services and exceptional patient care. MNASCA appreciates the opportunity to comment on HF 4100 and Rep. Reyer's willingness to engage with stakeholders to address concerns with the bill as currently written.

We understand the underlying goals of the proposed legislation to clarify and modernize the debt collection process to better protect consumers. However, the legislation as drafted would make it excessively difficult for ASCs to recover debts for elective medical procedures. Our ASCs prioritize transparency by clearly informing patients about anticipated out-of-pocket expenses for elective surgeries. And if a patient has trouble covering a remaining balance, our centers work with them on a reasonable payment plan to avoid turning the outstanding bill over to a debt collection agency. This legislation would prevent providers from specifying the consequences of nonpayment and restrict who they may use to help recover debt. Significantly changing the debt collection process in these ways could have many unintended consequences for ASCs, including impacting access to elective surgical procedures for everyone.

We urge the committee not to make it even harder for Minnesota's ASCs to recover legitimate debts for elective procedures. We look forward to discussing the best ways to ensure Minnesota's collections process provides proper consumer protections, while balancing the need for these debts to be paid.

Sincerely,

Tracy Mills, President
Minnesota Ambulatory Surgery Centers Association