

**MINUTES OF THE HOUSE BUSINESS AND LABOR
STANDING COMMITTEE**

Room 450, State Capitol, Utah State Capitol Complex
February 27, 2009

Members Present: Rep. Jim Dunnigan, Chair
Rep. Patrick Painter, Vice Chair
Rep. Jackie Biskupski
Rep. Stephen Clark
Rep. Susan Duckworth
Rep. Gage Froerer
Rep. Kevin Garn
Rep. Francis Gibson
Rep. Neil Hansen
Rep. Brian King
Rep. Todd Kiser
Rep. Michael Morley
Rep. Brent Wallis
Rep. Curt Webb

Staff Present: Allison Nicholson, Policy Analyst
Linda Error, Committee Secretary

Note: List of visitors and a copy of handouts are filed with committee minutes.

Rep. Dunnigan called the meeting to order at 4:35 p.m.

MOTION: Rep. Wallis moved to approve the minutes of the February 25, 2009 meeting. The motion passed unanimously, with Rep. Biskupski, Rep. Clark, Rep. Froerer, Rep. Garn, Rep. Gibson, and Rep. Morley absent for the vote.

S.B. 120 Workers' Compensation Act - Medical Reports (Sen. K. Mayne)

Sen. Mayne presented the bill to the committee.

MOTION: Rep. Hansen moved to pass the bill out favorably. The motion passed unanimously, with Rep. Biskupski, Rep. Garn, and Rep. Morley absent for the vote.

S.B. 121 Workers' Compensation - Attorney Fees (Sen. K. Mayne)

Sen Mayne presented the bill to the committee.

Spoke for the bill: Tom Bingham, Utah Manufacturers Association

MOTION: Rep. Gibson moved to pass the bill out favorably. The motion passed unanimously, with Rep. Garn and Rep. Morley absent for the vote.

H.B. 450 Trademark Amendments (*Rep. B. Last*)

Rep. Last presented the bill to the committee with the assistance of:

Jay Maguire, 1800Contacts

Kirk Torgenson, Office of the Attorney General

Paul Cassell, professor, University of Utah

Spoke for the bill: Spencer Stokes, Xango
Robert Conlee, Xango
Mike Lee, 1800Contacts

Spoke against the bill: Gary Thorup, eBay Inc.
Ross LaJeunesse, Google Inc.
Jonathon Richards, Utah Technology Council (handout)

MOTION: Rep. King moved to pass the bill out favorably. The motion passed, with Rep. Clark, Rep. Froerer, Rep. Garn, Rep. Gibson, Rep. Hansen, and Rep. Morley voting in opposition.

S.B. 160 Utah Venture Capital Enhancement Act Amendments (*Sen. S. Jenkins*)

Sen. Jenkins presented the bill to the committee with the assistance of Peggy Wallace, Utah Fund of Funds.

MOTION: Rep. Froerer moved to pass the bill out favorably. The motion passed unanimously.

H.B. 356 Barber, Cosmetologist/barber, Esthetician, Electrologist, and Nail Technician Licensing Act Amendments (*Rep. M. Newbold*)

Rep. Newbold presented the bill to the committee with the assistance of Candace Daly, Utah Cosmetology Association.

MOTION: Rep. Painter moved to adopt 1st Substitute H.B. 356. The motion passed unanimously.

Rep. Hansen and Rep. Garn declared a conflict of interest.

MOTION: Rep. Hansen moved to pass the bill out favorably. The motion passed unanimously.

H.B. 135 Lien Revisions (Rep. B. King)

Rep. King presented the bill to the committee. (handout)

MOTION: Rep. Painter moved to amend the bill as follows:

1. Page 3, Lines 70 through 79:

70 (2) Except as provided in Subsection (5)(a), ~~{if}~~ if a patient is injured
in an accident that is not covered by workers' compensation, a
71 hospital may file a lien in accordance with Subsection 31A-26-301.5(2)(b):
72 (a) (i) upon damages recovered by the patient from a judgment or settlement; and
73 (ii) to recover usual, reasonable, and customary hospital charges not paid in
accordance with Subsection 31A-22-307 arising out of the
74 accident for treatment, care, and maintenance of the patient up to the date of ~~{payment~~
of the
75 damages} judgment or settlement ; or
76 (b) (i) upon damages arising out of the accident recovered by the patient's family or
77 personal representative from a judgment or settlement; and
78 (ii) to recover usual, reasonable, and customary hospital charges not paid in
accordance with Subsection 31A-22-307 for treatment, care,
79 and maintenance of the patient up to the date of ~~{payment of the~~
damages} judgment or settlement .

2. Page 3, Line 84 through Page 4, Line 96:

84 patient for the balance of the charges.
85 ~~{(5) Notwithstanding Subsection (2), a hospital that is a Medicare provider~~
may not file
86 a lien if at the time that the hospital submits a patient's claim with Medicare on
behalf of the
87 patient:
88 ~~—(a) the patient is covered by Medicare; and~~
89 ~~—(b) the hospital has not established the probable existence of third-party liability~~
and
90 payment through a judgment or settlement.

- 91 ~~—(6) Notwithstanding Subsection (2), a hospital that is a Medicaid provider may~~
~~not file~~
- 92 ~~a lien if at the time that the hospital submits a patient's claim with Medicaid on~~
~~behalf of the~~
- 93 ~~patient:~~
- 94 ~~—(a) the patient is covered by Medicaid; and~~
- 95 ~~—(b) the hospital has not established the probable existence of third-party liability~~
~~and~~
- 96 ~~payment through a judgment or settlement.}~~ (5)(a) Subject to Subsection (5)(b).
a hospital shall timely bill Medicare or Medicaid before asserting a hospital lien if the
hospital:
- (i) is a Medicare or Medicaid provider; and
- (ii) provides services to a Medicare or Medicaid eligible individual.
- (b) A hospital is not subject to the provisions of Subsection (5)(a) if the hospital,
within a Medicare or Medicaid billing time frame, is able to establish:
- (i) the probable existence of third party liability; and
- (ii) prospective or actual payment from a third party that constitutes whole or
partial payment for the hospital's usual, reasonable, and customary charges.
- (6) A hospital may assert a lien in an amount of up to 90% of the difference
between the hospital's usual, reasonable, and customary charges and the amount
previously paid by health insurance, Medicare, or Medicaid if:
- (i) a hospital has billed and accepted payment from a payer described in
Subsection (4) or (5); and
- (ii) the patient obtains a recovery from a third party that constitutes whole or
partial payment of medical expenses caused by the third party.

The motion to amend passed unanimously, with Rep. Gibson absent for the vote.

Spoke against the bill: Dave Gessell, Utah Hospital Association

Spoke for the bill: Charles Thronson, Utah Association for Justice

MOTION: Rep. Biskupski moved to return the bill to the Rules Committee with a recommendation for interim study.

SUBSTITUTE

MOTION: Rep. Webb moved to adjourn. The motion passed, with Rep. Biskupski, Rep. Duckworth, Rep. King, and Rep. Painter voting in opposition. Rep. Hansen was absent for the vote.

Rep. Dunnigan adjourned the meeting at 7:20 p.m.

Rep. James Dunnigan, Chair