

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Eighty-second Session
May 1, 2023**

The Senate Committee on Commerce and Labor was called to order by Chair Pat Spearman at 8:02 a.m. on Monday, May 1, 2023, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Pat Spearman, Chair
Senator Roberta Lange, Vice Chair
Senator Melanie Scheible
Senator Skip Daly
Senator Julie Pazina
Senator Scott Hammond
Senator Carrie A. Buck
Senator Jeff Stone

GUEST LEGISLATORS PRESENT:

Assemblywoman Sandra Jauregui, Assembly District No. 41
Assemblywoman Elaine Marzola, Assembly District No. 21

STAFF MEMBERS PRESENT:

Cesar Melgarejo, Policy Analyst
Bryan Fernley, Counsel
Veda Wooley, Counsel
Kelly K. Clark, Committee Secretary

OTHERS PRESENT:

Heidi Sterner, National Association of Benefits and Insurance Professionals
Hamlin Wade, Associate Vice President, State External Affairs, DIRECTV
Deanna Leivas, United Food and Commercial Workers Local 711

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Susan Martinez, Nevada State AFL-CIO
Marc Ellis, President, Communication Workers of America Local 9413
Paul Catha, Culinary Workers Union Local 226
Juanita Figueroa, United Food and Commercial Workers Local 711
Chelsea Capurro, Health Services Coalition
Liz Sorenson, Nevada State AFL-CIO
Russ James, International Union of Painters and Allied Trades
Amber Falgout, Battle Born Progress
Leon Grizzle, National Association of Letter Carriers Branch 709
Larry Wilson, United Auto Workers
Clarence McCarthy, National Association of Letter Carriers Branch 709
Charles Zemp, International Union of Bricklayers and Allied Craftworkers
Robert Sumlin, International Association of Machinists and Aerospace Workers
Catherine Nielson
Barry Cole, M.D.
Keith Brill, M.D., Nevada State Medical Association
Jessica Ferrato, United Food and Commercial Workers Local 711
Sandy O'Laughlin, Commissioner, Division of Financial Institutions, Nevada
Department of Business and Industry
Chris Ferrari, Intuit
Michael Hillerby, MasterCard Worldwide

CHAIR SPEARMAN:

We will begin with Assembly Bill (A.B.) 127.

ASSEMBLY BILL 127 (1st Reprint): Revises provisions governing Medicare supplemental policies. (BDR 57-467)

ASSEMBLYWOMAN SANDRA JAUREGUI (Assembly District No. 41):

Assembly Bill 127 is the cleanup bill for A.B. No. 250 of the 81st Session which established the birthday rule in Nevada for persons enrolled in a Medigap plan. The Medicare plan is the federal health insurance program under which qualified individuals receive health care. Medicare does not cover all medical services. Medicare supplement plan, also known as a Medigap policy, is a distinct type of insurance policy sold by private companies to fill the gaps in the original Medicare plan coverage. What is great about the birthday rule is it creates a pseudo second enrollment period for our most vulnerable population, seniors on Medicare, to move into a different Medigap policy which might be a better and less expensive fit now that they are a year older. The birthday rule open

enrollment period begins on the first day of the birthday month of an enrollee and continues for 60 days. Assembly Bill 127 cleans up language so insurance companies in Nevada all treat the birthday rule enrollment period the same way.

Some health insurances pay insurance brokers a commission for their work to enroll a senior in a better plan during this birthday rule period, and some do not. It is simply a difference in the way they interpret the law. This discourages insurance brokers from reaching out to help seniors navigate the different options they have because no one wants to, nor should they, work for free.

This bill is intended to create uniformity, so every insurance company treats the birthday rule the same way. Heidi Sterner will give additional comments. Ms. Sterner and I worked in the Interim and presented the bill in the Assembly to come up with the amended language you have before you.

HEIDI STERNER (National Association of Benefits and Insurance Professionals):
The Nevada chapter of the National Association of Benefits and Insurance Professionals represents the thousands of licensed health insurance producers in our State, as well as our clients, which include individual members on and off the exchange, small and large business owners and their employees, and Medicare beneficiaries. The Nevada health insurance producers serve as the Medicare consumers' advocate, a trusted adviser and a source of information providing objective and affordable choices to meet their needs.

Prior to 2021, Medicare beneficiaries who enrolled in a Medicare supplement plan in Nevada did not have an annual open enrollment period like other forms of health insurance offer. For many seniors, this meant they were stuck in their plans unless they were healthy enough to apply and be medically underwritten and approved to change to a different Medicare supplement plan or insurance company. Those with medical conditions not able to change plans due to their health status endured premium increases with no alternate options. They could not change plans. With the passage of A.B. No. 250 of the 81st Session, seniors now have an annual open enrollment period to make plan changes that better fit their needs. Many of Nevada seniors have taken advantage of this, changed to a same or lesser plan and reduced their monthly and annual premiums. This is because during their Medicare birthday open enrollment period, insurers are not allowed to inquire about rates based on their health status. Consumers get the preferred rate for the same or lesser plan, and this can significantly impact a senior living on a fixed income.

The Medicare supplement insurers are not consistent in their interpretation or implementation of the law. There are as many interpretations of the law as Medicare supplement insurers selling these plans in Nevada. The Medicare birthday rule enrollments are replacement renewal policies to a same or lesser plan. Some insurers have interpreted the legislation as a guaranteed issue policy. Assembly Bill 127 will provide the clarity needed so the law is interpreted consistently across the board as a renewal replacement policy. Adverse selection is occurring right now due to the variety of interpretations of the law. Those few insurers that interpreted the law and regulations as an intended renewal replacement policy have received a disproportionate share of enrollments. We are already seeing premium increases due to the increased risk.

We are working collaboratively with other stakeholders on the amendment to provide clarity to the law. Our hope is the law will be interpreted consistently. If the law is not consistently implemented, we will see a reduction in the number of insurance companies offering these plans to our seniors. Our goal is to have a level playing field with as many options as possible available for our senior consumers.

SENATOR STONE:

My birthday is January 30. Would that be two open enrollment periods for me annually if this bill were to pass?

ASSEMBLYWOMAN JAUREGUI:

The law we passed with A.B. No. 250 of the 81st Session created the birthday rule. As of 2021, there was a second enrollment period for everyone. This does not change that. This is changing the way insurance companies pay commissions to insurance brokers for offering the second enrollment period or enrolling seniors in a different Medigap policy.

I want to thank my constituent, Rick Bronstein. He brought this to me when I was knocking on doors in 2020 and said this policy was in his home state before he moved to Nevada. He did not understand why we did not offer the same portability to seniors in our State.

CHAIR SPEARMAN:

We will close the hearing on A.B. 127 and open the hearing on A.B. 146.

ASSEMBLY BILL 146 (2nd Reprint): Revises provisions governing video service.
(BDR 58-669)

ASSEMBLYWOMAN ELAINE MARZOLA (Assembly District No. 21):

Assembly Bill 146 clarifies statute to clearly state that video streaming providers and their customers do not owe franchise fees for streaming video content. This bill makes no change to the law, only to those companies that have cable lines and equipment running through and beneath public streets and sidewalks to provide video services to their customers.

Cable companies pay a franchise fee, essentially having the right to occupy the public right-of-way. The franchise fees are passed down to the customers. You may be aware that streaming video content is transmitted as a digital signal through the same Internet line as every website you view and in every email you send. Streaming providers did not put this line in the ground and do not have a right to touch. Many households in Nevada have multiple streaming subscriptions.

If cities can impose additional fees, families would pay 5 percent more for Sling, 5 percent more for Netflix and 5 percent more for YouTube, which is how we are currently streaming this Committee meeting. For every streaming bill they have, they would pay an extra 5 percent.

HAMLIN WADE (Associate Vice President, State External Affairs, DIRECTV):

I am here on behalf of the 300,000 satellite and streaming customers DIRECTV and Dish Networks have across the State. We want to clarify State policy. This is not a change to the law. This is clarifying the statute to make it clear who is subject to paying cable franchise fees. If you have physical infrastructure in the public right-of-way, you continue to pay a franchise fee to access that and to pay the municipalities for the right to dig up sidewalks, lay fiber lines, cable lines and deliver your service: if you do not have the physical infrastructure, you are not subject to the same cable franchise fee.

I want to be clear that there is no fiscal impact on this bill. There is no city or county, no municipality in the Country collecting a franchise fee on streaming or satellite services. This is not changing State policy. This is not changing or impacting any fiscal notes. This is clarifying statute. This is important because if we are unable to act, the potential exists that municipalities could try to levy these cable franchise fees onto every streaming service. Customers are already

paying for access via their cable line, or Internet service line. They are already paying that fee. If we do not clarify the statute, fear is that, depending on how many subscriptions you have, you would continue to pay the 5 percent fee on every single one of those subscriptions for the same access you are already getting. I would also note this is something other legislatures around the Country are working to clarify. As of last Friday, ten different states around the Country have done this exact thing to simply clarify existing statute. It is to make it clear if you have infrastructure in the right-of-way, you pay franchise fees, if you do not, you are not subject to those fees.

SENATOR SCHEIBLE:

The streaming services rely on Internet providers, and the Internet still requires a physical cable. Correct?

MR. WADE:

Yes, that is correct. To have Internet delivered to your home, you must have an Internet fiber line laid to your home. The Internet fiber provider would pay a municipality to access the right-of-way to dig up the sidewalk or the road to lay the infrastructure. The Internet company is paying to access the right-of-way. Once you have Internet to the home, you can stream your services over your home Wi-Fi network.

The scenario where you do not need Internet is if you have 5G cell phone access, you could stream from your personal device. If you have a Netflix subscription, you can either watch it in your home over the Internet or if you are walking around outside, you could watch it over 5G.

SENATOR SCHEIBLE:

Do the streaming services pay a fee to the company that lays the fiber line?

MR. WADE:

No, they do not. The Internet policy is that you cannot pay to access the Internet. The 1998 Internet Tax Freedom Act made permanent in 2016 by Congress says you cannot tax access to the Internet. There is not a subscription. A streaming service would pay directly to the Internet service provider to access its services.

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CHAIR SPEARMAN:

This building is on the Internet. Explain to me, based upon heat, light and those things, people want a surcharge for the lights.

MR. WADE:

If I understand the analogy correctly, if the physical building we are in provides the Internet access, if we do not clarify the statute, to walk into this room, you pay a fee. Then if you go down the hallway, you might have to pay a different fee for access in that room. Hypothetically, we want to prevent a blanket fee to walk into the building. The analogy is when on a toll road and getting to the toll booth, you pay a fee for your car. At the toll booth, this prevents the toll booth collector from saying, I see six additional people in the car, so I am going to charge you six more times for the same fee. It is duplicative in that way.

SENATOR SCHEIBLE:

On toll roads, we also charge more for larger vehicles. We have programs where you can save money by having fast pass installed in your car. Do we charge different people different amounts across the same toll roads?

MR. WADE:

It is based on the size of the vehicle. If you are an 18-wheeler or a long-haul trucker—that type of vehicle versus a sedan—it is still a flat fee for the specific type of car or vehicle. You are already paying the toll once, so it would be duplicative to charge for additional people.

CHAIR SPEARMAN:

We will close the hearing on [A.B. 146](#) and open the hearing on [A.B. 437](#).

[ASSEMBLY BILL 437](#): Limits the amount a provider of health care may charge for filling out certain forms associated with certain leaves of absence. (BDR 54-670)

ASSEMBLYWOMAN ELAINE MARZOLA (Assembly District No. 21):

[Assembly Bill 437](#) puts a limit on the fees providers can charge to process family and medical leave (FMLA) and leave of absence (LOA) forms. Passed in 1993, FMLA is the federal law that entitles eligible employees of covered employers to take unpaid job-protected leave for specified family and medical reasons. This law did not cap the fee a doctor may charge a worker to complete the forms employers need. The burden of paying those fees falls upon the

employee as federal law does not require employers or an insurance company to pay the doctor's fees. Workers must have providers process the forms to receive their FMLA leave. Across the Las Vegas Valley, provider offices charge at times over \$100 to process an FMLA or LOA certification. The unregulated cost creates a financial burden for working families in Nevada who are already taking leave from work to address medical needs for themselves or loved ones. Assembly Bill 437 is a short bill. Section 1 prohibits a provider from charging more than \$10 to complete a form required for an employer.

DEANNA LEIVAS (United Food and Commercial Workers Local 711):
I will read my written testimony ([Exhibit C](#)) in support of A.B. 437.

SENATOR PAZINA:

Do you know how much people are being charged to fill out these forms?

ASSEMBLYWOMAN MARZOLA:

A constituent told me the doctor charged her \$120 and would only take cash.

CHAIR SPEARMAN:

I am not casting aspersions, but red and blue light bulbs went off in my head. Senator Pazina, you had a bill like this about getting medical records.

ASSEMBLYWOMAN MARZOLA:

Ours is a little different because the Senator's bill is if you are requesting copies of your entire medical records, whereas the FMLA document is sometimes one page, sometimes two, but not worth \$120.

CHAIR SPEARMAN:

It seems like there is commonality in the medical field of making additional money off the stuff that should be paid for already.

SUSAN MARTINEZ (Nevada State AFL-CIO):

On behalf of over 150,000 members in 120 unions, we are in full support of this bill. Before this capacity, I was shop steward of my union and my members told me what went on with their lives because they were going on leave and already burdened with either having physical ailments or taking care of family. This is an added burden to pay these fees. From my understanding, some physicians will charge up to \$200 for this form.

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MARC ELLIS (President, Communication Workers of America Local 9413):
I got a discount because my doctor only charged me \$50. We support this bill.

PAUL CATHA (Culinary Workers Union Local 226):
The Culinary Union supports A.B. 437 because cost should not be a barrier for workers accessing their right to take medical leave or to care for their family members.

JUANITA FIGUEROA (United Food and Commercial Workers Local 711):
I will read my written testimony ([Exhibit D](#)) in support of A.B. 437.

CHELSEA CAPURRO (Health Services Coalition):
We want to echo everyone else's comments and appreciate the sponsor for bringing this forward. Not only does A.B. 437 make this more affordable for families, but it also brings some consistency so they can plan accordingly.

LIZ SORENSON (Nevada State AFL-CIO):
I am in support of A.B. 437.

RUSS JAMES (International Union of Painters and Allied Trades):
I support the bill.

AMBER FALGOUT (Battle Born Progress):
I will read my written testimony ([Exhibit E](#)) in support of A.B. 437.

LEON GRIZZLE (National Association of Letter Carriers Branch 709):
I am in support of A.B. 437.

LARRY WILSON (United Auto Workers):
I urge you to support A.B. 437.

CLARENCE MCCARTHY (National Association of Letter Carriers Branch 709):
I support and urge the Committee to support A.B. 437.

CHARLES ZEMP (International Union of Bricklayers and Allied Craftworkers):
I support A.B. 437 and urge the Committee's support.

ROBERT SUMLIN (International Association of Machinists and Aerospace Workers):
I support this bill because the process for our workers to take a leave of absence should not involve them giving up part of their paycheck. I urge this Committee to support A.B. 437. I have been in numerous motorcycle accidents and have filled out the forms many times.

CATHERINE NIELSON:

I am making my comments today as a constituent. I echo many of the comments made here today. I have a husband who last August had a quarter of his brain removed. Then our nine-year-old daughter was diagnosed with Type 1 diabetes in December when she spent a week in the ICU during Christmas week. We had to pay \$15 per page, \$30 front and back, to have the paperwork completed for FMLA. The total was nearly \$400 to have these forms filled out.

As State employees, we do not make much. By having these costs so high, we had to choose between keeping my job as a State employee and purchasing Christmas presents for our children. It took the doctors less than five minutes to fill out the paperwork because most of it is completed by the person asking for FMLA. The rest is minimal paperwork for the doctors to complete. A cap would have allowed us to focus on what we needed to focus on during that time, caring for our family members and keeping our health insurance and food on the table rather than choosing between food on the table and the FMLA paperwork.

BARRY COLE, M.D.:

I am looking at a \$10 charge and imagining the amount of time and the context in which I would fill out an FMLA form. You could do them perhaps in five minutes. Sometimes they take longer. It depends on whose form it is and what you are asked to complete.

I am asked to predict how long an illness or disabling condition will continue. I am not always sure, so I am having to review medical records. If it is within the context of an appointment, I am more than happy to do that while seeing a patient.

What often happens is forms are dropped off to be filled out and the patient returns to pick them up. Now I must have the chart pulled, review the records, and then I must give it some thought. My attorney charges me \$350 an hour. That works out to be \$35 every six minutes. If a form took me five minutes and I were an attorney, I would expect I might be entitled to \$30. I understand that

\$300, \$200 or \$120 paid in cash sounds a bit like a thief. There is something irregular when people demand cash and only cash.

I am concerned that I have colleagues who apparently are into cash-only for filling out a form that does have to be completed. I am bristling at the notion of \$10, which if I were an attorney is not even a minute and 40 seconds. I am concerned somebody is trying to regulate physicians. With all due respect to the Assemblywoman, this is not the basis of public policy. I heard her say she had one constituent who raised a concern about this. I am not hearing thousands of people not getting these forms done. I understand we have a large organization of people to bring forth this legislation, but as a practicing physician, these forms just did not seem like a big deal. Ten dollars seems like too little money in 2023.

CHAIR SPEARMAN:

Most forms today are electronic, and it is a matter of filling in the blanks. You go online and you apply for credit, the form is already there. Is it possible to have the form already there?

As their physician, unless you are brand new with the patient, you would be cognizant of why they are asking for FMLA. If you have a form already, it is a matter of completing the form. You mentioned you do not know how long the leave may be. I am seeing it like a prescription. You have a tooth extracted, the dentist's guess is you could be in pain for about three days, and that is what you get—three days' worth of painkillers. If it is longer, then you call in. Is it possible to do that unless the patient is brand new, and you must go through an inordinate amount of paperwork and then make a medical diagnosis or prognosis?

DR. COLE:

Most FMLA forms I have filled out are on paper, yet my medical record is digital. We are now required to have almost everything be an electronic health record. You review the record to get to what needs to be extracted to a piece of paper usually going to an employer. I cannot transfer electronic records to an employer, probably because of HIPAA requirements. When I am seeing a patient, there is a context for that.

When you say a new patient, that person is not a new patient by the end of the hour we have just spent together, and I can begin to make a prognosis. How

long will the hospitalization be? How long will it take to reconstitute to return to work? There will be the acute phase, maybe inpatient followed by an outpatient phase. That will be an educated guess. I can usually be more precise about length of hospitalization because we are looking for specific milestones.

I always set a prospective discharge date on the day I admit because then I have a milestone, and I can tell when I am halfway there or not and adjust my milestone. Those are the dilemmas. When I am asked to fill out the FMLA form on the first day of a hospitalization, it is a rough guess. By the time the patient is hospitalized and looking at discharge, it is a more precise, refined prediction.

CHAIR SPEARMAN:

Based upon the testimony we have heard, it sounds like the outliers charge the \$120. What is the happy medium here? People who go to see a doctor and use insurance are probably working for a living, not a hobby. They do not have a lot of extra money. There must be some type of a happy medium. I hear what you are saying, perhaps FMLA forms need to be digitized as well.

DR. COLE:

What could happen is when scheduling an appointment, the fee is the price of the co-pay. If scheduling an appointment with me, I would be happy to fill out whatever forms within the context of the appointment. I have gotten hung up on paperwork. When a form is dropped off and it needs to be back by 5:00 p.m. I must stop what I am doing to fill out this form so somebody can get it back to an employer because they are dealing with a specific time frame. If I could just schedule an appointment, then I get a co-pay or fee for my time spent with the patient. The purpose of this bill seems to be dealing with FMLA forms or other paperwork outside of the context of a normal appointment.

CHAIR SPEARMAN:

If something happens, someone breaks a leg or an arm today and the parent must be at home with the child, there is not a scheduled appointment because it just happened and they are in the emergency room but need the paperwork. I hear what you are saying about transferring digital paperwork. There has to be some way this is fair to patients. Maybe instead of 24 hours, require at least an initial period that can be adjusted. The doctor could say this is seven days but will take longer. Many doctors have a nurse or nurse practitioner who usually does a lot of the paperwork. I aim to get to zero in terms of the amount people have to pay for FMLA forms.

DR. COLE:

I am with you, agreeing that these forms must be filled out, so that is not on the table. It is whether a separate cost applies, if I were seeing you in the emergency room because I used to be an emergency room doctor. At one point, I would have filled out whatever form was contextually appropriate for that visit. If your child had broken his or her arm and you need to stay home for the next week to provide care, I would be happy to fill out the form if you have it. Most people do not have the forms when they initially see me. Now it has been decided they are not going back to work.

If they are coming out of the hospital, as part of discharge planning, I will often complete these forms. The discharge packet goes to the employer. To protect confidentiality, I want these forms to go to the employer through the employee, not from me directly. That is a cleaner outcome with no confidentiality breaches, which in psychiatry is a big deal, especially if there is any chemical dependency or substance use involved. We must be doubly safeguarded. I would be happy to fill out any forms within the context of working with people.

Sometimes, people show up at my office a week later, needing this form to be filled out, and they have until 5:00 p.m. that day. We are under the gun. I must break from whatever I am doing and find a time to fill this out. I have done it before. I will try to get people the forms they need. I am sympathetic and empathetic to their need for this paperwork. It is critical. I do not want people being terminated from employment. That neither helps their mental condition nor substance use disorder to have no insurance and no employment.

SENATOR LANGE:

People may not know they need to have that form when at the doctor's office to schedule an appointment. You know how long it takes to get appointments these days. People have no choice but to drop it off. It should be zero dollars. If you have an appointment, the form can be filled out for free. Why cannot it be filled out for free anyway?

DR. COLE:

I have never charged to fill out an FMLA form. I have been doing these for 42 years. If they could be digitized, maybe that could speed up the process. I often ask a medical assistant or a nurse to put in some of the details. Can somebody go get the chart for me? It gets problematic either if the person has

been discharged or is in your practice, but you have not seen him or her for a couple of weeks. Now something happened, you review the records and figure out the dates. There are usually questions about predicting a return to full duty. I do not always know that right away.

It is clearer in my mind when the patient is leaving the hospital rather than when coming one time for an outpatient visit without an FMLA form then showing up a week later with one. Most physicians see this as the cost of doing business. You are doing it anyway. I did not know anybody ever charged \$120 or \$200 in cash.

Until today, I knew a fair number of physicians around the United States and have never heard these numbers until today. I share your concern and am empathetic to all these employees. They need these forms done or risk losing their jobs; if they do not show up to work in our State, you lose your job quickly. The \$10 is too little. I am not sure of the right number.

CHAIR SPEARMAN:

I need to get to zero on this. I ask that you work with the sponsor because I have been going to this primary care doctor—for six months, a year, six years or however long—who probably knows about my condition, whatever it is I need and probably something about my family as well. Filling out the paper would be constructing that knowledge, information and making an educated guess.

I do not know the resolution but FMLA should be all digitized. Any place in the supply chain not costing somebody money and a co-pay is best; sometimes, people do not even go to the doctor because they cannot afford the co-pay. Does that make sense to you?

DR. COLE:

It certainly does. I am happy to work with Assemblywoman Marzola. I would love to get to zero as well. If I knew the patient, there would be no question. The need for this is when seeing somebody one time, never seeing him again, until he comes back to me because I was the last name on his chart. That patient thinks I can just fill out the forms, but I do not necessarily have all his prior records. That is where it gets thorny. I am much more comfortable when discharging someone from a hospital because I know everything, and I have all the records for that period in one place. It is harder when I am not intimately involved with the care but more peripheral.

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It is more like a favor to fill out the forms, but I would be happy to work with the Assemblywoman because we need to get to zero.

CHAIR SPEARMAN:

There must be something in statute that addresses the gouging of patients.

KEITH BRILL, M.D. (Nevada State Medical Association):

I will read my written testimony ([Exhibit F](#)) in opposition to A.B. 437.

CHAIR SPEARMAN:

What do they do in other states? Medical doctors are not the only ones who fill out these forms. Certainly, if someone is having a difficulty in a pregnancy, a medical professional adept in that field can probably make more of an educated guess about the time that needs to be taken off.

I want to get to zero and make filling out paperwork the cost of doing business and built into the practice.

Physicians are not the only ones asked to do this. I am thinking about bills we have had for victims of assault. There must be some type of uniformity and a code of conduct involved.

ASSEMBLYWOMAN MARZOLA:

Your question was how many other states do this? I do not know. We can get you that information.

I want to touch on a couple points as far as the opposition testimony. Though I had one constituent, there are many examples of \$120, \$150 or \$30. These individuals are taking FMLA without pay, so \$20 may be a lot to them. Do I put food on the table for my children? Do I pay the doctor \$20 to fill out paperwork when I am not even able to work?

There was a comparison between doctor and lawyer. I am an attorney. I do not get paid through insurance. I do not collect co-pays. When I see my clients, the type of law I do is free. Whether I see them one time or ten times, there is no charge. I do not think we can compare that.

JESSICA FERRATO (United Food and Commercial Workers Local 711):

I want to highlight a couple of things. There is no access to FMLA without this form being signed. It must be signed by a provider. These are gatekeepers for these people to get legally provided leave.

Many patients are scheduling appointments, paying their co-pay and then also having to pay this fee on top of it. Many doctors' offices in Clark County have signs out front listing the cost of an FMLA form fee.

We are looking for consistency and predictability so patients can plan for a set cost when they have to fill out their FMLA form. Dr. Cole is a fantastic provider. He is doing this at zero cost, which shows that it is possible to do. From our standpoint, we would like to have something that is consistent for patients across the board, so we do not have doctors charging upward of \$120 cash and others charging zero dollars. We need to have some predictability for patients, so they know what they are getting into from a financial standpoint. Many patients are incurring a lot of healthcare costs at the same time getting FMLA forms filled out.

We had multiple testimonies but a lot of other cases. We have heard from members and others across the board of where this is happening. This is an issue of consistency and predictability.

It takes a lot of time to get in to see providers, particularly in Nevada with a shortage of doctors. If I have to make an appointment to get my FMLA form, I am making appointments now for after Session to check in with some of my doctors. We need these forms filled out in a timely fashion, which is critical for people to take leave from the office. To make an appointment for providers who are six to eight weeks out and even longer could be a challenge,

SENATOR HAMMOND:

We have a shortage of physicians because it is difficult for many doctors to come across state lines. It is hard to make an appointment with a physician because his or her time is limited. If you drop off paperwork, and a variety of people drop off paperwork, then the physician must spend time doing that, taking time away from seeing another patient or patients. There are a lot of considerations here.

My immediate concern is putting something in statute. It is unnerving. You put it in statute, then the only way you can get it out of statute is to go back and reopen that topic. You must make sure the cost is there. We have had the same thing with a couple of bills this Session. I can see why the Chair is struggling to figure out the sweet spot.

SENATOR SCHEIBLE:

I am struggling to think of another service doctors charge an additional fee for other than an office visit that would be the equivalent of the FMLA forms. The closest thing is refilling a prescription, and I have never had a doctor send me a bill to renew a prescription. Sometimes, I do have to get a prescription renewed between office visits and then the pharmacy will call, or I will call and say my pharmacy said it cannot refill this. Are there other forms, services or things like the FMLA form where doctors do this?

ASSEMBLYWOMAN MARZOLA:

I am not sure. With my doctor, I have my yearly blood test, return to go over that blood test regardless of the results, and I must do a co-pay again. That is one example.

SENATOR BUCK:

It sounds like there is a small percentage of bad actors. Is there a reporting mechanism to bring those bad actors to light? I hate to penalize all Nevada doctors because of a few bad actors.

MS. FERRATO:

I agree. We have seen more than just a couple of bad actors with many public notices of how much these cost in a lot of different places. Because this is not prohibited under law and there is no standard, it cannot be reported. Of the doctors who have testified here today, some are doing this at zero cost. To level that out is the challenge from our perspective. If we know providers who can do this at zero cost, where is the issue in doing it across the board? We have \$10 in the bill to compensate for some level of cost. Much of the services are provided or contracted and done through a co-pay. If nothing prohibits this, there would be nothing to report essentially.

SENATOR BUCK:

I like the idea of the co-pay. At the least, \$10 is the minimum.

SENATOR HAMMOND:

We are spitballing other types of interactions between patients and doctors that may incur charges. We go in once a year for physicals but usually must do a visit. Do you have to do a doctor's visit? You are paying the co-pay as well, but there are times where somebody might see a doctor and then later come back, perhaps dropping off the paperwork within the next two or three weeks.

SENATOR STONE:

This is a kind of federal law. I assume the forms most likely are electronically available. I am sure most of them do not have to be transcribed from a medical electronic record to a paper record very often. Would that be a fair characterization?

MS. FERRATO:

I do not have the answer to that question. We are seeing the form on the employer side. That would be a good question for the provider community.

SENATOR STONE:

In my profession, many times drugs are not covered by insurance because they are compound. We must get what is called a universal claim. A former customer comes up and says here is my \$100 for the prescription. I need some type documentation to provide my insurance for reimbursement. It is about 98 percent computer-generated. We must fill out some sections by hand. Whether a pharmacist or a physician, we must remember we are still providing a service to people.

If a physician looks at the number of these claims based on the number of patients, I imagine they are probably minimal. You cannot make a profit in every aspect of your business. You must serve your communities. This is an important service for people who must take an emergency leave of absence and cannot afford to lose their jobs. There is more automation associated with this than basically copying and pasting some records and having ancillary staff prepare the document for a physician to sign off on. It is not an unreasonable request you are making today.

SENATOR PAZINA:

Another charge is for medical records. Thank you for having me on Friday where we will discuss Senate Bill 283 that addresses another form being charged for by physicians' offices.

SENATE BILL 283 (1st Reprint): Revises certain provisions relating to healthcare records. (BDR 54-555)

CHAIR SPEARMAN:

I need to be clear with everybody on both sides of this issue. Ten dollars is not a lot for me, may not be a lot for most of us on the dais and for many of the people who testified. If you are making \$781.25 a week, \$10 is a lot, especially when rent is probably twice or twice and a half that much. That drives getting to the bottom of this since the people who must pay for this, many are sicker by the time they go to the doctor because they cannot pay the co-pay.

We will close the hearing on A.B. 437 and open the hearing on A.B. 21.

ASSEMBLY BILL 21 (1st Reprint): Revises provisions related to persons engaged in the transmission of money and certain related activities. (BDR 55-273)

SANDY O'LAUGHLIN (Commissioner, Division of Financial Institutions, Nevada Department of Business and Industry):

I am here to present A.B. 21, which revises various provisions of statute concerning money transmission. Money transmitters are essentially businesses that receive monies from one person and transmit them to another. You may be familiar with some of the biggest money transmitters such as Western Union, MoneyGram, PayPal and Intuit, as well as payroll processors like Check Payments, Toast Processing and myPay Solutions.

Assembly Bill 21 adopts the Uniform Money Transmission Modernization Act (UMTMA) as a set of nationwide standards and requirements for money transmission. The bill does not create an additional fee structure for licensees. Each state has its own laws, rules and licensing to regulate money transmitters. Variations among 50 states have resulted in inconsistent standards, creating an unnecessarily complex compliance environment for companies operating in multiple states. To create a single set of standards, the Conference of State Bank Supervisors (CSBS) adopted requirements and tasked a group of regulators and industry representatives to draft legislative language reflecting the high standards. The result is a risk-focused model law that will enable an integrated system of licensing and supervision across the state system. All states are encouraged to adopt the Act to implement clear and concise standards across the state system.

Nevada Revised Statutes 671 is antiquated and in desperate need of modernization to enable the Division of Financial Institutions to supervise a complex and growing industry with modern laws and standards. As money transmission evolves and more companies operate in multiple states, the inconsistent standards of the system to supervise are a threat to economic growth and drain state resources. States could lose their authority over money transmission if the system does not improve and solely fall under federal laws and guidelines.

The Act is intended to strengthen consumer protections through enhanced practical standards, modernized safety and soundness requirements to ensure customers funds are protected in an environment that supports competitive business practices and establishes a common baseline nationwide. This makes it easier for industry to comply with state laws, operate across state lines and coordinate in all areas of regulations, licensing and supervision. It eliminates unnecessary regulatory burden and more effectively uses regulatory resources. The changes will benefit industry by providing clear, transparent and strong regulatory requirements that are uniform across the states.

It is important to note that the industry worked with the CSBS and played an essential role in developing the final standards implemented in the UMTMA. Its cooperation and collaboration informed the process and lead to the final product that supports strong business practices, while ensuring a safe and sound supervisory system. The Act will benefit consumers, industry and the Fellowship in Infectious Diseases.

SENATOR DALY:

The digest says this bill is modeled after the UMTMA. Is that an Act by the federal government or just approved by the CSBS? Who approved the Act? Is it federal law or something modeled by state bank supervisors?

Ms. O'LAUGHLIN:

It was the CSBS.

SENATOR DALY:

It is not necessarily an act of Congress or anything like that. Section 10, line 5, says a credit rating "within any of the three highest rating categories of at least one."

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Ms. O'LAUGHLIN:

That might be right. We will have to get with Legislative Counsel Bureau.

SENATOR DALY:

Section 11, line 19 says "or any other organization designated by the Commissioner." What other organizations are recognized? Is it U.S. Code or any other organization? What might they be? How is it determined? Just anything the director, the commissioner might decide?

Ms. O'LAUGHLIN:

We will get back to you on that answer.

SENATOR DALY:

In section 17, does the money definition include cryptocurrency?

Ms. O'LAUGHLIN:

That is credits. Yes, we could do any of that.

SENATOR DALY:

In section 34, the Commissioner may exempt a person from this chapter. Who might be exempted under this provision? If the Commissioner determines that exemption, is it in the public interest and regulation?

Ms. O'LAUGHLIN:

I do appreciate you keeping us on our toes this morning. We have to get back to you on that.

SENATOR DALY:

In section 72, subsection 3, on page 40, line 33 says the Commissioner "may strive to implement the requirement in a manner that facilitates uniformity." What is inferred by the words "may strive to implement"? What powers are confirmed by your understanding? If you must get back to me, that is fine.

Ms. O'LAUGHLIN:

Yes, we will do that.

SENATOR DALY:

On page 44, section 75, says "The Commissioner shall, as often as the Commissioner determines to be necessary, examine the financial accounts of

each licensee.” How is it going to be done? How will they make the determination? Will an internal regulation schedule a rotation so everybody gets hit? Do you foresee a lottery system, random access?

The theme and the questions involve a lot of discretion being given to the Commissioner with no real framework behind it. If we are talking about banking institutions, especially in the current environment, we need to have confidence that whoever is running it is not just asleep at the switch.

Ms. O’LAUGHLIN:

Banks are exempt from this, and it depends on the rating from the exam. That is how it is determined. When less than satisfactory, this would apply.

CHAIR SPEARMAN:

Ms. O’Laughlin, prepare responses to the questions Senator Daly asked and get those to our Committee Manager so all members of the Committee can see the answers. We will not do a work session until we get that information.

Ms. O’LAUGHLIN:

I will get that to you by tomorrow.

CHRIS FERRARI (Intuit):

I come before you in support of A.B. 21 on behalf of Intuit. Intuit has submitted a support letter ([Exhibit G](#)) from Don Oseran.

MICHAEL HILLERBY (MasterCard Worldwide):

I am here in support of the bill today and thank the Commissioner and her staff for bringing it. The bill provides some important consumer protections in the form of the Nationwide Multi-state Licensing System and Registry and a consistent set of nationwide standards that also benefit the industry. This makes it clear that the states maintain their active role.

The federal government has expressed some interest in preemption in this area. We think the states should have a control over that, being able to move and be the laboratory for democracy is important.

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CHAIR SPEARMAN:

We have received support testimony ([Exhibit H](#) and [Exhibit I](#)) from Kathy Tomasofsky for Money Services Business Association, Inc. and from Rina Wulfing for Wise, respectively. We will close the hearing on A.B. 21. Seeing no further business for the Committee on Commerce and Labor, we are adjourned at 9:35 a.m.

RESPECTFULLY SUBMITTED:

Diane Rea,
Committee Secretary

APPROVED BY:

Senator Pat Spearman, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Introduced on Minute Report Page No.	Witness / Entity	Description
	A	1		Agenda
	B	1		Attendance Roster
A.B. 437	C	8	Deanna Leivas / United Food and Commercial Workers	Written testimony in support
A.B. 437	D	9	Juanita Figueroa/ United Food and Commercial Workers Union Local 711	Written testimony in support
A.B. 437	E	9	Amber Falgout / Battle Born Progress	Written testimony in support
A.B. 437	F	15	Keith Brill / Nevada State Medical Association	Written testimony in opposition
A.B. 21	G	22	Chris Ferrari / Intuit	Written testimony in support from Don Oseran
A.B. 21	H	23	Money Services Business Association, Inc.	Written testimony in support
A.B. 21	I	23	Wise	Written testimony in support