

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

**Seventy-Sixth Session
March 18, 2011**

The Committee on Commerce and Labor was called to order by Chair Kelvin Atkinson at 12:15 p.m. on Friday, March 18, 2011, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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/76th2011/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 Kelvin Atkinson, Chair
Assemblyman Marcus Conklin, Vice Chair
Assemblywoman Irene Bustamante Adams
Assemblywoman Maggie Carlton
Assemblyman Richard (Skip) Daly
Assemblyman John Ellison
Assemblyman Ed A. Goedhart
Assemblyman Tom Grady
Assemblyman Cresent Hardy
Assemblyman Pat Hickey
Assemblyman William C. Horne
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Kelly Kite
Assemblyman John Ocegüera
Assemblyman James Ohrenschall
Assemblyman Tick Segerblom

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Committee Policy Analyst
Sara Partida, Committee Counsel
Andrew Diss, Committee Manager
Earlene Miller, Committee Secretary
Sally Stoner, Committee Assistant

OTHERS PRESENT:

Jack Kim, representing Nevada Association of Health Plans
Larry Matheis, Executive Director, Nevada State Medical Association
Brett Barratt, Commissioner of Insurance, Division of Insurance,
Department of Business and Industry
Jack Mallory, representing International Union of Painters and Allied
Trades District Council 15 and Southern Nevada Building and
Construction Trades Council
F. Gail Dietrich, Private Citizen, Sparks, Nevada
Michael Ginsburg, representing Progressive Leadership Alliance of Nevada
and Nevada Health Care for America Now

Chair Atkinson:

[Roll was called, and a quorum was present.] Today we are going start with a work session on three bills. The first will be Assembly Bill 203.

Assembly Bill 203: Revises provisions governing the unlawful use of a contractor's license. (BDR 54-660)

Marji Paslov Thomas, Committee Policy Analyst:

[Presented work session document ([Exhibit C](#)).]

Assemblyman Daly:

I spoke with the sponsor of the bill to make sure he was happy with it. I am in support of passing this out of Committee and fixing any problems through regulations.

Assemblyman Ellison:

I am in support of the bill.

Assemblyman Ohrenschall:

With the amendment, does this still create new criminal penalties?

Sara Partida, Committee Counsel:

The practical effect of this bill will be to remove in its entirety subsection 3 of section 2 of the bill, so it will revert to what is in existing law.

Chair Atkinson:

Are there any questions from the Committee? I see none.

ASSEMBLYMAN ELLISON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 203.

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Atkinson:

We will now consider Assembly Bill 162.

Assembly Bill 162: Revises provisions governing the use of consumer credit information by an insurer. (BDR 57-910)

Marji Paslov Thomas, Committee Policy Analyst:

[Presented work session document ([Exhibit D](#)).]

Chair Atkinson:

Are there any questions from the Committee? I see none. We will entertain a motion.

ASSEMBLYWOMAN CARLTON MOVED TO DO PASS
ASSEMBLY BILL 162.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN ELLISON, GOEDHART, GRADY, HARDY, HICKEY, AND KITE VOTED NO.)

Chair Atkinson:

We will move to Assembly Bill 214.

Assembly Bill 214: Revises provisions governing certain disbursements of money from escrow accounts. (BDR 54-1016)

Marji Paslov Thomas, Committee Policy Analyst:

[Presented work session document ([Exhibit E](#)).]

Chair Atkinson:

Are there any questions from the Committee? I see none. We will entertain a motion.

ASSEMBLYMAN HARDY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 214.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Atkinson:

We will open the hearing on Assembly Bill 309.

Assembly Bill 309: Revises provisions governing insurance. (BDR 57-516)

Assemblyman John Ocegura, Clark County Assembly District No. 16:

I am here to present Assembly Bill 309. I believe this bill will increase public access to health insurance information. [Presented PowerPoint ([Exhibit F](#)).]

Chair Atkinson:

We will begin by hearing the opposition to the bill.

Assemblyman Ocegura:

I want to let the Committee know that I am willing to work with all the people who have concerns with this bill. We have already begun that process. I think with a little work this bill will be very good and well received.

Assemblywoman Carlton:

Under section 6, you would like insurers to have to publish much of this information on the Internet on or before a date set by the Commissioner. What type of time frame would you envision this information being available to the public?

Assemblyman Oceguera:

That is one of the things we need to work on. Some of the insurers are telling me, as the bill is written, it would take them a little time to compile that information, and they believe the time constraints are a little onerous. I would say that is in flux right now.

Assemblyman Grady:

Under sections 18, 19, and 20, would proprietary information be protected from any of these companies?

Assemblyman Oceguera:

No private information would be made public. No private information about the consumers would be posted, but the information on the rates would be available.

Chair Atkinson:

Are there any questions from the Committee? I see none. Is there anyone in opposition wishing to testify on this bill?

Jack Kim, representing Nevada Association of Health Plans:

I have been tasked to oppose this bill for the industry. We have been talking with the Speaker's staff about some of the concerns we have with this bill. We have a commitment to continue working together to find a compromise.

Part of our concern is the time frame involved in a wait review type process that is being developed at this point. If you look at the bill, as currently written, you are looking at a four- to five-month process that we would have to schedule for, because of the time frames. After the filing is complete, the Division of Insurance has 60 days to hold a hearing. A hearing will not happen in all cases, but we will have to schedule for that. There was a change in one of the statutes that requires us to give policy holders a 60-day notice versus the current notification period of 30 days. You are looking at four, maybe even five months depending on lag time, before a decision is made. For health plans five months is a very long time. When we get a policy filed and approved—the rates are typically effective on January 1—we would have to immediately look at data regarding new rate adjustments. Additionally, all of that data may not be available at that time. We will continue to talk to the Speaker, and see if there is any way we can press that time frame so when we are providing our rate reviews or our rates, they are really actuarially correct. It is also unclear whether it is the intent of the bill for this notification period to apply to all lines of insurance, not just health insurance. That would raise some additional issues for the industry. We are concerned with time constraints because we also have

to comply with the Electronic Municipal Market Access (EMMA) law requirements of the federal government.

We had issues over who could ask for the hearings. We had some concerns whether a 5 percent market share should be a standard. For example, if a company has a 5 percent market share and is asking for a 2 or 3 percent rate increase, is that something that really should go to a hearing? The way the bill is written, that is a possible scenario. We have questions as to how the Consumer Advocate is given the information about rate filings. We currently provide that to the Division of Insurance electronically; it is unclear if we have to provide a hard copy to the Consumer Advocate. There is some concern over the confidentiality of proprietary information that has been presented. We are not trying to keep this information from consumers. Mostly we are trying to keep it from other insurers. Like any other industry, we compete with each other and there is a certain type of data that we would not like other insurers to get. That is why some of that information is classified as trade secrets.

Chair Atkinson:

Are there any questions from the Committee? I see none. Is there anyone else wishing to testify in opposition? [There was no response.] Is there anyone wishing to testify in favor of the bill?

Larry Matheis, Executive Director, Nevada State Medical Association:

We support this bill. This is a part of the continued effort to try to bring transparency into the complex health care system. Transparency regarding decisions and processes in the health care system really are essential if we are going to improve or sustain quality and if we are going to be able to deal with health care costs in any effective way. These efforts to make the system more transparent are having some beneficial effects when looking at health care delivery. The system of coverage, the system of the health insurance decision making, remains quite opaque to almost everybody. It is considerably behind all the other efforts of transparency. As long as that is the case, it is going to be very hard to deal with quality issues and cost issues in a meaningful way. There are too many surprises when it comes to what the benefits of coverage actually turn out to mean in reality. The information available currently will leave most people trying to comply with the Affordable Care Act, as it comes online, in a position of having misleading information or no information regarding key processes in the world of health insurance. Assembly Bill 309 might be called "premium rate setting transparency," and that is a very desirable part of the puzzle of what goes on in the world of health insurance. We think that by creating additional transparency on how the thinking of rate setting goes will be beneficial, at least in increasing public awareness when rate fluctuations and increases occur.

We think that, in addition to the rate setting process, there are other issues of transparency that have to be made and supplemented for the public to have sufficient information to understand the decisions they are being asked to make, and for the system itself to work better. The rate setting process is part of a much larger set of decisions that need to be transparent for the public and policy makers to understand whether rates that are discussed are really justified. In addition to the health care rate setting transparency that is in the bill, which is good and strong, three other kinds of health insurance transparency should be considered. These issues should be readily available to the public when they are making decisions, whether it is purchasers, individuals, or providers.

The first would be health care premium transparency. How is the money actually spent that is taken in to spend on medical care that you may need? What else is that money used for? Is it used for administrative costs? Is that money viewed as a profit, a bonus, or a lobbyist's pay? To get a handle on the rate process—on whether there is administrative waste or other questionable uses of premium dollars—is extremely important. There are models of this kind of information. I believe this information should be publically posted. It should be used in the evaluation of whether rates are justified by actual costs or by additional investments made by the insurers.

Second, we suggest health care coverage transparency. It is almost a daily occurrence for us and our families to find out only when we use our health insurance that something about the coverage does not allow us to receive the benefit the way we thought we would. We supported Assembly Bill No. 438 of the 75th Session, which tried to clear up some understandable miscommunications about some policies that were available. The policies were in that individual market, which is where the health insurance exchanges and those new proposals will end up. Major diseases such as cancer, heart disease, stroke, diabetes, and chronic obstructive lung disease, are excluded from coverage in some policies sold in Nevada. The people who buy these types of policies do not find this out until they are diagnosed with such a condition. That sort of transparency is obviously necessary. Transparency regarding coverage is less about what the salesmen tell you they offer than what they do not offer. When do they exclude coverage and why? That information should be put in front of the public before people make a decision.

The third area is that of health care service availability and access transparency. So you have coverage, but the limitations on who is available in network make it impossible to actually get that coverage delivered. That is an issue. The policies regarding the limitations on access need to be better understood than they are today, and they need to be a part of any transparency efforts. Finally, much as in the bill, this type of information needs to be presented to the public.

There needs to be public documents, and they need to be checked against what is marketed and what is sold as the policies that are covered.

We support this bill. We think, in addition to the Division of Insurance, the Governor's Office of Consumer Health Assistance has a role in helping to explain to individuals what their rights are when confronted by the opaque nature of the health insurance system. We would be happy to work with the Committee or the Speaker if it were their pleasure to add any of these transparency efforts. I think we are on the right path.

Assemblyman Kite:

I need some explanation. Would we be creating a new office within the Division of Insurance? I am also concerned with the language in subsection 4 of section 1 that would allow the Commissioner to accept gifts and grants to defray the costs of this program.

Assemblyman Ocegueda:

Mr. Kite, the Commissioner of Insurance and the Consumer Advocate are here to testify, and I think they could better answer your questions.

Brett Barratt, Commissioner of Insurance, Division of Insurance, Department of Business and Industry:

As part of the federal health care reform, a number of different grants were established and made available to the states. One such grant is the rate review grant. It is a million-dollar grant that became available last year. The Division of Insurance applied for and was successful in receiving that grant. We currently have implemented a rate review process using those federal funds. We have four individuals housed in the Division of Insurance who are doing the rate review grant work. The funds are coming from the federal government and rate review grant. We were successful in our application for cycle one of the grant, and a couple weeks ago the federal government released funding for cycle two. There is \$3 million available in cycle two and an application deadline of August 28. If we were to receive that grant as well, it would provide funding for this program for the next three years. If we have an exceptionally good rate review program, there is an additional \$600,000 that would be made available to us.

Mr. Kite, it does seem as if there is some broad authority in there to hire people as necessary to carry out the rate review grant program. We would certainly be willing to speak with you and the Speaker to see if we could address your concern.

Assemblyman Kite:

I understand that you get money from grants, but I have a big problem with your receiving gifts and donations from "any source."

Brett Barratt:

It is my understanding that is standard language included in other provisions of Nevada law. I think maybe Legal Counsel can speak better to that. I can assure you that I will not be out soliciting gifts. There are instances where a foundation might donate to rate review and transparency.

Sara Partida, Committee Counsel:

That is boilerplate language the Legal Division uses for these types of situations. There is flexibility in changing that language if it is the desire of the Committee.

Brett Barratt:

I support A.B. 309. I believe this bill will assist my office in providing additional information to consumers, offer additional transparency, and further enable consumers to make more informed decisions when purchasing health care coverage. As a part of the rate review grant process and its transparency, I want to point out that this bill will enhance Nevada's health insurance exchange as that starts to come online. If we do not move forward and we do not have an effective rate review grant process, we run the risk of not being eligible for future federal dollars for these transparency measures. It will also give my office the ability to scrutinize, in more detail, health insurance rates so we may ensure that the increases are reasonable, actuarially justified, and fair for consumers.

Chair Atkinson:

Are there any questions from the Committee? I see none. Is there anyone else wishing to testify in support?

**Jack Mallory, representing International Union of Painters and Allied Trades
District Council 15 and Southern Nevada Building and Construction
Trades Council:**

I would like to thank the sponsor for bringing this bill forward. We are firm believers in transparency. At the same time, we are understanding and supportive of the concept that insurance providers are, in fact, for-profit businesses, and they are entitled to make a profit. My personal health insurance is a self-insured plan. All the claims are paid directly from that fund to the provider. We do utilize the services of a discount network that we pay an insurance provider to use. We believe the additional transparency provided for in this bill would give us an opportunity to assess and evaluate whether or not what we are receiving from that third party is of fair market value. We are

not entirely sure how this bill would affect our plan, but at the same time we do not have any problems with transparency. Our rates are determined based on experience and whether or not there is a profit or a loss ratio. If there is a loss ratio, it is determined by the Board of Trustees that manages the fund, and there is a necessary increase in the contributions to the plan. If there are necessary modifications in the benefits, that is what happens. All of this is done in a transparent manner. All of the participants in the fund, on an annual basis, receive a statement of the income and expenditures of the plan. The information received by all participants in the plan includes modifications to benefits, modifications to contribution rates, the percentage of expenditures by the plan that are made for legal administrative purposes, the amount that is expended by the plan for payment of claims, and the amount received by different revenue sources. This is something in the collectively-bargained world that we understand, and we believe it is something all insurance providers should be subject to.

F. Gail Dietrich, Private Citizen, Sparks, Nevada:

I am in support of this bill, and I thank the Speaker for bringing it forward. I am retired now, but I worked for 30 years in the medical field in California. I have seen the full range of insurance and how it works from the patients' view. I have helped many patients try to understand insurance. So I feel, from the patient's viewpoint, I am somewhat of an expert. I am concerned about the patients, and therefore I am really concerned about transparency. That is why I feel we really need this bill. Many laypeople have difficulty understand their insurance, and as time has gone on, it has become more and more difficult. As people get older it becomes harder for them to understand insurance policies. The policies are written with a lot of legalese, and the average person has difficulty with these things. I believe that when changes are made, they need to be very transparent and there should be someone to help people in understanding this.

Michael Ginsburg, representing Progressive Leadership Alliance of Nevada and Nevada Health Care for America Now:

We are grateful to the Speaker and leadership for advancing this important piece of legislation. We are wholeheartedly in support of the bill. This bill provides for much-needed protections for Nevada's consumers and small businesses. Insurance companies have dramatically increased health insurance premium rates for families and businesses in recent years, with most consumers experiencing double-digit growth. Nationwide, insurance premiums have grown at a rate more than three times that of wages in many states, including Nevada. State insurance departments have failed to adequately protect consumers from these abusive premium increases, which are imposed without adequate oversight by those tasked with consumer protection and regulation of the

insurance industry. The federal Affordable Care Act, signed into law by President Obama, provided substantial new grant funding to the state to strengthen rate review laws, improve the rate review process, and increase transparency of the review process. Assembly Bill 309 does just this, not only providing for a Consumer Advocate to protect Nevadans, but also providing for an adequate and transparent process for review and approval.

This bill addresses widespread and intensifying disparities in health equities in Nevada's communities of color. Rapidly escalating insurance premiums, rising numbers of people without coverage, and rip-offs by monopolistic private insurers have dominated the political dialogue surrounding comprehensive health reform for decades. No community has more at stake than the million people of color here in Nevada. Throughout the nation's history, communities of color have been forced to accept health care that is separate and unequal in comparison to that of more privileged groups. For people of color in Nevada, as nationwide, life is shorter, chronic illness more prevalent, and disability more common. Despite growing evidence of racial disparities in health status and medical services, no system exists in Nevada for collecting comprehensive state and local data on disparities; as a result, many questions about the health of minorities in Nevada remain unanswered. For example, it is not known how many African Americans compared with Caucasians have forgone care because they cannot afford it. For these reasons among others, A.B. 309 will be included in the Progressive Leadership Alliance of Nevada's 2011 legislative report card on racial equity. I strongly encourage the Committee to support and pass this bill.

Chair Atkinson:

Are there any questions from the Committee? I see none. Is there anyone else wishing to testify in favor of the bill? [There was no response.] Is there anyone else wishing to testify in opposition or neutral on the bill? [There was no response.] We will close the hearing on A.B. 309. Is there any public comment? [There was no response.]

The meeting is adjourned [at 1:09 p.m.].

RESPECTFULLY SUBMITTED:

Earlene Miller
Committee Secretary

APPROVED BY:

Assemblyman Kelvin Atkinson, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: March 18, 2011

Time of Meeting: 12:15 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 203	C	Marji Paslov Thomas	Work Session Document
A.B. 162	D	Marji Paslov Thomas	Work Session Document
A.B. 214	E	Marji Paslov Thomas	Work Session Document
A.B. 309	F	Assemblyman Ocegüera	PowerPoint