

Members

Sen. Travis Holdman, Chairperson  
Sen. James Smith  
Sen. Frank Mrvan  
Sen. Greg Taylor  
Rep. Matthew Lehman, Vice-Chairperson  
Rep. Robert Heaton  
Rep. Ed DeLaney  
Rep. Terri Austin



## INTERIM STUDY COMMITTEE ON INSURANCE

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### MEETING MINUTES<sup>1</sup>

**Meeting Date:** September 4, 2013  
**Meeting Time:** 10:00 A.M.  
**Meeting Place:** State House, 200 W. Washington  
St., Room 233  
**Meeting City:** Indianapolis, Indiana  
**Meeting Number:** 3

**Members Present:** Sen. Travis Holdman, Chairperson; Sen. James Smith; Sen. Frank Mrvan; Sen. Greg Taylor; Rep. Matthew Lehman, Vice-Chairperson; Rep. Robert Heaton; Rep. Ed DeLaney; Rep. Terri Austin.

**Members Absent:** None.

The meeting was called to order by the Chairman of the Committee, Senator Holdman, at 10:10 am.

Sen. Holdman announced that the fourth meeting of the committee will be held on October 9, 2013. He added that the committee will discuss the topic of 'Lawsuit Lending' in that meeting. Adding that, if required, the topic of 'Uninsured Motorist' and 'Workers Compensation' will be carried over to the next meeting. He said that the fifth meeting will be held on October 17, 2013.

Uninsured Motorists in Indiana: Elizabeth Murphy, Bureau of Motor Vehicles (BMV), spoke about the administrative and enforcement changes related to motor vehicle insurance as a result of SEA-620-2013. She said that until these changes were made, the BMV was allowed to randomly select motorists from its registry and require them to verify their financial responsibility. She said that this registry contains a list of motorists that have had insurance-

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<sup>1</sup> These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at <http://www.in.gov/legislative>. Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies.

related violations in the past. She also added that BMV never used this authority. She said that this authority was removed in the last session and instead two other major provisions were added. She stated that form SR22-backed insurance is now attached with several other violations, and the BMV is now allowed to verify insurance at any time and use a third-party vendor to conduct the verification. In response to questions by committee members, Ms. Murphy clarified the laws related to use of form SR22.

Ms. Murphy said that unless the statute related to reinstatement fees is changed (i.e., making them fines), the BMV has no choice but to leave the unpaid fees as uncollected and keep the related licenses suspended in the meantime. She said that some organizations have proposed putting bar codes on license plates of past violators. She said that BMV does not have a particular suggestion to reduce the rate of uninsured motorists. She noted that a 5% rate could be a good target rate for Indiana. She added that the new regulatory powers provided by SEA 620-2013 will help in reducing the rate of uninsured motorists, but it may not bring it down to the target level. Rep. Delaney noted that a handout provided by BMV (Exhibit 1) shows an increasing number of insurance violations every year for the last six years. A handout prepared by LSA (Exhibit 2), showing the rate of uninsured motorists and number of registered vehicles by state, was distributed to the committee members.

The committee discussed the following legislative ideas:

- (1) Provide a 90-day amnesty period within which a person with an outstanding reinstatement fee could pay a reduced fee along with a proof of six months of form SR 22-backed insurance.
- (2) Require a motorist to show a proof of financial responsibility at the scene of a traffic stop. The motorist would be issued a citation for any violation and given ten days to show proof of insurance at a BMV branch.
- (3) Allow seizure of a license plate for multiple violations.
- (4) Increase the existing fines.
- (5) Provide additional administrative measures to the BMV.

Rep. Lehman proposed that in the future the committee should discuss a less-strict version of the law known as No-Pay/No-Play. Sen. Holdman said that the committee would like to know if there are administrative problems in implementing these proposals.

The committee was informed by Ms. Naughton, Legislative Service Agency (LSA), that under current law, operating without financial responsibility is an infraction which can result in a civil penalty of up to \$10,000. She added that a subsequent offense is a Class C misdemeanor which could result in prison time and/or a fine of up to \$500. The committee discussed that though this penalty is in the current law, it is rarely imposed.

Other committee members spoke about positive reinforcement along with the proposed penalty. Sen. Taylor said that he would like the proposals related to seizure of license plates to be very specific without providing any discretionary powers to the law enforcement official. Several committee members spoke in support of an amnesty period for the unpaid reinstatement fees but showed concern about the proposal requiring seizure of the license plate. Sen. Holdman said that the committee will discuss this topic again in the next meeting. He requested the committee members to suggest more definitive proposals.

Workers Compensation Insurance in Indiana: Marty Wood, Insurance Institute of Indiana, spoke about the current reimbursement practices for patients treated under workers compensation. He said that it is unclear whether the 200%-of-Medicare standards specified in HEA 1320-2013 are the floor or the ceiling of the rates. He added that it has been interpreted as the floor. He provided the rates of the neighboring states as an example of lower rates. He quoted several studies showing the level of Medicare reimbursement related to the actual cost of service. He added that based on those studies, 200% of Medicare is a

very high rate of reimbursement.

Mr. Wood spoke in support of a lower rate of reimbursement. He argued in favor of cost-based reimbursement. He provided examples of the cost of treatment under Medicare, group health plans, and workers compensation.

Mr. Wood also spoke in favor of cost-based reimbursement for implants. He added that the reimbursement should be tied to acquisition invoices. He stated that other issues were (1) physician reimbursement under workers compensation, (2) overutilization of procedures, and (3) compounding of drugs.

Mr. Tim Kennedy, Indiana Hospital Association (IHA), spoke in support of the hospital reimbursement method to be used for the workers compensation under HEA 1320 -2013. He said that workers compensation insurance had a good environment even before HEA1320 passed in 2013. He added that according to LSA, \$36 M will be annually cut from workers compensation reimbursement to hospitals. He stated that Medicare rate adjustments will lead to more cuts. He called the actions taken by the General Assembly in the 2013 session as "Mission Accomplished". He held that IHA opposes any changes to the minimum reimbursement rate.

Mr. Kennedy also said that dramatic markups for implants are not possible under the new system going into effect on July 1, 2014. He added that the IHA opposes a separate reimbursement method for implants. He noted that under the Medicare system, there is a cap on implant-related reimbursements when they are billed separately.

Mr. Kennedy argued that the new reimbursement formula only pertains to hospital services and not physician services. He reasoned that physician services are not facility services. Mr. Kennedy opposed the idea of ignoring certain Medicare requirements while deciding on inpatient or outpatient treatment options.

Mr. Kennedy spoke about IHA's proposals related to workers compensation (Exhibit 3). He informed the committee that there are 127 hospitals in Indiana of which 117 are not-for-profit hospitals.

The meeting was adjourned by Sen. Holdman at 12:30 pm.

Year	Drivers Accruing Fees	Fees Accrued & Still Owed	Fees Waived	Drivers	Registrations	# \$10 Fees	\$10 fee TOT	# \$150 Fees	\$150 fee TOT	# \$225 fees	\$225 fee TOT	# \$300 fees	\$300 fee TOT
2013 YTD	44,975	\$11,443,490	5,127	4,791,519	4,928,458	674	\$6,740	18,229	\$2,734,350	11,096	\$2,496,600	20,686	\$6,205,800
2012	47,661	\$13,390,780	7,353	4,961,366	6,758,691	493	\$4,930	17,443	\$2,616,450	12,944	\$2,912,400	26,190	\$7,857,000
2011	38,702	\$10,998,870	6,736	4,831,677	6,654,623	222	\$2,220	13,585	\$2,037,750	10,280	\$2,313,000	22,153	\$6,645,900
2010	34,324	\$9,652,100	6,719	4,739,764	6,823,979	200	\$2,000	12,682	\$1,902,300	9,300	\$2,092,500	18,851	\$5,655,300
2009	31,368	\$8,906,165	4,504	4,740,228	6,632,512	119	\$1,190	11,285	\$1,692,750	8,801	\$1,980,225	17,440	\$5,232,000
2008	27,431	\$7,404,910	Not Available	4,728,289	6,712,945	103	\$1,030	11,282	\$1,692,300	7,022	\$1,579,950	13,772	\$4,131,600
<b>TOTAL</b>	<b>224,461</b>	<b>\$61,796,315</b>	<b>30,439</b>			<b>1,811</b>	<b>\$18,110</b>	<b>84,506</b>	<b>\$12,675,900</b>	<b>59,443</b>	<b>\$13,374,675</b>	<b>119,092</b>	<b>\$35,727,600</b>

Source: Bureau of Motor Vehicle

EXHIBIT 1  
Interim Study  
Committee on Insurance  
Meeting # 3  
September 4, 2013

**RATE OF UNINSURED MOTORIST and NUMBER OF REGISTERED VEHICLE - DATA BY STATE**

STATES	RATE OF UNINSURED MOTORIST <sup>1</sup>	NUMBER OF REGISTERED VEHICLES - PRIVATE & COMMERCIAL (2011 ESTIMATES) <sup>2</sup>
Mississippi	28%	1,989,822
New Mexico	26%	1,735,810
Florida	24%	15,277,923
Oklahoma	24%	3,377,928
Tennessee	24%	5,230,271
Alabama	22%	4,744,029
Michigan	19%	9,074,095
Kentucky	18%	3,701,672
Rhode Island	18%	907,276
Arkansas	16%	2,412,345
Georgia	16%	7,402,608
Indiana	16%	6,052,110
Ohio	16%	10,079,963
Washington	16%	5,793,065
California	15%	28,811,473
Colorado	15%	4,263,555
District of Columbia	15%	292,938
Illinois	15%	10,305,463
Maryland	15%	3,829,855
Texas	15%	19,300,461
Wisconsin	15%	5,179,308
Missouri	14%	5,098,246
North Carolina	14%	6,131,720
Alaska	13%	743,148
Louisiana	13%	3,989,347
Minnesota	13%	4,844,731
Nevada	13%	2,123,057
Arizona	12%	5,031,536
Delaware	11%	918,073
Hawaii	11%	1,127,357
Iowa	11%	3,450,547
Montana	11%	1,200,297
New Hampshire	11%	1,261,823
New Jersey	11%	7,841,362
South Carolina	11%	3,769,225
Virginia	11%	6,875,666
West Virginia	11%	1,429,109
Connecticut	10%	2,791,912
Kansas	10%	2,405,395
Oregon	10%	3,082,191
Wyoming	10%	782,297
North Dakota	9%	770,932
South Dakota	9%	980,687
Idaho	8%	1,600,252
Nebraska	8%	1,860,935
Utah	8%	1,841,296
Pennsylvania	7%	10,181,087
Vermont	7%	595,302
New York	5%	10,207,115
Maine	4%	1,150,106
Massachusetts	4%	5,631,422

Source:

<sup>1</sup> UNINSURED MOTORIST: INSURANCE RESEARCH COUNCIL,  
[http://www.insurance-research.org/sites/default/files/downloads/IRCUM2011\\_042111.pdf](http://www.insurance-research.org/sites/default/files/downloads/IRCUM2011_042111.pdf)

<sup>2</sup> REGISTERED MOTOR VEHICLE BY STATE, FEDERAL HIGHWAY ADMINISTRATION, EXCLUDES PUBLICLY OWNED VEHICLES  
<http://www.fhwa.dot.gov/policyinformation/statistics/2011/mv1.cfm>

*EXHIBIT 2*

*Interim Study Committee  
 on Insurance  
 Meeting # 3  
 Sep 4, 2013*

INTERIM STUDY COMMISSION ON INSURANCE

September 4, 2013

EXHIBIT 3  
Interim Study  
Committee on Insurance  
Meeting # 3  
September 4, 2013

Workers Compensation

I. A Framework for Analyzing the Workers Comp Proposals Submitted to the Interim Study Committee on Insurance:

1. Even *before* last session's workers comp legislation (HEA 1320), premiums for workers compensation insurance in Indiana were among the lowest— if not the lowest— in the country.

2. Last summer, *before* last session's workers comp legislation, the Indiana Workers Compensation Rating Bureau testified about the number of workers compensation insurance carriers doing business in Indiana, and that Indiana has a good environment for workers compensation insurance carriers.

3. According to LSA, last session's workers comp legislation will cut hospital workers comp reimbursement by at least \$36 million *annually*, beginning July 1, 2014 (per LSA).

▶ The cut in reimbursement to hospitals will likely grow beyond \$36 million annually: workers comp reimbursement rates are tied to Medicare reimbursement rates, and Medicare reimbursement rates to Indiana hospitals will be reduced by almost \$4 billion over the next 10 years. Plus, the sequester is adding another \$900 million in Medicare cuts to Indiana hospitals.

▶ The workers comp legislation allows workers compensation insurance companies to pay hospitals *less* than the rates paid by commercial health insurance companies for the same services.

4. According to LSA, the \$36 million annual cut in workers compensation reimbursement to hospitals is *greater* than the cost of the increased benefits to injured workers provided in last session's workers compensation legislation.

▶ Indiana hospitals will incur the \$36 million cut in workers comp reimbursement annually, beginning July 1, 2014; but the increase in benefits for injured workers will be phased-in over 3 years.

▶ The cost of the increased benefits to injured workers was paid for, *exclusively*, by the cut in workers comp reimbursement to Indiana hospitals.

5. The proponents of last session's workers comp legislation argued that the legislation was necessary in order to avoid a long-term financial crisis caused by increasing hospital reimbursement amounts.

- ▶ Mission accomplished.

6. The proponents of last session's workers comp legislation argued that the legislation was necessary to establish a reimbursement formula for hospitals that would limit the opportunities for disputes over reimbursement amounts and, in doing, so help reduce the number of claims appealed to the Workers Compensation Board.

- ▶ Prior to last session's workers comp legislation, the formula for reimbursing hospitals encouraged a "battle of the data bases".

- ▶ Determining the proper reimbursement amount should not require the services of an "army" of lawyers and accountants.

- ▶ Last session's workers comp legislation (*not* including the provisions regarding reimbursement for implants) does, in fact, limit the opportunities for disputes over reimbursement amounts and, as a result, should help reduce the number of claims appealed to the Workers Compensation Board.

## II. The Workers Comp Proposals Submitted to the Interim Study Committee on Insurance:

### 1. A New Minimum Reimbursement Rate?

- ▶ IHA opposes the proposal.

- ▶ The proposal would be a step backwards.

- ▶ The proposal would cause a new "battle of the data bases".

- ▶ The proposal would significantly *increase* the opportunities for disputes over reimbursement amounts and, as a result, would increase the number of claims appealed to the Workers Compensation Board.

- ▶ What is the goal of this proposal? What policy objective is accomplished by this proposal?

### 2. Separate Reimbursement for Implants?

- ▶ IHA opposes this proposal.

- ▶ Because the Medicare reimbursement principles will cap workers comp reimbursement for "implants", it is not necessary to require separate reimbursement for such items.
- ▶ Dramatic mark-ups for implants were possible under the "old" reimbursement system.
- ▶ Dramatic mark-ups for implants are not possible under the Medicare-based system going into effect on July 1, 2014.
- ▶ Hospitals should not be reimbursed twice for the same implant.
- ▶ Do not require hospitals to undertake the time, expense, and hassle of "unbundling" its lump sum payments in an effort to avoid being reimbursed twice for the same implant.
- ▶ A reasonable solution: delete the requirement that implants be reimbursed separately and instead rely upon the Medicare reimbursement principles to reduce payments for implants.

### 3. Special Reimbursement for Hospital-Employed Physicians?

- ▶ IHA opposes the proposal.
- ▶ Background: "Physician Services" vs. "Hospital Services"
  - ◆ Physician services are "professional services".
  - ◆ Hospital services are "facility services" (e.g., the "four walls" of the hospital's sites of care; the hospital's infrastructure, equipment, nursing and other support staff, etc.).
  - ◆ Hospital services *are not* "physician services", *even when the hospital employs the physician.*
  - ◆ Physician services *are not* "hospital services", *even when the physician is employed by the hospital.*
- ▶ NOTE: The new reimbursement formula established under last session's workers comp legislation *only* pertains to hospital (and other medical facilities) services...in other words, "facility services".

▶ The new reimbursement formula does not apply to physician services – not even when the physician is employed by a hospital (because physician services do not become "hospital services" when such services are provided by a physician employed by a hospital).

◆ As late as last fall, prior to the legislative session, the proponents of changing workers comp reimbursement for hospitals, including the Workers Compensation Board, held the position that workers comp reimbursement for physician services *did not* need to be changed.

◆ Here's the language of the legislation:

"The pecuniary liability of an employer or an employer's insurance carrier for a specific service or product covered under worker's compensation and provided by a medical service facility is equal to...."

#### 4. Ignoring Certain Medicare Requirements for When Services Are to Be Provided on an Inpatient Basis?

▶ IHA opposes the proposal.

▶ Is the study committee comfortable with allowing the well-studied clinical considerations incorporated into Medicare's reimbursement policies to be ignored?

▶ When would the Medicare requirements be ignored? Whenever the physician says so? Would there be agreed upon list or procedures this proposal would apply to?

▶ What role would the patient have in the decision?

▶ This proposal is a recipe for disputes and appeals.

▶ What policy or goal does this proposal accomplish?

### III. IHA's Proposals:

1. Have Indiana's "clean claim" requirements that are imposed on commercial health insurers also apply to workers comp insurers.

▶ Pay or deny a clean claim within 30 days.

▶ Notify a health care provider if a claim has any deficiencies within 30 days.

2. Require workers comp insurers to receive and pay claims electronically.

3. As the law provides for commercial health insurance insurers, prohibit employees of workers comp insurers and "repricers" from being paid based upon how much they successfully reduce a hospital's claim.

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