

TWENTY-FIRST DAY - FEBRUARY 7, 2013**LEGISLATIVE JOURNAL****ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION****TWENTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, February 7, 2013

PRAYER

The prayer was offered by Senator Christensen.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Adams presiding.

The roll was called and all members were present except Senator Davis who was excused; and Senators Bloomfield, Gloor, Lautenbaugh, Pirsch, and Seiler who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twentieth day was approved.

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 214. Placed on Select File.

LEGISLATIVE BILL 336. Placed on Select File.

LEGISLATIVE BILL 32. Placed on Select File.

LEGISLATIVE BILL 207. Placed on Select File.

(Signed) John Murante, Chairperson

COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 49. Placed on Final Reading.

LEGISLATIVE BILL 87. Placed on Final Reading.

LEGISLATIVE BILL 111. Placed on Final Reading.

LEGISLATIVE BILL 112. Placed on Final Reading.

LEGISLATIVE BILL 113. Placed on Final Reading.

LEGISLATIVE BILL 125. Placed on Final Reading.

LEGISLATIVE BILL 155. Placed on Final Reading.

(Signed) John Murante, Chairperson

COMMITTEE REPORT

Health and Human Services

LEGISLATIVE BILL 484. Placed on General File.

(Signed) Kathy Campbell, Chairperson

COMMITTEE REPORTS

Health and Human Services

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Gary (Randy) Boldt - Board of Emergency Medical Services

Michael Miller - Board of Emergency Medical Services

Aye: 7 Campbell, Cook, Crawford, Gloor, Howard, Krist, Watermeier.
Nay: 0. Absent: 0. Present and not voting: 0.

The Health and Human Services Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointments(s) be confirmed by the Legislature and suggests a record vote.

Sheree Keely - Foster Care Advisory Committee

Craig Timm - Foster Care Advisory Committee

Aye: 7 Campbell, Cook, Crawford, Gloor, Howard, Krist, Watermeier.
Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Kathy Campbell, Chairperson

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 44 and 45 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 44 and 45.

MOTION - Approve Appointment

Senator Avery moved the adoption of the Government, Military and Veterans Affairs Committee report for the confirmation of the following appointment(s) found on page 348:

Nebraska Accountability and Disclosure Commission
Sean Conway

Voting in the affirmative, 32:

Adams	Christensen	Harr, B.	Mello	Smith
Avery	Coash	Howard	Murante	Sullivan
Bolz	Cook	Johnson	Nordquist	Wallman
Brasch	Crawford	Karpisek	Price	Wightman
Campbell	Dubas	Kolowski	Scheer	
Carlson	Hansen	Lathrop	Schilz	
Chambers	Harms	McGill	Schumacher	

Voting in the negative, 0.

Present and not voting, 11:

Ashford	Hadley	Krist	Nelson
Conrad	Janssen	Larson	Watermeier
Haar, K.	Kintner	McCoy	

Excused and not voting, 6:

Bloomfield	Gloor	Pirsch
Davis	Lautenbaugh	Seiler

The appointment was confirmed with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 207A. Title read. Considered.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 11 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 78. Senator Harms withdrew his amendment, AM123, found on page 376, to the committee amendment.

Committee AM104, found on page 344 and considered on page 376, was adopted with 36 ayes, 0 nays, 9 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 37 ayes, 0 nays, 8 present and not voting, and 4 excused and not voting.

SENATOR GLOOR PRESIDING

LEGISLATIVE BILL 24. Title read. Considered.

Advanced to Enrollment and Review Initial with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 28. Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 29. Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 36. Title read. Considered.

Committee AM42, found on page 354, was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 254. Title read. Considered.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

LEGISLATIVE BILL 408. Title read. Considered.

Advanced to Enrollment and Review Initial with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

ANNOUNCEMENT

The Chair announced today is Senator Avery's birthday.

GENERAL FILE**LEGISLATIVE BILL 135.** Title read. Considered.

Committee AM64, found on page 361, was adopted with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 252. Title read. Considered.

Committee AM62, found on page 361, was adopted with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review Initial with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

AMENDMENTS - Print in Journal

Senator K. Haar filed the following amendment to LB211:
AM124

- 1 1. On page 3, lines 6 through 9, strike the new matter
- 2 and reinstate the stricken matter; and in line 6 after the
- 3 reinstated "by" insert "any".

Senator Gloor filed the following amendment to LB147:
AM161

- 1 1. Insert the following new sections:
- 2 Sec. 19. Section 44-7306, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 44-7306 (1) A health carrier shall maintain in a
- 5 grievance register written records to document all grievances
- 6 received during a calendar year. A request for a ~~first-level~~
- 7 review of an adverse determination shall be processed in compliance
- 8 with section 44-7308 but not considered a grievance for purposes
- 9 of the grievance register unless such request includes a written
- 10 grievance. ~~A request for a second-level review of an adverse~~
- 11 ~~determination shall be considered a grievance for purposes of the~~
- 12 ~~grievance register.~~ For each grievance required to be recorded in
- 13 the grievance register, the grievance register shall contain, at a
- 14 minimum, the following information:
- 15 (a) A general description of the reason for the
- 16 grievance;
- 17 (b) Date received;
- 18 (c) Date of each review or hearing;
- 19 (d) Resolution ~~at each level~~ of the grievance;
- 20 (e) Date of resolution; ~~at each level~~; and
- 21 (f) Name of the covered person for whom the grievance was
- 22 filed.
- 23 (2) The grievance register shall be maintained in a
- 1 manner that is reasonably clear and accessible to the director. A
- 2 grievance register maintained by a health maintenance organization
- 3 shall also be accessible to the Department of Health and Human
- 4 Services.
- 5 (3) A health carrier shall retain the grievance register
- 6 compiled for a calendar year for the longer of three years or until
- 7 the director has adopted a final report of an examination that
- 8 contains a review of the grievance register for that calendar year.
- 9 Sec. 20. Section 44-7308, Reissue Revised Statutes of
- 10 Nebraska, is amended to read:
- 11 44-7308 (1) If a covered person makes a request to
- 12 a health carrier for a health care service and the request
- 13 is denied, the health carrier shall provide the covered person
- 14 with an explanation of the reasons for the denial, a written
- 15 notice of how to submit a grievance, and the telephone number
- 16 to call for information and assistance. The health carrier, at

17 the time of a determination not to certify an admission, a
18 continued stay, or other health care service, shall inform the
19 attending or ordering provider of the right to submit a grievance
20 or a request for an expedited review and, upon request, shall
21 explain the procedures established by the health carrier for
22 initiating a review. A grievance involving an adverse determination
23 may be submitted by the covered person, the covered person's
24 representative, or a provider acting on behalf of a covered
25 person, except that a provider may not submit a grievance involving
26 an adverse determination on behalf of a covered person in a
27 situation in which federal or other state law prohibits a provider
1 from taking that action. A health carrier shall ensure that a
2 majority of the persons reviewing a grievance involving an adverse
3 determination have appropriate expertise. A health carrier shall
4 issue a copy of the written decision to a provider who submits a
5 grievance on behalf of a covered person. A health carrier shall
6 conduct a ~~first level~~ review of a grievance involving an adverse
7 determination in accordance with subsection (3) of this section
8 and section 44-7310, but such a grievance is not subject to the
9 grievance register reporting requirements of section 44-7306 unless
10 it is a written grievance.

11 (2)(a) A grievance concerning any matter except an
12 adverse determination may be submitted by a covered person or
13 a covered person's representative. A health carrier shall issue a
14 written decision to the covered person or the covered person's
15 representative within fifteen working days after receiving a
16 grievance. The person or persons reviewing the grievance shall not
17 be the same person or persons who made the initial determination
18 denying a claim or handling the matter that is the subject of
19 the grievance. If the health carrier cannot make a decision
20 within fifteen working days due to circumstances beyond the health
21 carrier's control, the health carrier may take up to an additional
22 fifteen working days to issue a written decision, if the health
23 carrier provides written notice to the covered person of the
24 extension and the reasons for the delay on or before the fifteenth
25 working day after receiving a grievance.

26 (b) A covered person does not have the right to attend,
27 or to have a representative in attendance, at the ~~first level~~
1 grievance review. A covered person is entitled to submit written
2 material. The health carrier shall provide the covered person the
3 name, address, and telephone number of a person designated to
4 coordinate the grievance review on behalf of the health carrier.
5 The health carrier shall make these rights known to the covered
6 person within three working days after receiving a grievance.

7 (3) The written decision issued pursuant to the
8 procedures described in subsections (1) and (2) of this section and
9 section 44-7310 shall contain:

10 (a) The names, titles, and qualifying credentials of the
11 person or persons acting as the reviewer or reviewers participating

- 12 in the ~~first level~~ grievance review process;
- 13 (b) A statement of the reviewers' understanding of the
14 covered person's grievance;
- 15 (c) The reviewers' decision in clear terms and the
16 contract basis or medical rationale in sufficient detail for the
17 covered person to respond further to the health carrier's position;
- 18 (d) A reference to the evidence or documentation used as
19 the basis for the decision;
- 20 (e) In cases involving an adverse determination, the
21 instructions for requesting a written statement of the clinical
22 rationale, including the clinical review criteria used to make the
23 determination; ~~and~~
- 24 ~~(f) If applicable, a statement indicating:~~
- 25 ~~(i) A description of the process to obtain a second level~~
26 ~~grievance review of a decision; and~~
- 27 ~~(ii) The written procedures governing a second level~~
1 ~~review, including any required timeframe for review; and~~
- 2 (g) Notice of the covered person's right to contact the
3 director's office. The notice shall contain the telephone number
4 and address of the director's office.

5 Sec. 21. Section 44-7310, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 44-7310 (1) A health carrier shall establish written
8 procedures for a standard review of an adverse determination.
9 Review procedures shall be available to a covered person and to the
10 provider acting on behalf of a covered person. For purposes of this
11 section, covered person includes the representative of a covered
12 person.

13 (2) When reasonably necessary or when requested by the
14 provider acting on behalf of a covered person, standard reviews
15 shall be evaluated by an appropriate clinical peer or peers in the
16 same or similar specialty as would typically manage the case being
17 reviewed. The clinical peer shall not have been involved in the
18 initial adverse determination.

19 (3) For standard reviews the health carrier shall notify
20 in writing both the covered person and the attending or ordering
21 provider of the decision within fifteen working days after the
22 request for a review. The written decision shall contain the
23 provisions required in subsection (3) of section 44-7308.

24 (4) In any case in which the standard review process does
25 not resolve a difference of opinion between the health carrier and
26 the covered person or the provider acting on behalf of the covered
27 person, the covered person or the provider acting on behalf of the
1 covered person may submit a written grievance, unless the provider
2 is prohibited from filing a grievance by federal or other state
3 law. ~~A health carrier that offers managed care plans shall review~~
4 ~~it as a second level grievance.~~

5 Sec. 22. Section 44-7311, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 44-7311 (1) A health carrier shall establish written
8 procedures for the expedited review of a grievance involving
9 a situation in which the timeframe of the standard grievance
10 procedures set forth in sections 44-7308 to 44-7310 would seriously
11 jeopardize the life or health of a covered person or would
12 jeopardize the covered person's ability to regain maximum function.
13 A request for an expedited review may be submitted orally or
14 in writing. A request for an expedited review of an adverse
15 determination may be submitted orally or in writing and shall
16 be subject to the review procedures of this section, if it
17 meets the criteria of this section. However, for purposes of
18 the grievance register requirements of section 44-7306, a request
19 for an expedited review shall not be included in the grievance
20 register unless the request is submitted in writing. Expedited
21 review procedures shall be available to a covered person and to the
22 provider acting on behalf of a covered person. For purposes of this
23 section, covered person includes the representative of a covered
24 person.

25 (2) Expedited reviews which result in an adverse
26 determination shall be evaluated by an appropriate clinical peer or
27 peers in the same or similar specialty as would typically manage
1 the case being reviewed. The clinical peer or peers shall not have
2 been involved in the initial adverse determination.

3 (3) A health carrier shall provide expedited review
4 to all requests concerning an admission, availability of care,
5 continued stay, or health care service for a covered person who
6 has received emergency services but has not been discharged from a
7 facility.

8 (4) An expedited review may be initiated by a covered
9 person or a provider acting on behalf of a covered person.

10 (5) In an expedited review, all necessary information,
11 including the health carrier's decision, shall be transmitted
12 between the health carrier and the covered person or the provider
13 acting on behalf of a covered person by telephone, facsimile, or
14 the most expeditious method available.

15 (6) In an expedited review, a health carrier shall make
16 a decision and notify the covered person or the provider acting
17 on behalf of the covered person as expeditiously as the covered
18 person's medical condition requires, but in no event more than
19 seventy-two hours after the review is commenced. If the expedited
20 review is a concurrent review determination, the health care
21 service shall be continued without liability to the covered person
22 until the covered person has been notified of the determination.

23 (7) A health carrier shall provide written confirmation
24 of its decision concerning an expedited review within two working
25 days after providing notification of that decision, if the initial
26 notification was not in writing. The written decision shall contain
27 the provisions required in subsection (3) of section 44-7308.

1 (8) A health carrier shall provide reasonable access,

2 not to exceed one business day after receiving a request for an
 3 expedited review, to a clinical peer who can perform the expedited
 4 review.

5 (9) In any case in which the expedited review process
 6 does not resolve a difference of opinion between the health carrier
 7 and the covered person or the provider acting on behalf of the
 8 covered person, the covered person or the provider acting on behalf
 9 of the covered person may submit a written grievance, unless the
 10 provider is prohibited from filing a grievance by federal or other
 11 state law. ~~A health carrier that offers managed care plans shall~~
 12 ~~review it as a second level grievance.~~ Except as expressly provided
 13 in this section, in conducting the review, the health carrier shall
 14 adhere to timeframes that are reasonable under the circumstances.

15 (10) A health carrier shall not be required to provide an
 16 expedited review for retrospective adverse determinations.

17 Sec. 23. Original sections 44-7306, 44-7308, 44-7310, and
 18 44-7311, Reissue Revised Statutes of Nebraska, are repealed.

19 2. On page 5, line 3, strike "and" and insert "if"; and
 20 in line 5, strike the commas and after "functions" insert "or".

21 3. On page 7, line 18, strike "its" and insert "their".

22 4. On page 9, line 18, after "after" insert "health
 23 care".

24 5. On page 10, line 22; and page 22, line 16, strike the
 25 comma.

26 6. On page 46, line 22, strike "evidenced" and insert
 27 "evidence".

1 7. On page 47, line 25, strike "(10)(a)" and insert
 2 "(10)(c)".

3 8. On page 48, line 1, strike "(iii)".

4 9. On page 52, line 19, strike "this" and insert "the".

5 10. On page 55, line 10, after "independent" insert
 6 "review".

7 11. On page 57, line 23, strike the first "an".

8 12. On page 60, line 6, strike "(3)" and insert "(d)".

9 13. Renumber the remaining section accordingly.

NOTICE OF COMMITTEE HEARING

Agriculture

Room 2102

Tuesday, February 26, 2013 1:30 p.m.

LB544

LB583

LB597

(Signed) Ken Schilz, Chairperson

VISITORS

Visitors to the Chamber were 95 members of UNL Extension Leadership Classes from Seward, Burt, Merrick, Wayne, and Hamilton counties.

The Doctor of the Day was Dr. Sue Keasling from Omaha.

ADJOURNMENT

At 10:05 a.m., on a motion by Senator Seiler, the Legislature adjourned until 9:00 a.m., Friday, February 8, 2013.

Patrick J. O'Donnell
Clerk of the Legislature