

MINUTES

COMMITTEE: COMMERCE

DATE: January 29, 1973

MEMBERS PRESENT: Messrs: Prince, Dr. Robinson, Dini, Demers, Wittenberg, Capurro, Bickerstaff, Hafen, and Torvinen;

MEMBERS ABSENT: None

GUESTS:	<u>Name</u>	<u>Representing</u>
	Jim Smith	Intern - U of Nevada
	Jim Banner	Assemblyman, Dist. 11
	Claude Evans	NIC
	Keith Hendricks	Peace Officers - Fire Fighters
	Wallie Werner	LM Advisory Board NIC
	Ann Ehrenburg	LV Review-Journal
	C.A. Heckethorn	Nevada Blue Shield
	John W. Jackson, Sr.	
	John T. Coffin	Attorney at Law
	John W. Helm	
	Ray Schmidt	Intern - U of Nevada
	Pete Kelley	Nev. Retail Assn.
	Robert Barengo	Assemblyman, Labor & Management Committee
	James N. Ullom	Assemblyman, Labor & Management Committee
	Brandan Riley	Associated Press

The meeting was called to order at 4:00 p.m. in Room 222 by Chairman Prince. He announced that AB 23 was under consideration for discussion. Mr. Capurro, one of the sponsors of the bill, explained that AB 23 was a result of a study authorized from the 56th session. Present law, he stated, now requires that the physician prepare the necessary papers for the NIC to protect the rights of the injured workman, "placing an undue burden on the physician and not properly protecting the workman". AB 23 would take this responsibility from the physician.

Speaker Ashworth, the second sponsor of the bill, further explained the bill, stating that he felt it was the employer's responsibility to advise the workman of his rights.

Dr. Robinson felt the physician would be happy to lend his assistance to this matter, particularly since this is the only

manner the physician, as well as the workman, will be paid.

Mr. Claude Evans, representing labor on the NIC, stated that he was in favor of this proposed change, since the physician is required to fill out the forms anyway.

John Coffin, Attorney at Law from Reno, was not in favor of this proposed change, stating that it deletes that portion of the law, "It shall be the duty of the physician to inform the injured...". He pointed out that many injured workmen never have anyone to tell them that their claims must be filed within thirty days and it can be denied if not filed within this period. "The doctor is his only source of information many times. The employer often fails to send in notice to the NIC."

Mr. Torvinen posed the question: Could this bill be changed to require the doctor to inform the workman that he has thirty days in which to file his claim? Mr. Coffin felt this would be a good idea.

Assemblyman Banner felt that all three parties, the doctor, patient, and employer, were equally responsible, and the doctor shouldn't object to his share of the responsibility. He feels this has been working well in the past and doesn't only benefit the worker. He strongly objects to the proposed change.

Mr. Hafen clarified the doctor's responsibilities of informing the workman and felt that the doctor is legally liable if he doesn't follow the present law.

Chairman Prince asked for remarks from Senator Dodge who entered the meeting at this time. Senator Dodge felt it was unrealistic for and unfair to the physician to advise the patient of his rights under NIC and that it would require a yearly seminar to keep the physician informed of changes in the law.

Senator Dodge, in answer to Dr. Robinson's question of any doctor having been found liable for failing to advise the patient of his rights, stated that no case had ever been brought to his attention, and to Mr. Hafen's question, stated that the physician would be liable if he neglected this matter under present law.

Senator Dodge stated that the "Pete Marwick Study" recommended that it was the responsibility of the NIC to adopt the proper procedure of advising the workman of his rights, though the study did not specify any particular party for this responsibility.

Speaker Ashworth stated that when a man is injured, he is automatically sent to the physician where his claim often be-

gins. When the employee is sent to the doctor, it becomes the employer's responsibility to inform the man; the physician or his secretary do not know the rules of the NIC and are performing a service by treating the man.

Senator Dodge suggested that the bill could be changed to include a requirement by the physician that he provide the workman with material published by the NIC. Mr. Coffin concurred.

Mr. Evans distributed and explained several pamphlets published by the NIC. Mr. Capurro interjected that AB 23 by itself lost importance since many new laws and the Administrative Procedures to be considered at this session would greatly implement and improve the workman's benefits.

Mr. Coffin reiterated that there was no burden on the physician to give the forms to the patient and advise him that he might lose his rights if they were not properly filed.

Chairman Prince called for discussion on AB 24. Senator Dodge explained that the Medical Board's findings are binding on the Commission but not on the employee and that it is beyond the control of the Commission when actions in court increase the amounts of the judgments set by the Commission findings.

Mr. Torvinen felt the bill was very far-reaching and that the proper record before the NIC will be very important. Under AB 24, the medical board's findings are conclusive. Discussion followed regarding the effect of the medical board's findings on the workman.

Mr. Evans was in favor of increasing the \$50.00 fee paid physicians per examination to insure better medical attention, which, according to Mr. Evans, takes approximately three minutes.

Mr. Keith Hendricks stated that he doesn't like the bill and that he wanted added: "the doctor can be brought in before the medical board".

Speaker Ashworth asked Mr. Torvinen if the findings of the medical board shouldn't be binding on both the Commission and the employee. Mr. Torvinen stated that this was correct; that the Commission should have the opportunity of withdrawing its settlement and that the "binding" provision should be withdrawn effecting both sides.

Mr. Banner stated that the claimant can be broke by the time the Commission's decision is determined and if it is binding upon him he should be permitted to go to the court for relief from the start; the bill only restricts the employee, not the doctor or employer.

Mr. Evans suggested the Commerce Committee withhold any action on AB 23 or 24 until they have examined all the proposed changes by the NIC in this session. He stated that the NIC hopes to rehabilitate the injured workman and get him back into the "work force" while receiving monthly benefits rather than just pay him a set sum for his injury.

Mr. Coffin introduced Mr. John Helms, an injured workman, who explained the procedure he had undergone with the medical examining board, stating that he was actually examined for only five minutes. He concluded his remarks with, "I'm supposed to accept their decision".

Mr. Coffin felt there was conflict upon the NIC's part in that they are required to build up the NIC fund on one hand and disburse funds to workmen on the other; that more and more cases go to court each year; and that he has never been allowed in the examining room with his clients in seven years of practice. He has never had a case where the Board has made findings that agree with the physician who first examined the patient and that the board cannot fairly treat the injured workman since he has not followed the case from the beginning.

Senator Dodge felt that Mr. Coffin's statements were unfair and suggested that the Committee invite some of the medical review board people to their next hearing on this bill so that the Committee can make its own observations. He countered Mr. Coffin's opinion by stating that some matters would still be open for court determination. "The NIC", he stated, "is one of the few boards in the State not under the Administrative Procedures Act".

Mr. Torvinen stated: "If we pass this bill the way it is and adopt the provisions of the Administrative Procedures Act, in my view it would effectively deny an injured person the right to have his doctor's testimony and opinions included in the record upon which the Commission makes its determination. This is 100% wrong. Independent medical testimony in some stage of the procedures is very important. I suggest we hold it over."

Mr. Ashworth questioned Mr. Helms as to the medical board's findings in his case and determined that there were none as yet.

Mr. Torvinen stated that a small commission would have to be formed from the medical review board; that the present board wouldn't want this; that the medical board wants NIC to make medical findings; that this bill doesn't delineate who is to make the medical findings; that AB 24 gives the medical board full authority but denies the claimant the right to have his doctor's opinion.

Mr. Coffin stated that there has to be a final determination; that the medical board should be advisory to a completely independent body.

Mr. Capurro suggested that the review board be invited to appear before the Commerce Committee at a re-scheduling of the hearing on the bill. Mr. Coffin added that some injured workmen who have appeared before the medical board should also be invited to attend the same meeting. Mr. Capurro re-stated his opinion that "this bill is not intended to take away any benefits from the injured workman, but is trying to make the procedure work."

Chairman Prince stated that the two other bills, AB 25 and 26, scheduled for hearing at this meeting, would be heard Wednesday, January 31, at the same time and place.

Mr. Robinson moved to adjourn the meeting; Mr. Bickerstaff seconded the motion. The meeting adjourned at 5:20 p.m.

Respectfully submitted,

PHYLLIS BERKSON,  
Assembly Attache