

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Fourth Session
March 19, 2007**

The Committee on Commerce and Labor was called to order by Chair John Ocegüera at 1:37 p.m., on Monday, March 19, 2007, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman John Ocegüera, Chair
Assemblyman Marcus Conklin, Vice Chair
Assemblywoman Francis Allen
Assemblyman Morse Arberry Jr.
Assemblywoman Barbara E. Buckley
Assemblyman Chad Christensen
Assemblywoman Heidi S. Gansert
Assemblyman William Horne
Assemblywoman Marilyn Kirkpatrick
Assemblyman Garn Mabey
Assemblyman Mark Manendo
Assemblyman David R. Parks
Assemblyman James Settelmeyer

COMMITTEE MEMBERS ABSENT:

Assemblyman Bernie Anderson (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Joe Hardy, District No. 20

Minutes ID: 648



STAFF MEMBERS PRESENT:

Brenda Erdoes, Committee Counsel
Dave Ziegler, Committee Policy Analyst
Patricia Blackburn, Committee Secretary
Gillis Colgan, Committee Assistant

OTHERS PRESENT:

Andy North, Manager of Communications, St. Rose Dominican Hospitals,
Nevada
Lynn Fulstone, representing Catholic Healthcare West
John Whaley, Chief of Business Lines, Department of Health and Human
Services, Division of Health Care Financing and Policy
James Jackson, representing America's Health Insurance Plan

[The roll was called and a quorum was present.]

Chair Ocegüera:

We will open the hearing on Assembly Bill 145.

Assembly Bill 145: Requiring certain services to be covered by policies of health insurance and health care plans. (BDR 57-1068)

Assemblyman Joe Hardy, District No. 20:

My first order of business is to apologize to all who read the bill, studied it thoroughly, and looked at it with a critical eye. The most important thing that I am going to do in this presentation is to start afresh. [Ceremoniously rips the bill in half.]

[Distributed Proposed Amendment ([Exhibit C](#))].

The original intent of the bill was to allow access to care to families who had a sick person out of state. That created problems. When I fixed those with this amendment, it created other problems. In looking at the concept of having access to available care for people, and allowing hospitals and providers the opportunity to care for people, it generated a new section. I will refer you back to the undamaged copy of the bill.

Section 1, of the original bill, will be changed as reflected in the bill and Section 2 will be stricken in its entirety as will all the other sections. Those sections will be substituted with the proposed amendment. This will allow us to have an

assignment of benefit or clarify the assignment of benefit. This new language would allow hospitals to provide the emergency care and, once the patient is stabilized, he may be transferred to a facility with a contracted rate. In instances where there is no contract between an out-of-state insurance company and an in-state hospital, this language would help foster a situation in which the non-contracted health care hospital would be more willing to keep and treat the patient. This language would thus increase the likelihood that the health care provider and/or hospital would receive payment, thus creating a more equitable environment for the patient and, in an indirect manner, increase the access of care.

I would be happy to answer any questions and to turn the microphone over to Andy North who knows the ins and outs of this reality.

Chair Ocegüera:

Are there any questions for Dr. Hardy? I see none.

Andy North, Manager of Communications for St. Rose Dominican Hospitals:
[Spoke from prepared testimony ([Exhibit D](#)).]

This specifically applies to out-of-state health insurance companies that have out-of-state health policies. To give a quick example of that, if an individual had a policy with a company in Minnesota and the policy was started in Minnesota, but he lived here in Nevada; that would be the case we are specifically talking about.

[Continued with prepared testimony, page 1.]

The definition of "assignment of benefits," is when the patient comes to the hospital and they fill out the paperwork. That paperwork is called an assignment of benefits, in which they are specifically stating that they want the hospital to receive the benefit, or the monies, for services rendered at the hospital.

[Continued with prepared testimony, page 1, mid-paragraph 2.]

Chair Ocegüera:

Are there questions from the Committee?

Assemblyman Mabey:

I would like to disclose that I am a physician.

As a physician, I have had patients that had a plan and when we billed the insurance company the patient received the payment even though they had signed the assignment of benefits. The way I read this bill, it is not going to obligate the insurance company to pay the provider. It only says that the patient is still liable for the payments. Am I reading this proposed amendment correctly?

Andy North:

There are two components of this bill. It is a policy statement and by this language no one is being required to do anything. The intent is to clarify existing language. The bill further defines that the insurance provider is obligated to pay to the health care provider. The first few lines of the amendment state they are required to do so; however, it is a policy statement and may or may not be enforceable. There is a case in Louisiana that is now going to the United States Supreme Court and the language in this bill is modeled after that. This would provide a precedent, if there becomes an enforceability issue.

Assemblyman Mabey:

I would like to ask a question of legal counsel. Could the amendment be drafted to require an out-of-state insurer, doing business in Nevada, to make payment to the provider when an assignment of benefits has been made?

Brenda Erdoes:

Yes, I believe that we could write the section that way if that is what the Committee desires.

Assemblyman Mabey:

Why was that not done?

Andy North:

We originally began working on this bill with Senator Wiener and we started going that way. There was a significant concern, mainly from some of the insurance providers, but also from the Office of the Commissioner of Insurance. They felt that it currently does govern the in-state providers well, but my understanding of their concerns were that by writing it in they would have sufficient enforceability, or the worst problem would be causing other problems within the insurance code that were unintended.

Assemblyman Conklin:

I think Dr. Mabey has asked my question. I was concerned about the enforceability of going that route versus the United States Constitution.

I do, however, have a second question. Did you say that the people you are having a problem with were mostly from out-of-state insurers? If that is correct, do they have contracts with your particular hospital? Are they being billed at an agreed upon rate?

Andy North:

The existing law currently covers those who have in-state insurance policies, which requires them to accept assignment of benefits. There is a level of enforceability by the Commissioner to pay the provider directly for the services. It is only out-of-state providers with an out-of-state contract that have the capability of not honoring the assignment of benefits.

Assemblyman Conklin:

That really does not answer my question. Using your example, if you have patients who are from an out-of-state provider do you have a contract with that out-of-state insurer? In other words, they are coming to your hospital; you have an agreed rate, et cetera.

Andy North:

In this instance, we do not have a contract with the out-of-state provider. However, an out-of-state provider with or without a contract could pay the benefits as desired based on their own policy.

Assemblywoman Allen:

As a disclosure, I sit on Summerlin Hospital's Board of Governors. This legislation would not affect Summerlin Hospital any differently than any other hospital.

Chair Ocegüera:

Are there questions from the Committee? I see none. Is there anyone else wishing to testify in favor of this bill? I see Ms. Fulstone in Las Vegas.

Lynn Fulstone, representing Catholic Healthcare West:

Mr. North said everything I would have said, unless there are legal questions for me.

Chair Ocegüera:

Are there others wishing to testify in favor of the bill? I see none. Are there others wishing to testify in opposition to the bill?

John Whaley, Chief of Business Lines, Department of Health and Human Services, Division of Health Care Financing and Policy:

We are not entirely opposed to the intent of the bill; there are a couple of things we would like considered. We are concerned about people who live in areas that are right on the border, where it would be a quality of life issue, for someone to have to travel 400 miles to an in-state physician as opposed to being able to go 40 miles to an out-of-state physician. Mr. North referred to the emergency room and spoke of the Emergency Medical Treatment and Active Labor Act (EMTALA). The EMTALA does not allow managed care organizations to refuse to pay for those services. It appears in Section 1, page 1, on line 5, which states "and sections 2 to 6, inclusive, of this act," and has a serious effect on the ability to require prior authorization of treatment. We would also like the cost of transportation be considered in determining whether or not the cost of treatment in-state is the same as out-of-state.

Chair Oceguela:

I think Dr. Hardy is handing you the new amendment. Have you had the opportunity to read this amendment?

John Whaley:

I did. I glanced at it briefly as I walked into the room.

Chair Oceguela:

I think they are indicating that most of your concerns are covered under this amendment. We are not going to move the bill today. I would like you to get together with Dr. Hardy and make sure that your concerns are addressed.

John Whaley:

I will do that.

Chair Oceguela:

Are there questions for Mr. Whaley?

Assemblywoman Gansert:

You mentioned that a person might have to travel 400 miles. I did not see anything in the bill that precludes them from getting care at a hospital that is closer.

John Whaley:

The idea was that if the cost was the same for an in-state provider as an out-of-state provider they would choose the in-state provider.

Assemblywoman Gansert:

That is not how I read it. Perhaps we could get an interpretation. I was thinking it was talking about reimbursement. Also, when you are at a hospital in an emergency setting, you do not necessarily have to have pre-authorization.

John Whaley:

You do not have to have pre-authorization, but I think the understanding with our managed care providers is that if someone shows up at an emergency room and it is not an emergency, they view that differently and do not consider that part of EMTALA.

Assemblywoman Gansert:

Maybe Legal could check on this for us. I was thinking that Nevada had a lay person's definition of an emergency, so that if the person believed it to be emergent, then it would still be covered whether it was well defined as an emergency.

Brenda Erdoes:

I need to look that up and get back to you.

Assemblyman Settlemeyer:

Mr. Whaley, do you support or oppose the concept that the insurance company pay the people who did the work?

John Whaley:

We support the concept that the insurance company pay the people who did the work; we support the concept of keeping Nevada money in Nevada. There are some things that we do not support. I do not see anything in the amendment that would do away with that part of the original bill which would affect the need for prior authorization. I think, in the original bill, lines 3 through 5 are talking about prior authorization and times when you do not need it, that it includes Sections 2 and 6 as part of that. It infers that it would do away with prior authorization.

Chair Ocegüera:

I think the ceremonial ripping of the bill in half would negate anything that was in the bill to begin with.

Assemblyman Mabey:

For instance, a patient is insured in our State and goes to Colorado and has a skiing accident, and they receive care. Do you support the insurer paying the doctor and hospital bills in Colorado or do you think they should pay the patient

directly and then have the patient pay the hospital, even though the benefits were assigned to the hospital?

John Whaley:

As far as the payment getting to the providers of service, we are in favor of that. As to whether or not that would be funneled through the patient and then on to the provider would not affect our managed care providers. I should probably not address that issue.

I assume you were asking about commercial lines of insurance. What I am speaking to is Medicaid and Nevada CheckUp. In those situations, we would not want that money to go to the recipient, but to the provider of service.

Chair Ocegüera:

Are there further questions? I see none. Are there others wishing to oppose the bill?

James Jackson, representing America's Health Insurance Plans:

My client is an association of national health insurance plans. I was just handed the amendment and I have communicated the amendment, but not the background comments by Mr. North, to my clients in Washington, D.C. and have not had an opportunity to hear from them. I am sure I will get some information in response to this. I think that some of the concerns raised by Mr. Conklin and others are concerns that will be communicated to me, but I would like to have the opportunity to talk with Mr. North and the proponents of the bill further.

Assembly Committee on Commerce and Labor

March 19, 2007

Page 9

Chair Oceguela:

Are there questions for Mr. Jackson? I see none. Are there others wishing to testify against the bill? I see none. Any neutral comments? I see none.

We will close the hearing on A.B. 145.

[The meeting was adjourned at 2:06 p.m.]

RESPECTFULLY SUBMITTED:

Patricia Blackburn
Committee Secretary

APPROVED BY:

Assemblyman John Oceguela, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: March 19, 2007

Time of Meeting: 1:30 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
AB 145	C	Assemblyman Joe Hardy	Proposed Amendment
AB 145	D	Andy North	Background statement