



Insurance & Banking Subcommittee

Action Packet

**Wednesday, December 7, 2011
9:00 AM - 11:30 AM
404 HOB**

COMMITTEE MEETING REPORT
Insurance & Banking Subcommittee

12/7/2011 9:00:00AM

Location: 404 HOB

Summary:

Insurance & Banking Subcommittee

Wednesday December 07, 2011 09:00 am

CS/HB 483 Favorable

Yeas: 14 Nays: 0

HB 511 Favorable

Yeas: 14 Nays: 1

Committee meeting was reported out: Wednesday, December 07, 2011 2:49:43PM

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Insurance & Banking Subcommittee

12/7/2011 9:00:00AM

Location: 404 HOB

Attendance:

| | <i>Present</i> | <i>Absent</i> | <i>Excused</i> |
|----------------------|----------------|---------------|----------------|
| Bryan Nelson (Chair) | X | | |
| Ben Albritton | X | | |
| Mack Bernard | X | | |
| Jim Boyd | X | | |
| Douglas Broxson | X | | |
| Rachel V. Burgin | X | | |
| Janet Cruz | X | | |
| Daniel Davis | X | | |
| Bill Hager | X | | |
| Clay Ingram | X | | |
| Evan Jenne | X | | |
| John Julien | X | | |
| Richard Steinberg | X | | |
| John Wood | X | | |
| Ritch Workman | X | | |
| Totals: | 15 | 0 | 0 |

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COMMITTEE MEETING REPORT
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12/7/2011 9:00:00AM

Location: 404 HOB

CS/HB 483 : Uniform Commercial Code

Favorable

| | <i>Yea</i> | <i>Nay</i> | <i>No Vote</i> | <i>Absentee Yea</i> | <i>Absentee Nay</i> |
|-----------------------|------------|----------------------|----------------|-------------------------|-------------------------|
| Ben Albritton | X | | | | |
| Mack Bernard | | | | X | |
| Jim Boyd | X | | | | |
| Douglas Broxson | X | | | | |
| Rachel V. Burgin | X | | | | |
| Janet Cruz | X | | | | |
| Daniel Davis | X | | | | |
| Bill Hager | X | | | | |
| Clay Ingram | X | | | | |
| Evan Jenne | X | | | | |
| John Julien | X | | | | |
| Richard Steinberg | X | | | | |
| John Wood | X | | | | |
| Ritch Workman | X | | | | |
| Bryan Nelson (Chair) | X | | | | |
| Total Yeas: 14 | | Total Nays: 0 | | | |

Appearances:

DiMarco, Anthony (Lobbyist) - Waive In Support
 Florida Bankers Association
 1001 Thomasville Rd
 Tallahassee FL 32303
 Phone: 850-224-2265

Lyon, Aimee (Lobbyist) - Waive In Support
 Florida Bar Business Law Section, The
 215 South Monroe Street, Suite 505
 Tallahassee FL 32301
 Phone: 850-205-9000

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HB 511 : Workers' Compensation

Favorable

| | <i>Yea</i> | <i>Nay</i> | <i>No Vote</i> | <i>Absentee Yea</i> | <i>Absentee Nay</i> |
|-----------------------|------------|----------------------|----------------|-------------------------|-------------------------|
| Ben Albritton | X | | | | |
| Mack Bernard | X | | | | |
| Jim Boyd | X | | | | |
| Douglas Broxson | X | | | | |
| Rachel V. Burgin | X | | | | |
| Janet Cruz | X | | | | |
| Daniel Davis | X | | | | |
| Bill Hager | X | | | | |
| Clay Ingram | X | | | | |
| Evan Jenne | | X | | | |
| John Julien | X | | | | |
| Richard Steinberg | X | | | | |
| John Wood | X | | | | |
| Ritch Workman | X | | | | |
| Bryan Nelson (Chair) | X | | | | |
| Total Yeas: 14 | | Total Nays: 1 | | | |

Appearances:

Large, William (Lobbyist) - Waive In Support
 Florida Justice Reform Institute, President
 210 S Monroe St
 Tallahassee FL 32301-1824
 Phone: 850-222-0170

Gonzalez, Jose (Lobbyist) - Proponent
 Associated Industries of Florida, VP Govt. Affairs
 516 N. Adams
 Tallahassee FL 32312
 Phone: 850-224-7173

Perdue, Tammy (Lobbyist) - Proponent
 Associated Industries of Florida, General Counsel
 516 N. Adams St.
 Tallahassee Florida 32301
 Phone: 850-224-7173

Watson, Richard, Legislative Counsel - Waive In Support
 P.O. Box 10038
 Tallahassee FL 32302
 Phone: 850-222-0000

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Fentriss, Cam, Legislative Counsel (Lobbyist) - Waive In Support
Florida Roofing, Sheet Metal Contractors, Fla. Refrigeration & AC Contractors
1400 Village Square #3-243
Tallahassee FL 32312
Phone: 850-222-2772

Lozano, Lance (Lobbyist) - Waive In Support
Florida United Businesses Association, Chief Operating Officer
116 South Monroe St.
Tallahassee FL 32301
Phone: 850-681-6265

Reeves, Teye (Lobbyist) - Proponent
Florida Chamber of Commerce
136 S. Bronough Street
Tallahassee FL 32303
Phone: 850-521-1235

West, Sally (Lobbyist) - Proponent
Florida Retail Federation, Director of Government Affairs
227 S. Adams Street
Tallahassee FL 32301
Phone: 850-222-4082

Mollick, Thomas - Opponent
Rx Development, Owner
800 Executive Dr.
Oviedo FL 32765
Phone: 727-510-3437

Dickinson, Fred (Lobbyist) - Waive In Support
Dutko Poole McKinley-Miami-Dade County
106 E College Ave Ste 1100
Tallahassee FL 32301
Phone: 850-681-1980

Nedd, Kester, Doctor - Opponent
Self
900 Park Center Boulevard, #400
Miami Gardens FL 33169

Mayer, Ashley (Lobbyist) (State Employee) - Proponent
Department of Financial Services
Capitol
Tallahassee Florida 32399
Phone: 850-413-4938

Kelman, Gary, Doctor - Opponent
Self
350 North Pine Island Road
Plantation FL 33324

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Buck, Douglas (Lobbyist) - Waive In Support
Florida Home Builders Association
201 E Park Ave
Tallahassee FL 32301
Phone: 850-224-4316

Panza, Thomas (Lobbyist) - Opponent
Automated Healthcare Systems
3600 North Federal Highway
Ft. Lauderdale FL 33308
Phone: 954-390-0100

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Workshop

Draft PCS for HB 119a--Motor Vehicle Personal Injury Protection Insurance

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Presentation/Workshop/Other Business Appearances:

Jess, Paul (Lobbyist) - Opponent
Florida Justice Association
218 S Monroe St
Tallahassee FL 32301
Phone: 850-224-9403

Zacharewski, Nicholas - Opponent
Self
7171 N. Federal Highway
Boca Raton FL 33487
Phone: 561-995-1966

Bradford, Rutledge, Atty. - Opponent
Self
5210 S. Orange Ave.
Orlando FL 32809
Phone: 407-926-8710

Nuland, Christopher (Lobbyist) - Information Only
Florida Chapter of the American College of Surgeons
1000 Riverside Ave.
Jacksonville FL 32204
Phone: 904-355-1555

Himmelstein, M.D., Stuart B. - Information Only
American College of Physicians, Florida Chapter
5298 Linton Blvd, Suite 206
Delray Beach FL 33484
Phone: 561-350-1231

Lazegg, Russel - Opponent
Responsive Auto Ins. Co., Attorney & General Counsel
13499 Biscayne Blvd. #107
North Miami FL 33181
Phone: 305-981-9055

Driggers, Kimberly (Lobbyist) - Opponent
Florida Chiropractic Association, Inc
909 E. Park Ave.
Tallahassee FL 32311
Phone: 850-222-2000

Bell, Ryan, President, R-K Bell & Co. - Proponent
GEAR UP Florida Coalition

Lamoureux, Jason - Opponent
Self
611 S. Kings Ave.
Brandon FL 33511
Phone: 813-655-9069

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Gonzalez, Jose (Lobbyist) - Proponent
Associated Industries of Florida, VP Govt. Affairs
PO Box 784
Tallahassee FL 32302
Phone: 850-224-7173

Reed, Christopher - Opponent
Self
875 Concourse Pkwy South, Ste. 195
Maitland FL 32751
Phone: 407-628-2929

Carlson, Michael (Lobbyist) - Proponent
Executive Director, Personal Insurance Federation of Florida
215 S. Monroe Street, Suite 835
Tallahassee FL 32301
Phone: 850-597-7425

Cederberg, Mark, Attorney - Opponent
Self
5210 S. Orange Ave.
Orlando FL 32809
Phone: 407-926-8710

Scott, Jeffery (Lobbyist) - Opponent
Florida Medical Association
113 E. College Ave.
Tallahassee FL 32301
Phone: 850-224-6496

Cornelius, Mark - Opponent
Self
800 Maitland Ave.
Altamonte Springs FL 32701
Phone: 407-900-4622

Large, William (Lobbyist) - Proponent
Florida Justice Reform Institute
210 S Monroe St
Tallahassee FL 32301-1824
Phone: 850-222-0170

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FL PIP - ATTORNEY FEE ISSUES (Multipliers)

The following chart provides a brief sample of representative disputes and the corresponding attorney fee awards on several disputes in which the plaintiff's counsel was awarded a multiplier. The names and identifying information have been redacted to protect the privacy of those involved in the lawsuits.

| Description of Case | Amount In Dispute / Settled | Plaintiff Attorney Fees & Costs Awarded / Paid | Percentage of Total Award paid to the Plaintiff Attorney | Case Number/ County |
|---|-----------------------------|--|--|--------------------------------|
| 59-A388-446 The amount of the dispute for MRI OPPS was \$490.10 plus interest, penalty & postage. Plaintiff's counsel was awarded a 2.0 multiplier. The date of the Final Judgment for Fees and Costs was 8/5/11 . | \$490.10 (plus P, P & I) | \$77,171.64 | 99.4% (not including consideration for P, P & I) | 2010-SC-002508 Escambia County |
| *59-Z189-579 The amount at issue was \$9383.87 (includes penalty, postage & interest). Plaintiff's counsel was awarded a 2.0 multiplier. The date of the Final Judgment for Fees and Costs was 4/14/08 . | \$9383.87 | \$25,963.50 | 73.5% | 2007-CC-002962 Escambia County |
| *59-Y750-248 The amount at issue was \$3741.00 for a DC IME discontinuance (MPC benefits - no penalty, postage & interest). Plaintiff's counsel was awarded a 1.5 multiplier. The date of the Final Judgment for Fees and Costs was 4/14/08 . | \$3741.00 | \$34,384.25 | 90.2% | 2007-SC-001772 Escambia County |
| *59-V536-142 The amount at issue was \$128.00 for a DC IME discontinuance plus penalty, postage & interest. Plaintiff's counsel was awarded a 2.0 multiplier. The date of the Final Judgment for Fees and Costs was 4/14/08 . | \$128.00 (plus P, P & I) | 100,848.50 | 99.9% (not including consideration for P, P & I) | 2007-SC-001017 Escambia County |
| 59-A185-187 The amount at issue was \$600.00 for a DC IME discontinuance. Plaintiff's counsel was awarded a 1.5 multiplier. The date of the Final Judgment for Fees and Costs was 5/9/2011 . | \$600.00 (plus P,P & I) | \$56,892.75 | 98.9% (not including consideration for P, P & I) | 2010-SC-003061 Escambia County |
| 59-Y498-066 The amount of the dispute for MRI CPI was \$27.85 plus interest, penalty & postage. Plaintiff's counsel was awarded a 1.5 multiplier. The date of the Order is 3/5/09 . | \$49.30 | \$51,682.50 | 99.9% | 04-SC-4156 Orange County |
| 59-Y500-082 The amount of the dispute for MRI CPI was \$27.85 plus interest, penalty & postage. Plaintiff's counsel was awarded a 2.0 multiplier. The 12/3/09 decision was finalized on 6/10/10 . | \$51.20 | \$64,330 | 99.9% | CC-04-SP-001807 Osceola County |

*These cases were consolidated for purposes of the fee hearing. However, the decisions were independent.

FL PIP - ATTORNEY FEE ISSUES

The following chart provides a brief sample of representative disputes and the corresponding attorney fee awards on several recent PIP disputes in Florida. The names and identifying information have been redacted to protect the privacy of those involved in the lawsuits.

| Description of Case | Amount In Dispute / Settled | Plaintiff Attorney Fees & Costs Awarded / Paid | Percentage of Total Award paid to the Plaintiff Attorney |
|---|-----------------------------|--|--|
| Dispute over amount of reimbursement owed to provider on fee schedule d charge (CPT code 97124). Trial Award | \$41.64 | \$16,000.00 | 99.7% |
| Coverage dispute over insured failure to cooperate, as required under the policy, and attend Examination Under Oath (EUO). Trial Award | \$2,100.00 | \$80,000.00 | 97.4% |
| Termination of benefits due to IME. Trial Award. Attorney fees awarded were \$174,737.00 but were negotiated to \$168,737.50 | \$5,248.00 | \$168,737.50 | 96.9% |
| Termination of benefits due to IME – settled for \$140.00 during mediation. Negotiated attorney fees and costs up to time of settlement | \$140.00 | \$18,168.00 | 99.2% |
| Billing dispute on reasonable, necessary and related charges for diagnostic test. Trial Award. Negotiated fees of attorney to resolve prior to going to fee hearing. | \$49.03 | \$27,500.00 | 99.8% |
| Fee schedule dispute for MRI testing – settled \$209.97 prior to trial. Negotiated attorney fees and costs up to time of settlement | \$209.97 | \$19,500.00 | 98.9% |
| Termination of benefits due to IME – 2 suits by same insured involved in multiple MVAs. Settled \$960.00 for each suit and negotiated fees | \$1,920.00 | \$50,000.00 | 96.2% |
| Termination of benefits due to IME – Dispute was over \$128.00. Settled prior to trial for \$142.79 (incl. interest). Plaintiff attorney was awarded fees plus multiplier | \$142.79 | \$76,973.86 | 99.8% |
| Dispute over amount of reimbursement owed to provider on fee schedule charge (CPT code 97124). Negotiated settlement and fee award | \$640.00 | \$14,250.00 | 95.5% |

(Note: The above does not include the costs and fees paid by the insurer to their retained defense counsel)

Due to the potentially significant fee awards over any dispute, the current PIP system clearly incentivizes excess litigation.

The “one way attorney fee” creates no risk for a plaintiff or their counsel to pursue litigation, even for small amounts.

These outcomes create a chilling effect on an insurer’s ability or willingness to refute charges submitted by a medical provider for reimbursement under PIP.