

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1359



2005 HOUSE HUMAN SERVICES

HB 1359




2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1359

House Human Services Committee

☐ Conference Committee

Hearing Date January 24, 2005

| Tape Number   | Side A | Side B | Meter # |
|---|--------|--------|---------|
| #1  | x      |        | 10-1000 |
|   |        |        |         |
|   |        |        |         |
| Committee Clerk Signature  |        |        |         |

Minutes:

**Chairman Price:** Opened hearing 12 members present.

**Vice Chairman Kreidt:**

See Attached Testimony

**Rep. Devlin:** Don't hospitals and other providers have the same problem?

**Rep. Kreidt:** I assume they do. Years ago, when I first started in the Nursing Home Care business, life was fairly simple. At the first of the month, families would come in and give you a check and everyone was happy. Then statements was sent out, then we started to have individuals who would be delinquent. We as administrators, didn't penalize anyone or ever use a financial program to assess the moneys that were delinquent. But in this day and age, with the dollar amount that we are working with, you all know that stay in nursing homes is about \$150.00 a day average right now. These bills accumulate quickly, if someone gets 3 months behind or farther. Being able to take this \$25.00 per month limit off, I feel would be an incentive



for someone to step up and pay their bills on a timely basis, instead of just the \$25.00. Situations with ours and other nursing homes are becoming increasingly out of hand. I would ask that you give serious consideration in passing this bill.

**Rep. Uglem:**

See Attached Testimony.

**Gary Riffe, CNHA, Adm/Pres. Hi-Acres Manor.**

See Attached Testimony. Note: Change 42 bed to 142 bed.

**Shelly Peterson, President ND Long Term Care Assoc.**

See Attached Testimony

**Chairman Price:** Close hearing on HB 1359

MR#1016

Reopened HB 1359 Discussion:

**Chairman Price:** We had a statement concerning a fiscal impact, there will be no fiscal impact.

**Rep. Devlin:** We have looked at the proposed amendments, we should be able to work with that. Motion to accept the amendments.

**Voice vote: 12-0-0**

**Rep. Porter:** Second

**Rep. Nelson:** Motion Do Pass as amended.

**Rep. Uglem:** Second.

**Vote: 12-0-0.**

**Carrier: Rep. Nelson**



**FISCAL NOTE**  
 Requested by Legislative Council  
 01/27/2005

Amendment to: HB 1359

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                       | 2003-2005 Biennium |             | 2005-2007 Biennium |             | 2007-2009 Biennium |             |
|-----------------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                       | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| <b>Revenues</b>       | \$0                | \$0         | \$0                | \$0         | \$0                | \$0         |
| <b>Expenditures</b>   | \$0                | \$0         | \$0                | \$0         | \$0                | \$0         |
| <b>Appropriations</b> | \$0                | \$0         | \$0                | \$0         | \$0                | \$0         |

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

| 2003-2005 Biennium |        |                  | 2005-2007 Biennium |        |                  | 2007-2009 Biennium |        |                  |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties           | Cities | School Districts | Counties           | Cities | School Districts | Counties           | Cities | School Districts |
| \$0                | \$0    | \$0              | \$0                | \$0    | \$0              | \$0                | \$0    | \$0              |

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill would amend and reenact section 13-01-14 of the NDCC relating to the amount of late payment charges a licensed nursing facility or basic care facility may charge on medical bills.

There is no fiscal impact for the department.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

|                      |              |                       |                |
|----------------------|--------------|-----------------------|----------------|
| <b>Name:</b>         | Brenda Weisz | <b>Agency:</b>        | Human Services |
| <b>Phone Number:</b> | 328-2397     | <b>Date Prepared:</b> | 01/28/2005     |



**FISCAL NOTE**  
**Requested by Legislative Council**  
01/13/2005

Bill/Resolution No.: HB 1359

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                | 2003-2005 Biennium |             | 2005-2007 Biennium |             | 2007-2009 Biennium |             |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| Revenues       | \$0                | \$0         | \$0                | \$0         | \$0                | \$0         |
| Expenditures   | \$0                | \$0         | \$0                | \$0         | \$0                | \$0         |
| Appropriations | \$0                | \$0         | \$0                | \$0         | \$0                | \$0         |

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

| 2003-2005 Biennium |        |                  | 2005-2007 Biennium |        |                  | 2007-2009 Biennium |        |                  |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties           | Cities | School Districts | Counties           | Cities | School Districts | Counties           | Cities | School Districts |
| \$0                | \$0    | \$0              | \$0                | \$0    | \$0              | \$0                | \$0    | \$0              |

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill would amend and reenact section 13-01-14 of the NDCC relating to the amount of late payment charges a licensed nursing facility or basic care facility may charge on medical bills.

There is no fiscal impact for the department.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

|                      |              |                       |                |
|----------------------|--------------|-----------------------|----------------|
| <b>Name:</b>         | Brenda Weisz | <b>Agency:</b>        | Human Services |
| <b>Phone Number:</b> | 328-2397     | <b>Date Prepared:</b> | 01/14/2005     |



VK  
1/24/05

HOUSE AMENDMENTS TO HOUSE BILL NO. 1359 H.S. 1-25-05

Page 1, line 2, remove "a licensed nursing facility or basic care facility"

Page 1, line 3, remove "may charge"

Page 1, line 18, overstrike ", but"

Page 1, line 19, overstrike "the charge cannot exceed twenty-five dollars per month" and  
remove "The twenty-five dollar"

Page 1, remove line 20

Page 1, line 21, remove "facility or a basic care facility."

Renumber accordingly



Date: 1/24/05

Roll Call Vote #:

1- Amended - Vote 12-0-0  
2- Rep Devlin / Rep Porter

DP4 - 12-0-0  
Rep Nelson / Rep Nelson  
C. Nelson

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1359

House

Human Services

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass as Amended

Motion Made By

Rep Nelson

Seconded By

Rep Uglem

| Representatives     | Yes | No | Representatives | Yes | No |
|---------------------|-----|----|-----------------|-----|----|
| Chairman C.S. Price | ✓   |    | Rep.L. Kaldor   | ✓   |    |
| V Chrm.G. Kreidt    | ✓   |    | Rep.L. Potter   | ✓   |    |
| Rep. V. Pietsch     | ✓   |    | Rep.S. Sandvig  | ✓   |    |
| Rep.J.O. Nelson     | ✓   |    |                 |     |    |
| Rep.W.R. Devlin     | ✓   |    |                 |     |    |
| Rep.T. Porter       | ✓   |    |                 |     |    |
| Rep.G. Uglem        | ✓   |    |                 |     |    |
| Rep C. Damschen     | ✓   |    |                 |     |    |
| Rep.R. Weisz        | ✓   |    |                 |     |    |
|                     |     |    |                 |     |    |
|                     |     |    |                 |     |    |
|                     |     |    |                 |     |    |
|                     |     |    |                 |     |    |
|                     |     |    |                 |     |    |

Total

( ) 12 yeas

No 0

Absent

0

Floor Assignment

Rep Nelson

on an amendment, briefly indicate intent:



**REPORT OF STANDING COMMITTEE**

**HB 1359: Human Services Committee (Rep. Price, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1359 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "a licensed nursing facility or basic care facility"

Page 1, line 3, remove "may charge"

Page 1, line 18, overstrike ", but"

Page 1, line 19, overstrike "the charge cannot exceed twenty-five dollars per month" and remove "The twenty-five dollar"

Page 1, remove line 20

Page 1, line 21, remove "facility or a basic care facility."

Renumber accordingly



2005 SENATE HUMAN SERVICES

HB 1359



2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1359

Senate Human Services Committee

☐ Conference Committee

Hearing Date February 23, 2005

| Tape Number                                   | Side A | Side B | Meter #   |
|---|--------|--------|-----------|
| 1   | x      |        | 5,300-end |
| 1   |        | x      | 00-1290   |
|   |        |        |           |
| Committee Clerk Signature <i>Cathy Mirand</i> |        |        |           |

Minutes:

Chairman Lee opened the public hearing on HB 1359. All members were present.

**Representative Gary Kreidt, District 33, introduced the bill**, which relates to the amount of late payment charges a licensed nursing facility or basic care facility may charge on medical bills.

See written testimony (Attachment 1)

**Sen. Warner:** Some other committees are dealing with similar issues, late charges and such, and penalties and they're working on issue on statute she's finds payment as prime plus two, in other words, prime rate sets out how that's determined and sets it for the entire year. It varies from year to year but is consistent within the year, how would you feel about using that instead of the 1%? Currently that would be less than 1%.

**Rep. Kreidt:** At this time, I feel 1% would be the direction I would like to see the bill go, the way it came out of the House. The amendment in the bill, in the original bill we were looking at basic care facility and nursing facilities, we did amend the bill to include all medical providers,



so we covered the whole scope that anybody will fall under this bill now. We foreseen what would happen, if we did it this year for the basic care nursing facilities next session you would have the other entities wanting the same provision, so we think we alleviated some problems by doing that already with this bill. This bill came out of the House with a large majority, and I think it's a good bill and it relates back to what we just talked about with the previous bill, facilities are incurring large accounts and again you place a \$25 limit on those accounts, there really isn't much incentive for someone to pay the bill. They're going to look at paying everything but the nursing home and use us for their bank or let us carry the load because they know they're only going to be assessed the \$25; with the 1% if you have a large bill, it might get their attention a little sooner.

**Sen. Dever:** This bill eliminates the \$25 cap on interest, which would, at 1%, be a \$2500 bill, seems to me it could be pretty significant. What would be more typical if you took the cap off?

**Sen. Warner:** Even a single month at \$4400, would be \$44.

**Rep. Kreidt:** Over a year's time you're looking at over \$500.

**Chairman Lee:** I have a problem with the 1% per month because I consider the rate usurious when we can have long term interest rates of about 5 1/8% and I think 12% is really high. I have a problem with the 12% annual and removing the cap. I think we have to respectfully agree to disagree. Maybe we can find something we can both live with.

**Rep. Kreidt:** We are continuing to grow large account receivable with nursing homes and the \$25, if you have a \$50000 bill out there, and you're only going to be charged \$25 for us to carry that bill, there's little incentive in the 1% and even the 1%, may credit cards are 18-20%.



**Chairman Lee:** This isn't a revolving charge, and you will be getting a bill over in the House that we passed in the Senate, that dealt with exactly that from a medical provider who did it to me. If we took the cap off and had this in parallel with the bill that has moved to your House, that would change the 1% per month, but took the cap off, you'd still be able to accrue a penalty that would make it an incentive, but it wouldn't necessarily be at the 12% which now there isn't anyplace that charges 12%.

**Rep. Kreidt:** There's some negotiation.

**Testimony in favor of bill**

**Shelly Peterson, President of the North Dakota Long Term Care Association** See written testimony (Attachment 2 and 2A)

**Steve Rixen, lobbyist for MedCenter One Health Systems.** See written testimony (Attachment 3)

**Sen. Dever:** We're looking here at a \$4300/monthly bill, but with the hospital the bill could be higher.

**Rixen:** Not sure on our policy on interest rates, but will do some checking.

**Sen. Dever:** Eliminating a \$25 cap could be a windfall.

**Chairman Lee:** And a real hardship for somebody with bad medical bills. I have concerns about opening it up to all medical providers, because long-term care is not acute care and so there's a predictable \$4300 a month, we know that's the cost, and it was mainly in the previous bill having to do with unqualified transfers, so that's not an acute kind of deal. I do have a problem with somebody without medical insurance, we're not talking about Medicaid coverage then being the fallback. And with the interest that can accrue at a rate of 12% per year and a



cap of \$25 being taken off, there's an enormous penalty that accrues here and somebody can be well intended but limited in income and would never be able to catch up. What does the health care association think about this and clinics too.

**Testimony in opposition**

**John Risch, Legislative Director for the United Transportation Union Railroad Workers across the state of North Dakota.** This bill has the possibility to add to the burden of those people who already have a hard time paying medical bills. He recently saw the medical bill from one of his members who had heart surgery. It was \$47,000, but the man was fortunate and had health insurance. But if he hadn't, and couldn't pay the bill or was struggling to pay it, if they were faced with the additional 1% a month penalty, it would make the process much more difficult and just add more money owed that couldn't be paid in the first place. It would be a tremendous additional burden on people of lower income that don't have health care coverage. He passed out an article (Attachment 4). He made the recommendation to section 4, line 16, put a period behind hospital bills and eliminate everything behind that (the rest of section 4). It would eliminate all late charges.

There was no further testimony on the bill. Chairman Lee closed the public hearing.

**Sen. Warner:** I asked Carlee to look up that section in code, there's a reference to a way of calculating prime plus 2, sets out a specific date in December when the prime is determined and it's already in code, if the committee would feel inclined to go in that direction.

Chairman Lee mentioned the fiscal note and ended the discussion on the bill.




2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1359

Senate Human Services Committee

☐ Conference Committee

Hearing Date March 7, 2005

| Tape Number   | Side A | Side B | Meter #    |
|---|--------|--------|------------|
| 1   |        | X      | 56.7 - end |
| 2   | X      |        | 00-2190    |
|   |        |        |            |
| Committee Clerk Signature  |        |        |            |

Minutes:

Senator Judy Lee, Chairman of the Senate Human Services Committee opened committee work on HB 1359 relating to the amount of late payment charges on medical bills.

All members of the committee were present.

A proposed amendment was distributed to the committee (See attachment #1).

Senator Lee stated that the original bill referred to only long term care, but the House added hospitals. She further stated she did not have a concern on having a cap in regards to long term care but not medical bills.

Senator Stanley Lyson stated the Railroad Union opposed the bill because it was an additional burden on lower income people without health coverage.

Senator Lee asked for an original printout of HB 1359.

Discussion was held regarding the cap and compounding interest on a monthly statement.

Copies of the original bill was distributed to the committee (See attachment #2).



Senator Lee stated she preferred the concept of the original bill and to address the cap in some way so that the loss of nursing facilities due to the disqualifying of Medicaid or the families who do have the ability to pay.

Senator Dick Dever stated that if the committee did not like the idea of removing the cap, to just kill the bill.

Chairman Lee: But I want to change the 12 to a 1% per month to prime plus two.

Sen. Lyson: Didn't we take care of that in a different bill?

Chairman Lee: We have to clean up this bill in case it passes. We can amend it and then we can kill it.

Sen. Warner: Does the fact that this bill doesn't reference code that means if this changes at some point that this will not change with it?

Sen. Lyson: I think what happens here, long-term care people try to collect and try to collect and they may have turned it over to a collection agencies, but they don't go to court. The other bill was for a judgment area. Very few get judgments. This, I'm guessing, is a bill that is trying to be collect without a judgment.

Chairman Lee: And we have to decide whether we want to leave the 1% per month in place or adjust it.

Sen. Lyson: It doesn't give the incentive to make people pay and it doesn't help the poor.

The stronger the influence, the more likely the people will pay.

Vice Chairman Dever: One percent would be a little over \$40, and 1% would be about \$44 a month.



Chairman Lee: What does the committee think about removing all facilities except long-term care and basic care. Are you interested in separating out? And the other thing is the interest rate area, that we're going to make an adjustment or not from 1% per month to prime plus two. And the third, do we want to eliminate the cap, leave the cap in place or make the cap a different number?

There was some discussion on these issues among the committee members, the prime plus two issue and the cap.

Sen. Brown: How about taking the cap off and lowering the interest rate?

Chairman Lee: I'd be comfortable with that too.

Sen. Warner: If we follow the principle that we're only dealing with the assets of the person in care and those assets are likely to be distinguished anyway during the stay, in a way we're transferring the obligation to pay interest to Medicaid in a strange sort of way.

Chairman Lee: There's going to be families that they're not going on Medicaid and the families are resistant to paying. Their the ones they're after.

Sen. Lyson: To understand, you're taking the cap off, and are you talking about leaving it like it is here with it crossed out and not in law anymore?

Chairman Lee went over the proposed wording that should go into the bill. They went back to the original bill and made changes to there instead of the amended one. Carlee printed out what the amendment would look like (attachment 3). Carlee went over the changes with the committee.

Senator Warner moved DO PASS the amendment (March 7 proposed amendment), seconded by Senator Dever



Page 4

Senate Human Services Committee

Bill/Resolution Number HB 1359

Hearing Date 3-7-05

VOTE: 5 yeas, 0 nays, 0 absent

Senator Brown move DO PASS the amended bill, seconded by Senator Warner.

VOTE: 5 yeas, 0 nays, 0 absent Carrier: Senator Warner




## 2005 SENATE STANDING COMMITTEE MINUTES

### BILL/RESOLUTION NO. HB 1359

Senate Human Services Committee

☐ Conference Committee

Hearing Date March 14, 2005

| Tape Number   | Side A | Side B | Meter # |
|---|--------|--------|---------|
| 1   | x      |        | 00-1000 |
|   |        |        |         |
|   |        |        |         |
| Committee Clerk Signature  |        |        |         |

Minutes:

Chairman Lee opened discussion on HB 1359. All members were present.

Chairman Lee: The reason I pulled back HB 1359 which Senator Warner was carrying on the floor last week, was because Sen. Krebsbach said they had one in IBL that she thought was in conflict with it--as far as the interest rate, that's long-term care, \$25 a day, 91st day, prime plus 2 percent. Actually there are four bills that include an interest rate, but there are three that are relevant here. The one we have is 1359, what we had before was..there was a judgment bill which IBL had 2302 and that had prime plus 2% and includes child support. I got the minutes from IBL for that committee. The same as we, they agreed that long-term care and basic care should have the interest rates as club to handle some of that money.

2204 was a bill that I sponsored and it started out with the main purpose to make sure that the main clinic wasn't charging 18% on a revolving charge, so we backed it up, and that also has the 91st day as when it first starts, \$25 cap, doesn't apply to long-term care or basic care but it's 1%



per month. That's being heard in the House this week. What would you like to do? We can't have these two that, everything else is in sync except the interest rate. So one of us has to change something.

Sen. Lyson: How was the interest rates on ours....

Chairman Lee: The interest rate on the one we did in the first half was a Senate bill that we mine, because we were focusing more on not letting them charge 18%, we left it at 1% a month and the long-term care people, Rep. Kreidt came in and said we need to have the \$25 cap removed for basic care and long-term care. So we added that except for a creditor that is a licensed nursing facility or basic care facility a late payment charge cannot exceed \$25 a month. On both bills, that's okay, on both bills interest doesn't start until the 91st day. But on 2204, which the House is going to hear this week, it's 1% per month. On the one that Senator Warner was going to be carrying that we sent out of here last week, we reduced that to prime plus two, which couldn't be compounded and was determined in December, which is what the judgment bill that IBL had.

We were trying to be consistent with the IBL bill. Visiting with Sen. Krebsbach again this morning, she said that the long-term care facilities came in to tell them that they wanted to leave the interest rate where it was because they don't often change it but they need the club, which we heard as well, that's why they left the interest rate and removed the cap. I told Rep. Kreidt that we weren't comfortable with both with removing the cap and having 1% per month, but I can't speak for all of you.

Sen. Lyson: It was compounded right?

Sen. Brown: That's right.



Chairman Lee: I think that's really heavy. Do we care about being consistent with the prime plus two. If that's going to be problematic for long-term care I think they'll come and tell us, but I haven't asked Shelly (Peterson) about that and I probably should

Sen. Lyson: She certainly didn't oppose it when we had the hearing and she was here all the time.

Chairman Lee: Senator Krebsbach suggested  $\frac{1}{2}$  % per month. Frankly, that's less than prime plus two, so that's going to give them less than an incentive than what we're providing for them.

Sen. Warner: Language earlier in the bill, that is not part of the change. There's a  $1\frac{3}{4}$  % late fee and in retrospect that may be more alarming than the 1%.

Chairman Lee: Yes, and that isn't even something we're changing. The late payment charge may not exceed  $1\frac{3}{4}$  % per month.

Vice Chairman Dever: Except as provided in subsection 4.

Chairman Lee: Which has to do with long-term care facilities where the cap is \$25 for everybody but them.

Sen. Warner: That still seems really high.

Chairman Lee: Yes.

Sen. Warner: That's just the late charge not even counting the interest which comes later.

Chairman Lee: There are two issues here, the late payment change and the interest rate. If you want to continue this discussion we can, or move on.

Sen. Brown: I kind of like the two plus prime.

Sen. Lyson: Sen. Warner: I do to.

Sen. Lyson: The compounding just bothers me.

Vice Chairman Dever: Is the IBL bill pertaining to the same section?



Chairman Lee: IBL bill pertains to 28-20-34 relating to post judgment interest and includes child support. So there is a connection to a human service issue in that we adjusted the child support interest from 12% to prime plus two, which I think is important, because that was punitive.

Sen. Warner: I think the distinction is that those are judgment that had been adjudicated, and interest rate on long-term care would rarely go to court, it would just be assigned. I don't think we could just reference code and say it's advised here too.

Chairman Lee: I agree. But these other two bills are very similar to one another. If we leave the prime plus two, I'll need to have an amendment prepared to take to the House, either we hold onto this one until that one goes through, but I'd rather have them match.

Sen. Brown: Their human services intern should do the amendment. Now lets talk about the late payment charge. What's that for?

Chairman Lee: For those people who have a debt to a clinic or hospital, if you don't get your payment in on time, there's a penalty or late payment charge in addition to the accrued interest.

Sen. Warner: It's almost twice what the accrued interest is.

Sen. Lyson: Is that a one time charge then?

Sen. Warner: One time per month

Chairman Lee: Each time your payment is late. On 2204 which we heard here (we didn't though) we added (Sen. Lee read from the statute and another side conversation was going on)

Sen. Brown: Was that a change this time?

Chairman Lee: That's current statute. (Continued to read). So what we're going to be doing is asking the House to consider an amendment at prime plus two percent. Should I make some note about the late payment charge and that we understand that what we do that it appears that it



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Senate Human Services Committee

Bill/Resolution Number HB 1359

Hearing Date March 14, 2005

wouldn't be charged, and we certainly to make it clear that there wasn't any overlap they couldn't ???? and we don't think they can.

Sen. Lyson: It was pretty self explanatory that you can't.

Chairman Lee: I will visit with Rep. Price about that, any other comments you want me to bring to her attention? Sounds to me we'll let it go the same way we sent it out in the first place and try to work with the House on the other bill.

Sen. Lyson: That would be my preference.

Vice Chairman Dever: And we already did the sixth order on this bill.

Chairman Lee: The amendment has been approved and John was just ready to present the bill on the floor. We'll wait another day before we send it back out again so I have a chance to talk to

Clara Sue (Price)

Chairman Lee closed discussion on HB 1359. No action was taken.



PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1359

Page 1, line 16, after the period insert "Interest may not begin to accrue until the ninety-first day after the obligation of the debtor to pay has been incurred."

Page 1, line 17, overstrike "that does not exceed one percent per month" and insert immediately thereafter "equal to the prime rate published in the Wall Street Journal on the first Monday in December of each year plus two percentage points rounded to the nearest whole number percentage point and may not be compounded in any manner" and remove the overstrike over "; but"

Page 1, line 18, remove the overstrike over "~~the charge cannot exceed twenty-five dollars per month~~" and after the period insert "The twenty-five dollar per month limit under this subsection does not apply to a creditor that is a licensed nursing facility or a basic care facility."

Renumber accordingly



Date: 3-7  
Roll Call Vote #: \_\_\_\_\_

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1359

**Senate Human Services Committee**

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Perseverance

Motion Made By Sen Warr Seconded By Sen Diner

[illegible]

Total (Yes) 5 No 0

Absent

### Floor Assignment

**If the vote is on an amendment, briefly indicate intent:**



Date: 3-7

Roll Call Vote #: 2

## 2005 SENATE STANDING COMMITTEE ROLL CALL VOTES

**Senate Human Services Committee**

☐ Check here for Conference Committee

**Legislative Council Amendment Number** \_\_\_\_\_

Action Taken Do Pass Amendment

Motion Made By Sen. Brown Seconded By Sen. Warner

[illegible]

Total (Yes) 5 No 0

Absent 0

Floor Assignment See Warner

**If the vote is on an amendment, briefly indicate intent:**



**REPORT OF STANDING COMMITTEE**

HB 1359, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1359 was placed on the Sixth order on the calendar.

Page 1, line 16, after the period insert "Interest may not begin to accrue until the ninety-first day after the obligation of the debtor to pay has been incurred."

Page 1, line 17, overstrike "that does not exceed one percent per month" and insert immediately thereafter "equal to the prime rate published in the Wall Street Journal on the first Monday in December of each year plus two percentage points rounded to the nearest whole number percentage point and may not be compounded in any manner" and remove the overstrike over ",-but"

Page 1, line 18, remove the overstrike over "~~the charge cannot exceed twenty-five dollars per month~~" and after the period insert "The twenty-five dollar per month limit under this subsection does not apply to a creditor that is a licensed nursing facility or a basic care facility."

Renumber accordingly

*Incorrect - see 3/17  
correction*



**REPORT OF STANDING COMMITTEE**

HB 1359, as engrossed and amended: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1359, as amended, was placed on the Fourteenth order on the calendar.

*corrected on floor*



**CORRECTION AND REVISION OF THE JOURNAL**

**MR. PRESIDENT:** Your **Committee on Correction and Revision of the Journal (Sen. Espegard, Chairman)** has carefully examined the Journal of the Forty-eighth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 849, replace lines 40 through 52 with:

**"HB 1359, as engrossed and amended: Human Services Committee (Sen. J. Lee, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1359, as amended, was placed on the Fourteenth order on the calendar."**

Page 850, remove lines 2 through 4

**SEN. ESPEGARD MOVED** that the report be adopted, which motion prevailed.



2005 HOUSE HUMAN SERVICES

CONFERENCE COMMITTEE

HB 1359



2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1359**

House Human Services Committee

☒ Conference Committee

Hearing Date **April 6, 2005**

| Tape Number                                   | Side A   | Side B | Meter #   |
|---|----------|--------|-----------|
| <b>1</b>                                      | <b>X</b> |        | <b>36</b> |
|   |          |        |           |
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| Committee Clerk Signature <i>Janice Stein</i> |          |        |           |

Minutes:

**REP. TODD PORTER, CHAIRMAN** Called the conference committee to order.

**SEN. JUDY LEE** Explained the amendments drafted to the bill. She stated this bill and SB 2204 are connected. She stated they heard SB 2204 in the IBL committee, while SB 2302 was heard in the Judiciary committee, which had to do with the interest on judgments, which includes the interest on child support. The interest on child support can be waived by the unit, if the obligore is collaborating with the program. Twelve percent is really a serious rate, when the market is less than six. We thought it was appropriate in HB 1359, to clarify the fact that the interest would not begin to accrue until the ninety first day because it is already in statute that they can't charge or collect. We moved the one percent per month, which obviously is APR of twelve percent. The twenty five dollar per month cap was removed from long-term and basic care, because Rep. Kreidt had brought to our attention the fact that it is a challenge to collect on some of those bills. We had some very strong feelings about not having it removed on hospitals



and clinics because that is quite a bit different. She used an example of long-term care of forty four hundred dollars per month, accrued over a period of time, the majority of the income for long-term care comes from medicaid, having the cap off there, seemed reasonable to us.

Somebody could have a sixty thousand dollar surgical bill, which included some significant clinic bills as well, and not have the big income or adequate insurance and, even if they were willing, they wouldn't be able to keep up with the interest if we left it at that twelve percent. We see a very distinct difference between long-term basic care and hospital and clinic bills.

**SEN. WARNER** Stated he agreed with everything Sen. Lee said.

**SEN. DEVER** Also concurred with what was said. He stated long-term care is between four thousand and forty five hundred dollars per month, and interest on that is significantly different then the potential for hospital bills. I think if somebody has a large hospital bill, we should encourage them to do what they can to pay it, and if they are responsible enough to do that, we should make sure they are able to do that. Applying that interest to hospital bills, would make it impossible for them to pay that.

**REP. NELSON** If we want to come to a resolution of this thing, I tend to agree with your position on the third item, the twenty five dollar situation, but the biggest area of contention, may be the prime rate. To provide an incentive to come to the table to negotiate is the area of most concern. I would suggest to accept the third item, if you agree to our position of one percent per month, I think we could get out of here rather quickly.

**REP. KALDOR** Stated, when he looked at this earlier, as we discussed the interest rate, knowing it doesn't reflect the real market rate, and the reason for that is, we want people to pay. I



also agree with the twenty five dollar portion of this as well. I will admit, in committee I had some aingst about the interest rate, but it didn't seem terribly unreasonable in the circumstances.

**REP. PORTER** In subsection 4, using the word, "medical" in the first line, makes a broad implication, from a free standing clinic in rural North Dakota to a large health care system, and it includes chiropractors, and just about anybody licensed in the professional section of the century code. It also includes ambulance services, which are near and dear to my heart. By having that word in there, it oversteps the ability for those free standing businesses, to collect their bills. If we want to look at hospitals, because of their uniqueness, that is one thing, but to lump medical in as medical in that subsection, really limits the ability of a business, to do business. On a personal note, the ambulance industry accross the nation, has about a twenty five percent uncollectable rate. We are no different in North Dakota, about every fourth call, is done for free. Typically, it is used as a tool to collect, the vast majority of the time, it is written off, if someone agrees to stay current. When you look at the ninety first day, that is three months and a day, before you can actually start charging, the individual, interest. That is only if the claim becomes late. They have one hundred and twenty days to stay current, and if they start making payments toward their bill, there is no interest charged. A couple other things that bother me, is that nursing facilities and basic care facilities aren't the only ones who assume large amounts of debts in unique situations. Clinics, ambulance services, stand alone, free standing facilities, treat patients first, then worry about the payment. No one is standing at the door saying you have to pay before we fly you to Minneapolis or Rochester, and those bills are eight, nine thousand dollars. If someone decides not to pay them, you have to have tools at your disposal to collect that debt. That is how I look at this. To limit it to twenty five dollars a month, is forcing the



provider to take out operating loans in order to survive. If we are looking to target just hospitals, that is one thing, but when you use the word "medical" and it limits the stand alone doctor's office, or an ambulance service, then you are lumping a bunch of small businesses in with a large health care organization which has the ability to squeeze money in other ways. I have a problem with that.

**REP. WARNER** Had a question regarding the interest charge.

**REP. PORTER** Stated he didn't know how other accounts receivable work, he only knew how his worked. The interest charge starts on the ninety first day.

Someone from Mid Dakota Clinic gave an explanation of how their charges work.

**SEN. LEE** Stated they may have to clarify that.

**SEN. WARNER** Stated the word "interest" should be used all the way through instead of "late charge".

**MS PETERSON** Stated they were very pleased when the Senate, put it to prime rate plus two percent interest, the biggest issue to us is the twenty five dollar limit.

**SEN. LEE** When we took off the cap?

**MS. PETERSON** We were supportive of prime plus two, and also having it extend from the cap of twenty five dollars. (??? Not sure)

**REP. PORTER** Stated as we go through this process, we are going to end up with at least two different rates for collection agencies to use, do you see that as a problem?

**MS. PETERSON** Yes, we would. It would be far better if they could all be consistent.

**SEN. DEVER** What would the current rate be under this bill with prime plus two?



**MS. PETERSON** We checked the prime on December 15, 2004, was 5.25%, so it is 5.25% plus 2%, which would be 7.25%. The way the bill read, it goes the first Monday, but we couldn't go back and find the Wall Street Journal on that exact date, so we just took the closest date of December 15.

**REP. PORTER** Asked about the accounts receivable side of things, are the bills mainly computerized?

**MS. PETERSON** I am not sure, everyone has a computer system. It has been a rarity that we charged interest, it may be on an individual basis.

**MIKE TOMASKO** For information purposes for the conference committee, last session we put the twenty five dollars on for hospitals, simply for the ability to get people to sit down and work on a payment plan. It was not to recoup anything on top of it. If you make the distinction between institutions and medical providers, and leave the cap on for hospitals, that would be in accord to what we brought to the legislature in the last session. We still haven't had sufficient time to evaluate the impact of that cap.

**REP. KALDOR** Are you aware of whether or not hospitals in your organization are using collection agencies?

**MIKE TOMASKO** We all use collection agencies. We try to work out a payment plan with most people, particularly in North Dakota, because of a population who pay their bills as they go. If you are not of means, we write it off. It is very, very individual, and we are very concerned about not driving somebody into bankruptcy.



**REP. PORTER** If you look at the ability of charging interest on a debt, and an individual looks at it and says, I know if they can only charge me twenty five dollars, I will pay my credit card first, don't you think that places you at the bottom of the "how am I going to get paid ladder"?

**MIKE TOMASKO** It is human nature, you can't repossess in medicine. Medicine does bet put in the bottom of the pile.

**REP. NELSON** What is the average cost of the unpaid obligation?

**MIKE TOMASKO** If you are dealing with an in-town type emergency call, you are probably on the average of six to seven hundred dollars, if you are looking at the non emergency situation, taking Grandma back to the nursing home in Rugby, or taking someone to Rochester for a second opinion, which you cannot collect up front, one thing you have to remember is that medicare is specific in their laws, you cannot ask for anything but the twenty percent co-pay up front, even though you know there will be an unallowed bill, a bill like that would be around four or five thousand dollars.

**REP. NELSON** Your uncollectables...

**MIKE TOMASKO** The in-town ones, are the more or less inconsequential to the operation. We just had a flight to send a patient back to New Jersey, that was fifteen thousand dollars, which we did in 2001, they just paid it this week.

**REP. PORTER** Adjourned the conference committee meeting, they will meet at a later time.



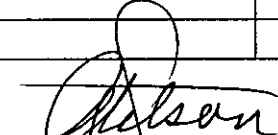
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1359

House Human Services Committee

xx Conference Committee

Hearing Date April 8, 2005

| Tape Number  | Side A | Side B | Meter # |
|--|--------|--------|---------|
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| Committee Clerk Signature  |        |        |         |

Minutes:

**Chairman Porter** opened conference committee meeting and ask the clerk to take the roll.

**Chairman Porter-Rep. Nelson-Rep. Kaldor--Sen. Lee- Sen. Dever-Sen. Warner**

**Chairman Porter:** Good Morning, I think out of fairness we were the same conference committee on 2204, it is important that you know what happened on that bill, on that particular bill that went to a late charge of 12% and 25 dollar maximum limit, applied only to hospitals.

**Sen. Lee:** You didn't change anything with the 91st day interest?

**Chairman Porter:** We didn't change it.

**Sen. Dever:** When you say late payment charge, are we using that term interchangeably with interest?

**Chairman Porter:** I guess when I look at this, it is my understanding that it is interchangeable.

**Sen. Lee:** In my real estate life, they are not interchangeable and for example on your house payment, if you make the payment by the 15th of the month, the interest for the previous month



is what you are paying in addition to the portion of the principle, if you pay it on the 16th, there is also late charge that is applied. I think we have done it, thinking it was the same thing, but it really isn't the same thing. What I have asked Jennifer Clark to do is to see if there is a way that we can clarify that, because I think we need to make sure the terminology is correct.

**Chairman Porter:** Your thinking that if someone had a 1000 bill, they would be charged the interest rate plus a 25 dollar late charge per month.

**Sen. Lee:** I think that is what it says and I think that is what they are allowed to do. On 2204 that is why I introduced it, the clinic was trying to stick it to me, so what's to say they are not going to figure out another way to read it.

**Chairman Porter:** I guess I never look at it from that standpoint that they could do both. I always look at it as the same.

**Sen. Lee:** That is what we have to make sure we have clear.

**Sen. Warner:** One of the distinctions we need to make, in a real estate payment, car payment, something like that where you have a scheduled payment and then they have gone back and amortized the interest to corrupt the entire loan. Late charges are irrelevant there, because there used to keep people from working the system, paying consistently late and gaining a little a little bit out of it. Time is of the essence on those kinds of contracts, because you have made an agreement that all the calculations are based on that you are going to pay, so it is relevant to have late charges on those kind of transactions. I think we really need to be getting away from the concept of late payment or late charges on these kinds of loans, because there is no fixed negotiated schedule for repayment. We need to be moving strictly toward notation of the interest,



I don't like the 1% per month, I think we need to be addressing the interest charge and getting rid of the late charge language.

**Rep. Nelson:** In the first version of the bill, the sentence of existing code, says that a late payment charge maybe be imposed at rate that does not exceed 1% per month, but the charge cannot exceed 25 dollars per month, that is why I think they are one in the same, you couldn't do a late fee and an interest charge because it defines what a late payment charge is and what rate it is at in that part of the bill.

**Chairman Porter:** That was a problem in the new language inserted between the first and third sentence, the late payments, late charges, the new language, the interest charges inserted between the two, it seems to indicate that they are different things, I believe the late charges are fine, assessed instantaneous for breach of contract essentially. While interest charges have been negotiated a head of time and a payment schedule setup.

**Sen. Dever:** I can understand the confusion there, as the terminology has been applied in the past the late payment has been charged at a rate similar to an interest rate, it hasn't been a applied fee, except for the limitation, but maybe in that language in that middle sentence if that middle sentence had said instead of interest, it said these late payment charges may not be able to accrue, then you are talking about the same thing.

**Chairman Porter:** I don't agree, I think that would make it much worse.

**Sen. Lee:** I think everybody intends that it only deal with interest. I really think it is important for Jennifer to be able to do something for us, to clarify that we are not talking about additional payment change. I am disheartened by 2204, because the reason the bill was introduced in the first place was to make sure that hospitals and clinics weren't going to be charging interest based



on chapter 51-14 and when I looked at that yesterday, not only is it not in there, it is worse then it was before. There was really a strong reason for introducing 2204 and asking for them not to be able to charge 18% interest and you took that out. The prime reason for that bill is no longer there and so it not there, I am going to talk about it on this one as well. I hadn't heard what the 2204 report was and I haven't seen it, that is something we hadn't dealt with in this one. It is very important to me that when we are looking at what we are permitting people to do, it was all brought to your committee and it was presented to ours. I think we must make it extremely clear that they cannot use 54-14, so if you chose not to do it in 2204 then I am going to bring that back to our attention as well, so we can have some discussion on that. That is very important.

**Chairman Porter:** I haven't signed it yet.

**Sen. Warner:** Could you address the committee and if the law in general makes distinctions between late charges and interest.

**Sen. Dever:** Last sentence in subsection 4, this subsection does not apply in cases of financial hardship as certified by the creditor, section 2, except as provided in subsection 4, the late payment charge may not exceed one and three quarters percent. It seems to me, if that sentence is to provide an exemption from subsection 4, which is exemption in subsection 2, then one and three quarters per cent does apply to people in cases of financial hardship.

**Sen. Lee:** It is 21%.

**Chairman Porter:** I guess I don't have an answer for that, other then allowing facilities to charge less. Under a lot of collection laws with the Federal Government through Medicare and Medicaid, say that you have to treat everybody equally. Is there anything else that somebody has before we adjourn.



**Sen. Lee:** The only thing is that I mentioned 51-14, because a section doesn't apply to money due on revolving charges as defined in 51-14, that doesn't mean that medical bills cannot use 51-14, that is very different, so I am just interested in knowing what the reason was for the conference committee and possibly the House, for eliminating prime purpose of 2204 and whether or not you wish to address it in 2204, or you want to talk about it here. They really should match.

**Chairman Porter:** Do you have Jennifer addressing that.

**Sen. Lee:** No, because I didn't know that, that was the heart of 2204 and it is not there.

**Chairman Porter:** If 12% that we finally come to agree on, if it is prime plus 4, prime plus 2, what ever we come to an agreement on subsection 4 is what is for medical. I certainly don't have a problem with that.

**Sen. Lee:** We need to ask her about 51-14, conflict that Sen. Dever mentioned and then what she is already doing. I am concerned with setting something up that exempts only hospitals and not clinics, because the two major providers in my community, never mind the independents, this system should change organizational structure, so that they can charge the higher interest rate or they can have the cap off, in order to meet what they want to do, if we just pull out hospitals.

There are some pretty big hospital bills and I can attest to that and pushing somebody to the edge of bankruptcy is not a way to collect a bill and those kinds of bills need to be considered a part of this discussion as well. We should not exclude clinics from this. We need to have a cap on these medical bills.

**Chairman Porter:** Any other discussion, we will close the conference committee.



2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1359**

House Human Services Committee

☒ Conference Committee xx

Hearing Date **April 11, 2005**

| Tape Number                                   | Side A | Side B   | Meter #   |
|---|--------|----------|-----------|
| <b>1</b>                                      |        | <b>X</b> | <b>36</b> |
|   |        |          |           |
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| Committee Clerk Signature <i>Jarvis Stein</i> |        |          |           |

Minutes:

**REP. PORTER, CHAIRMAN** Called the conference committee to order.

Rep. Porter stated some of the committee members had questions so they asked Jennifer Clark from the Legislative Council to come to the meeting to clear up the confusion.

**SEN. LEE** Stated she had asked Ms. Clark to answer some questions, but as they went on to discuss this, she said that chapter isn't really written very well, and she thought there may be a better way to write it. She has found some interesting history, and the result is laying in front of you, which seems to make more sense.

**JENNIFER CLARK, LEGISLATIVE COUNCIL** Walked through the amendments, line 1 through 22. She took all of the references to medical bills. The only reference there will be to medical bills is on page 1, after line 22. Instead, there is a brand new section to that chapter.

**MIKE TOMASKO** Also appeared before the committee to answer questions the committee members had.



**SEN. LEE** Stated she had a problem with someone who came in and had a nose job, and had a written agreement, that they will start paying within 30 days, that is perfectly reasonable, but I still have an interest personally, eliminating the interest rate on that written agreement. I think it is absolutely right, when you or someone in your family is going in for some kind of medical procedure, particularly, if it is something that is not optional, you have all kinds of other things affecting your judgment at that time, you just sign whatever it takes to get that person in the door, and you don't look at the form, you sign it anyway, because you want the person to have treatment.

**JENNIFER CLARK** Went on to explain Section 3.

**SEN. LEE** Stated to make it easier for all of the providers of services, there is a benefit to working this through.

**REP. NELSON** Stated in the House, when we take an amendment as extensive as this and pass it in a conference committee, it does raise some red flags with people that weren't included in the discussions. I bring that up as an issue as far as acceptance of the conference report. It will raise the eyebrows of several of the House members. This didn't have a full hearing and not full committee discussion. Are you concerned about that in the Senate?

**SEN. LEE** We are not looking at changing any of those, we are only clarifying language. We are only debating some of the issues of the twenty five dollars and the interest rate. We are trying to make it clearer and better. Jennifer discovered that it was really stated very poorly.

**REP. NELSON** I would agree as you sit and analyze this, but it doesn't mean 91 other House members and 44 Senators will do that.



**SEN. LEE** I would hope that if the providers who are affected by this, are pleased with the final outcome, and we are not making changes to the disagreements that brought us to the conference committee, that they might let the legislators know that this is a positive change.

**REP. PORTER** Submitted additional amendments to the bill as they talked about in their last meeting. It is a hoghouse amendment and converts everything from late payment interest, based on Sen. Warner's concerns, and talks about interest may not be able to accrue until the ninety first day. It says that hospitals and medical clinics have a fifty dollar cap on top of one percent per month.

**SEN. WARNER** The title of this chapter is "late fees", the title doesn't address it.

**JENNIFER CLARK** Addressed Sen. Warner's question, stating it is not a financial arrangement the way it is captioned now. If you are going to insert interest and financial language, you will have two things happening with that section. You are dealing with accounts receivable, and no finance charge, and financial aid, financial extension. This section relates to a lot of people, not just medical providers. If you are going to start talking about interest, it is a legislative challenge.

The conference committee meeting was adjourned for everyone to digest the amendments.



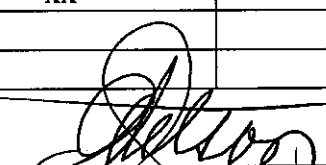
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1359

House Human Services Committee

☒ Conference Committee

Hearing Date 4/12/05

| Tape Number   | Side A | Side B | Meter # |
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Minutes: 6 members present.

**Rep. Porter:** Called the meeting to order. Attendance was taken. Thank you, Ms. Clark, for getting this information back to us so fast, so that we can finish up. Yesterday as we adjourned, Ms. Clark took the outline that I had prepared and put it into the same format as Sen. Lee's, creating a new section that dealt strictly with medical bills in HB 1301, and basically the differences between the two is on page 2, subsection 4, where it makes a distinction between hospital or clinic and then having one that has a maximum of \$50/month with 1% and one that just has a maximum of 1%. I think those were the only differences.

**Ms. Clark:** There is also a change on 3, we've paralleled that, if the creditor is now a hospital or clinic, then it can exceed 1% if it is a hospital or a clinic, can exceed 1% and may not exceed \$50.00. So I tried to parallel the same thing, subsection 4 is an extension of credit provision, so your late charge and your extension of creditor come under similar restriction.



**Rep. Porter:** Also, Ms. Clark, there was a question that was raised to me, and I know you were having a conversation with Mr. Tomasko in regards to what #2 actually does. Can you provide some clarification to us, so that we understand a little better.

**Ms. Clark:** My understanding in reading the case law, is that subsection 2, which you will notice is also in existing law. Right now we have a provision in 13.01-14, subsection 3 of that says, "a late payment charge provided in this section, may only be charged if, when the obligation was first incurred, the creditor did not intend to extend any credit beyond 30 days and any late payment of the obligation was not anticipated." What I understood that to mean, in the course of reading the case law is that, that is what defines this arrangement. It's one of those situations, "Ms. Clark would you like to pay me now for that, or should I put a bill in the mail" versus "Ms. Clark would you like to split this payment up over 12 easy payments" an installment contract, or "Ms. Clark, would you like to have us bill you monthly for this until you've completed it, with a minimum payment of \$80/month" and then we've got a revolving open credit situation. That statement saying that this is an extension of credit is what makes it what it is. It makes it an accounts receivable and it also says that you can't double dip. You've got to choose what body of law you're going to go under and if you try to extend credit, or had an installment contract, then this law doesn't apply. Get out of here, use that other body of law. This body of law only applies to accounts receivable. So would you like to pay me now, or should I put the bill in the mail. That situation. Arguably, maybe you want to take the 90 days out, that reference to 90 days. I don't feel strongly about that, because we've said you're delinquent if you haven't paid it within 90 days, and you can start accruing a late charge. There's nothing to say your provider can't. Everybody is working under the assumption that you pay your bills in 30 days. When I



track my medical bills, there's the little thing in the bottom saying, 0-30 days, 30 days or more. I think the system is set up where we think that way, and if that confuses things, then why not take it out.

**Rep. Porter:** If section 2 is not in there, does it then fall back to an implied understanding that everything is due in 30 days.

**Ms. Clark:** If you take subsection 2 out entirely, then I think you've drawn into question, why did you take it out here, when you're talking about medical bills, but you didn't take it out in our existing law, 13-01.14, where you are talking about everybody else. When you're talking about the lumber yard and the jewelry store, etc. I think you really drawn into the question, why is that gone and the case law has really relied on that provision to clarify their position. When these parties go in and litigate this issue about what they can charge, historically, this is one of the things that they always refer to. They say, you know what, don't portray this as a financial transaction, because there's no written contract and under a contract, you're stuck at 6%, under a different body of law. Consumers want to be under an extension of credit for 6%, you're always better under one body of law than the other. So that's one of the things the court has relied upon, in saying, "no, you know why you're under this body of law, it's because you knew when you went into it."

**Sen. Warner:** I think one of the distinctions that needs to be remembered between your jeweler and your medical providers, is that there is no insurance settlement on your jewelry to work out. That the bottom line on your medical bills has to be adjudicated or adjusted to two separate, different groups of people, who may have different claims and sometimes that takes some time. So we don't want to be penalizing people who may not know, or may not really owe



money yet under other provisions of law which prevents it from actually being billed until the settlement is worked out with third party cosigners. That was always my understanding was that 90 days was fair. Now if the insurance industry could respond a little faster than 90 days, maybe 60 would be appropriate.

**Ms. Clark:** If we took 90 days out of subsection 2, right at the bottom of the page, I'm not recommending that we take it out of subsection 1. I mean 90 days is in existing law, that's what they're playing under now, and I think part of the rationale for that being, sometimes it takes a while for everything to settle.

**Rep. Porter:** When you say take it out, are you saying take it out completely, and have it read, "to extend any credit and late payment of", or to match the other existing law and say "any credit beyond 30 days".

**Ms. Clark:** I guess my instinct is to take the reference out, if you can't charge them for 90 days, I would defer to a provider with what their needs are, but as long as it says you aren't delinquent until 90 days, as far as accruing late charges, I think that kind of establishes that body of law. So I don't know that it's important to have it in subsection 2, have a day referenced.

**Sen. Lee:** So does that mean we don't need subsection 2 at all.

**Ms. Clark:** No, I feel strongly about keeping 2 in.

**Sen. Lee:** So tell me how it will read if we exclude what you're telling us about.

**Ms. Clark:** What version are we looking at.

**Sen. Lee:** Let's use .0400, that's the one I think Rep. Porter was referencing.

**Ms. Clark:** Perhaps at the very bottom of the page, it could read "the accounts receivable late payment charge allowed under this section, may not be charged unless, when the obligation is



incurred the creditor did not intend to extend any credit, and late payment to the obligation beyond 90 days”.

**Rep. Porter:** So we would overstrike the words “beyond 90 days”.

**Ms. Clark:** I think, inherently, you’ve got 90 days in there because if you say you’re not going to have a late charge until 90 days, you’ve kind of built it in there, but if it gives people heartburn, it probably better to take it out.

**Sen. Dever:** I think that leaving it in, leaves the implication that you did intend to extend credit for 90 days.

**Ms. Clark:** Keeping in mind, if you go under existing law, we say 30 days. The creditor did not intend to extend any credit beyond 30 days. So we’ve got a day reference in under accounts receivable for the lumber yard; because there probably is an anticipation that he did anticipate 30 days. You’ve got 30 days after I put this in the mail to you to get back to me. I think that’s the basis upon which the billing cycle is established under existing 13-01-14.

**Rep. Porter:** Questions. Mr. Tomasko, could you address, I know you’ve been here from the start of this particular bill and have looked at all of the versions, could you address that subsection 2.

**Mr. Tomasko:** Jennifer, maybe you could answer this, one of my assignments from Sen. Lee was to call all of the providers and I’m happy to report that I did my job.

**Sen. Lee:** Thank you very much.

**Mr. Tomasko:** One of the questions, from in fact the clinic that you had referenced before, if you can answer this, because maybe we will have a clearer understanding and that is, they said well, it would be very simple, at the top of the travel ticket or charge slip where you sign, it’ll



just say that, we would just put something in there that said we do not intend to extend any credit beyond 90 days, all bills are due and payable in 90 days. Now if they were to do that, what would that do under subsection 2. Would you kind of explain that.

**Ms. Clark:** If I understand what you're saying, that sounds like they've guaranteed that they can avail themselves under the accounts receivable law. Assuming that the clinic is charging late charges under our existing law, status quo. There's not some new requirement that you do that, but for that 30 and 90 and 30 day difference, it's under existing law, so if people are charging late charges, and assuming that they are meeting everyone's requirements, that's the universe they live in right now. Existing law says for those late charges, if you're not extending credit, you're not extending credit. That's the only way you can get this late charge under this section, if you're extending credit, a different body of law.

**Mr. Tomasko:** I agree with Jennifer and I just want to express what they've said, because I don't want them to find another loophole in this whole thing. Does that mean that all bills, that would be rare, first of all they are the only clinic in the state charging this interest. So the issue becomes if, the immediate response from her attorney was, we're going to have that on there, there is no credit extended, all due bills are due and payable in 90 days. Is that any different from what we're talking about here, where after 90 days they can charge the interest rate.

**Ms. Clark:** If they want to charge interest, then the last thing they want to do is, say we're not extending credit, yes they are. If this is the clinic that's charging interest, they want to get out of this universe. They want to have a piece of paper that says, this is not an accounts receivable. We are extending credit. Do you understand that we're charging interest. Do you understand



what compounding is, then you've got a body of law talking about loans, and then you're under subsection 4 down here. So if they want to charge interest, no problem. Because if they did...

**Mr. Tomasko:** I just want to make sure, Jennifer, that I'm going to give them your telephone number, because we argued until we were blue in the face, and I was on your line, he was on a different line and he said that's exactly what we're going to do. So I want to make sure there isn't a loophole.

**Ms. Clark:** There are probably better ways to say this, I'm trying to remain parallel to existing law, and nonmedical service providers. They'll say, we're not extending credit, then somebody is going to come in and argue, yes you are, you're giving me 30 days, I get to use your money for 30 days. I mean you're going to be cursed either way. But it's working now, the body of law understands that you have 30 days to do your billing. You get to float the money for 30 days. So I assume if you say 90 days, because we're cleaning up our law, clarifying it, you've got 90 days, it's probably safe, but I don't do billing.

**Rep. Porter:** Under subsection 4, if I'm the long term care facility and paperwork that the patient or the family signs upon admission says, your account is being past due after 10 days, and we're extending you this credit to operate or to be a patient here, as long as you pay within 10 days of the end of each month, do they then fall under subsection 4.

**Ms. Clark:** Can you please repeat that one more time.

**Rep. Porter:** The patient in the long term care facility, when they set it up using subsection 4, to say that, you're delinquent on your line of credit if your account is over 10 days old; and use subsection 4 rather than wait until the 91st day.



**Ms. Clark:** My instinct is if you've under subsection 4, and you truly are extending credit, then you have to comply with interest, a different body of law. Assuming you're complying with that body of law, that as long as you're not charging more than 1% per month, or \$50, okay.

**Rep. Porter:** You could set up whatever terms you wanted.

**Ms. Clark:** As I understand it, yes, because one of the changes I did correct of both of your versions is, I made it clear that when we're talking about accounts receivable, and when we're talking about a credit service charge, rate of interest, or finance charge, those should all be matched, under 4 when we talk about credit service charge, rate of interest or finance charge, those should all be triggering words, indicating an extension of credit, where you can charge interest rates, and you can charge late charges on payments that you haven't, but then you also have to talk to Tim Karski, in Financial Institutions, and make sure you are complying with his financial institution requirements for setting loans, potentially.

**Sen. Dever:** If a patient becomes delinquent, and then comes in and says I can't pay it all to you, but I can pay \$50/month, then do they change their status.

**Ms. Clark:** My understanding that it is common practice, that I can call my billing department and work out a payment plan. I'm not sure whether that changes the nature of the obligation to an installment contract. When you went into the contract, you assumed that you were going to get paid. But when you went into it, you probably figured that you were going to be paid everything. In reality, I imagine a lot of people said, I can't afford to have this done, can I pay it in installments, we'll send you a bill, and call our billing department. I assume that's happening now, I'm not sure how well their attorney would argue it.



**Sen. Warner:** If the account is not paid within 90 days, then the provider would like to seek to go under subsection 4, I assume that is a negotiated agreement, an actual agreement between the two parties and if they fail to agree, then the only recourse for the provider is litigation, they go to court and seek a judgment, .....or anything you can get them to sign.

**Ms. Clark:** I'm not sure, I know you can change the nature of your obligation. I don't have enough expertise in this area, to tell you every way that you can do it. If you're going to change the nature of your agreement, in theory both parties need to come to the table and agree to it.

**Rep. Porter:** Technically, the way I read this, on the 91st day, if I serve notice sometime prior to that, to the patient, on the 91st day I can turn his account over to a collections agency and wash my hands of it, making it go the post-judgment portion of small claims court and everything else. I don't even have to mess with it on the 91st day if I don't want to. My concern with the way that it is written on the accounts receivable side of it, is that it is the private pay portion where you enter into an agreement on a private pay situation. Whether it be a nursing home or whether it be at the clinic where you are having something done that isn't covered by your insurance, or isn't medically necessary, that it's just something that you want to have done. You basically have 91 days to pay for that, when they may want to set up something that says, no you only have 10 days and still leave it as on the accounts receivable side, not go into the financial institutional side and extend a line of credit, they just say, you know what all of our accounts that are private pay aren't necessarily paid, because there is no place for us...the 90 days was put in place because of the situation where they were billing insurance companies and waiting for the payments from the insurance company first, so you didn't have all the money crossing hands in the mail. The private pay side of health care, doesn't involve an insurance company should it involve the 90



days. The other thing in looking at this, the long term care facilities, the basic care facilities, every time somebody waits for 3 months to pay their bill, and then they start over at \$0 again, and if they're a resident there for 8 years, how many times do they get to run up to 90 days to pay their debt, and go back to zero and wait another quarter, and basically use the nursing facility's money, interest free over the time period of making basically quarterly installments.

**Sen. Lee:** Kind of like US Bank does to me, when I make a deposit. That's an editorial comment.

**Sen. Warner:** It's hard to remember that the only thing this bill was introduce that allowed the nursing homes to take the cap off it. We need to be mindful, too, if this gets so convoluted that nobody understands it, or if we have to carry this on the Floor, that would be all that would be lost, too; if the bill fails.

**Sen. Lee:** If we were to remove the "beyond 90 days" in subsection 2, would that address your concern about the beyond 30 days' stuff.

**Rep. Porter:** In subsection 1, I think is where the concern would be, that it does not become delinquent. The part of this that I'm having the biggest problem with is that we're writing a law that covers medical services in a broad umbrella, but instead of that umbrella, there's different services that are being provided. One of them is to nursing facilities, basic care facilities, that may not want to wait till the 91st day to collect their money and carry everybody for a quarter. Then you have the other facilities that you might have a stand-alone plastic surgeon, that does nothing but cosmetic things, that aren't covered under health insurance, that has an accounts receivable that everything is 90 days.



**Ms. Clark:** There's nothing that prevents a business from doing payments up front. My husband's in a different profession; however, as an attorney, he gets cash upfront all the time. I mean, if it's truly one of those optional situations, you haven't prevented that.

**Rep. Porter:** What happens to the nursing home resident, under section 1, they could basically hold their money for a quarter and pay it, and always be considered current.

**Ms. Clark:** I suppose one alternative, and recognizing that they're under that body of law now, and I'm understanding that is what is trying to be changed in this bill, but I suppose they could enter financing agreements instead. The financing agreement could have different terms. They could say, that if you don't pay this timely, then we're going to start charging you interest, you could change the nature of your agreement. There may be problems with that, I'm not sure about the ramifications of changing the nature of your agreement. But if you get out of the realm of accounts receivable, then you are no longer held to that; or you could treat basic care facilities differently and change their late dates.

**Rep. Porter:** Or include in here a definition of what medical services truly are.

**Ms. Clark:** Yes. You could keep them under the same guidelines as...under this amendment that you offered, Rep. Porter, you could say, under C, that existing law doesn't apply to money due on medical services provider on accounts receivable. You could put an exception there, that a medical services provider does not include a basic care facility.

**Sen. Dever:** As I think about this regarding long term care, I think it is different in that it seems to me that in the long term care situation, that the money exists. It's not a matter as in a medical, that we can change how we spend our discretionary income, or we get a second job or something like that to pay it. But in a long term care situation, if the money did not exist, it would be a



Medicaid situation. I assume that, in the long term care situation, that the money exists and probably the patient doesn't have control over it, but a guardian, a child or something. So I think that's a different kind of situation than the other medical kinds of things, and I think deserving of this.

**Rep. Porter:** Say I go in to get my nose fixed, because I have a deviated septum, it's not covered under my insurance. Should I get to carry that physician's money in my pocket for 90 days just because you said it was a different situation, or should I have to be responsible and pay my bill in 30 days like I have to on my credit card, bank loan, house loan, and all of my other loans.

They're running a small business, do you want me to come and buy stuff from you, and get 90 days for free without having to worry about your cash flow and your business.

**Sen. Dever:** But I think in consideration of your deviated septum, there is a difference. You don't need to get your nose out of joint over this, though. But if we're talking about an emergency medical situation, where you're trying to catch up...

**Rep. Porter:** Off the table, I'm not even concerned about those, and neither is any other health care provider, but my concern lies in those situations that you know upfront that something isn't covered by their insurance, so it's a private pay situation, why should I have to wait 90 days to call an account delinquent, when you can call them delinquent in 30 days for your business. If you know that it's something under the insurance policy that isn't covered, why should that be treated the same as the situation where you're waiting for the insurance to pay first. Because, quite frankly, something covered under insurance is eating up the first 45-60 days of this regardless. They can claim all they want, but they get their money back in 15 days, but that's not how it always works in the real world. So I understand where the 90 days come down on that,



from the date of service, because a good portion of that is eaten up by the insurance industry in handling the claim. So what I'm wondering is, why those charges in those prearranged non-emergency type situations are handled the same way as these are, when you know that there is no third party payor involved, when you know that it is a direct payment coming from the individual, that they could just put it on their M/C, but they don't, because they know they get 90 days for free.

**Sen. Dever:** Maybe I misunderstood something. But I thought in that situation was that the provider could sit down ahead of time, and ask how they were going to pay for this and make arrangements on an installment plan.

**Rep. Porter:** You certainly could, not all providers do that. But if you do that, then you have to fall under Mr. Karski, and his rules on extending a line of credit; which is another cumbersome step in running your business, and a whole other agency that you have to worry about, coming up and knocking on your door and asking to see how you're running your business; when you could treat it like an accounts receivable under the normal accounts receivable provision of the law.

**Sen. Lee:** Buying a consumer goods item of any sort, is very different from a medical service. I think that's the main reason why it should be 30 days on one and 90 days on the other. Anybody who's in the business of providing medical services, needs to recognize that as well. If I go in for an optional service, and I sign a written agreement upfront, about how I'm going to pay for it, there's no problem with that. I just don't see that being a big deal and the providers, now, are asking for those kinds of documents to be signed. But if somebody goes in, it may not be an emergency, but somebody had some kind of diagnostic procedure today, and on Monday, they're going to have fairly significant surgery. So they're not being hauled by ambulance then,



everybody isn't being called in at 2:00 in the morning to do the procedure, but it's happening pretty quickly, it's very scary for the family, they're not experts in the rules, whether we are talking about financial institutions or this particular area of statute. I think it's up to the provider to make sure that they've got the proper documentation to make sure that they're covered. Back to my cleaning lady, if she needs to have surgery on Monday, and she wants to pay her bills and will make monthly payments, but she can't pay off the whole co-pay in 90 days, which would most likely be the case, she should be able to have some option without it being punitive. I think most providers recognize a need for that, but I don't think that we can leave it so open-ended that depend on the benevolence of everybody, because obviously that isn't always working.

**Rep. Porter:** So far, we've only found one.

**Sen. Lee:** That doesn't mean it isn't going to continue, I mean the point is, if we didn't need laws to govern this kind of stuff, we'd all be able to be home in our real jobs, probably earning a little more money than we are right now, actually. But because everybody isn't perfect about the way that they address this, and we all don't share the same philosophy even at this table, so I doubt that we do throughout the rest of the state. If we can do something that makes it clear about what can be done, and we recognize that there is a uniqueness about medical services that are being provided, and I think good providers recognize that as well, in most cases. If you've got something going on, if a plastic surgeon is running his or her own shop, and most of their stuff is done through their own billing, they're certainly not going to have Medicaid for a nose job, if there is truly a problem with that deviated septum, and it has to be done or the kid can't breathe, because they got hit in the face with a basketball or baseball bat. There is a reason for them to be different, and I'm not interested in shortening everything up to 30 days, because that



isn't enough, and there needs to be the latitude of the providers being able to deal with that recipient of services to move into some kind of plan that will allow them to make monthly payments without being punished. Because they don't get the money, if the person goes bankrupt either. I would remind you all, that the House is the one that brought the other medical providers into this, one more time. We were only talking about taking the cap off, on long term care and basic care when we started this.

**Rep. Porter:** In the accounts receivable portion, in #1, the only way to differentiate what a medical services provider is, is to do it under C on top of that section.

**Ms. Clark:** I hesitate to say that's the only way, that's the way it strikes me right now, because if you want to take them out of this new body of law, you want to take them out of that, I think it makes sense to link them in to the one ahead of it, somehow, so people read the two together. So if you miss one, you know to go to the other. You could, in this new section, define a medical services provider. I think the chairman was involved in some of the interim work where they talked about what a medical services provider is, and it can be kind of elusive, it can be time sensitive, what you describe as a medical provider one day, there may be new professions, so it's a big job.

**Sen. Warner:** I wonder if there might be something useful in insurance law, where I think we speak of medically necessary, as being insurable, but presumably there's some things that aren't medically necessary which would handle things like discretionary plastic surgery and such things. Would that be a distinction which would be useful.

**Rep. Porter:** That would be tough, because that falls back to individual policies that people purchase. What's medically necessary for one insurance company or one policy that the



insurance company sells, may not be medically necessary for another. So that would be really tough.

**Sen. Warner:** So what if we just said, okay, ambulance services...

**Rep. Porter:** Well you know, my concern does not fall under emergency portion of ambulance service. My concern really falls under the non-emergency portion and really isn't the ground, it's the air, because that's where the bills get to be \$15,000 to take Grandma back to Texas, and if she could have gone commercially, she certainly would have. But now it's not due for 90 days and all of your expenses have been paid out to the plane, the pilot, etc.

**Sen. Lee:** Can't you have a written agreement.

**Sen. Warner:** It's certainly not an emergency.

**Rep. Porter:** Well, but then again, you're going under the financing portion of it, it becomes more complicated that carrying it as an accounts receivable. So life becomes more complicated, thank you to the government.

**Sen. Warner:** That's just a very big bill. I mean where I come from, that's three houses. I mean it wouldn't be unreasonable...

**Rep. Porter:** That might be a down payment where Sen. Lee comes from. The other concerns still lies under both of these, at least under .0204, that the long term care and basic care are put under subsection 4, into the line of credit category, too, and then not exempt it from the subsection 1.

**Sen. Warner:** I didn't mean to be flippant, but I did want to make the point, that transactions of that magnitude are bank loans. It's not unreasonable, to say if you can't afford it, I'm not extending credit. Go to the bank and get a loan for it, then you don't have to worry about it. You



don't have to create a separate division within your company that handles large scale loans. It's clearly not an emergency.

**Rep. Porter:** I wish it worked that easily. I really do.

**Sen. Dever:** Along those lines, my understanding of long term care, if you don't qualify for Medicaid, and you don't have the money to pay this, they don't have to take you either.

**Rep. Porter:** No, but once you're there, they aren't going to kick you out either. If you're carried for 90 days, and you pay on the 89th day, and become current, how long do you want to have that bed, that's expensive money laying there.

**Sen. Dever:** You mean you pay one month, and the next month you go through the whole thing again.

**Rep. Porter:** I don't know if we're setting ourselves up there either. That is what Ms. Peterson brought that to my attention. That is a concern of theirs; that it does become a concern that rotating quarter all the way through that first stage.

**Sen. Lee:** I don't have the answer to that one, right now. But recognizing that we all have about less than 15 minutes left here, there are other versions here because of other questions that came to all of us, by e-mail today, and so Jennifer has prepared additional amendments, and it were all right with you, we could at least ask her to explain those .0500, .0600 and .0700.

**Ms. Clark:** Senator, don't hand out .0600.

**Sen. Lee:** I now have .0500, I could pass out .0700. If she could explain what these differences are, it isn't something that I dreamed up, it was in response to a couple of messages. I want to mention also, that I had also contacted my local, the two major medical facilities and left messages for them. I got a response from one, and not from the other.



**Ms. Clark:** The changes in .0500 are very similar to what Rep. Porter's were, except that we haven't distinguished between the...we haven't done quite as much on this version. The changes include on page 1, in subsection 1, it now clarifies that for the purposes of late charges on accounts receivable, that it doesn't become delinquent until 90 days. The thinking behind that, is that I really want to make it clear that I'm not talking about your finance agreement, your extension of credit. I'm not dictating the terms of that arrangement, I'm just talking about the...

**Sen. Lee:** That's in 4 as well.

**Ms. Clark:** Yes, you're getting ahead of me though. Yes, it is. I based Rep. Porter's changes on these changes, because when we left here yesterday, it was, clean this up to reflect the facilities thing, and then I incorporated the changes into Rep. Porter's. The next change is on that subsection 2, where I clarify again the accounts receivable late payment charge, allowed under this section. I wanted to make sure that no confusion about an extension of credit, late charge under accounts receivable, and I've done that throughout subsection 3, I kept including that accounts receivable language, because when we come down to 4, we've changed gears and we're talking about an extension of credit. One of the things I did in this subsection 4, is that I think it used to just say, the rate of interest charged can't exceed, and I've added some other terms that I used in these different sections, a credit service charge, a rate of interest from finance charge. All those things would be indicative of an extension of credit, regardless of how you frame it. All of them different from your accounts receivable. I've done that again as you hop down to that section 3. I've added the language to the caption, late payment on accounts receivable, just so that we've got three sections in a row, our existing section, our newly created section, and then 13.01-15, that all start out late payment on accounts receivable. You can't help



but leave them together, and then I've also clarified accounts receivable. Under that 2a, I clarified that we're talking about the obligation beginning after 90 days, after receipt of the billed medical services. In other words, the day you got your nose job, not the day you got billed; receipt of the services. So those were housekeeping clarifications that we discussed.

**Sen. Lee:** So, the only real difference between .0400 and .0500 is just a breakdown in subsection 4, isn't it.

**Ms. Clark:** Yes.

**Rep. Porter:** Well, in subsection 3...

**Ms. Clark:** 3 and 4 is your breakdown.

**Sen. Lee:** The rest are just clean up of what we talked about yesterday.

**Ms. Clark:** And the \$50 versus \$25. So they are very similar.

**Rep. Porter:** Then in .0700, are there any questions on .0500?

**Ms. Clark:** I based your .0700 version, off of your .0500 version. As I recall, I did two things. I think you'll find them on page 1, at the very bottom of subsection 1. I've now given it some subdivisions a, b, and c. The first one, sub a) addresses licensed nursing facilities, or basic care facilities.

**Sen. Lee:** So they wouldn't have to wait until 90 days, they would be under a).

**Ms. Clark:** I kind of rushed these through and in retrospect, I would also want to change any of the 90 day references that we have, for instance, in subsection 2. I would just leave that 90 days out there.

**Sen. Warner:** Shelly, is your billing considered to be from the first day of the month, is that when your bill is due, or the last day of the month.



**Shelly Peterson:** For private pay, we bill prior to the service being delivered. So we bill on the first of the month, and it is considered past due after 10 days. We don't charge interest until after the 91st day; as opposed to Medicaid, where you have to deliver the service and they pay 30 days later. We charge like we do rent on an apartment, upfront, at the beginning of the month.

**Ms. Clark:** Are you talking about interest or a late charge. Because if you're charging interest, you're outside the realm of accounts receivable.

**Ms. Peterson:** We were charging interest only on the 91st day.

**Ms. Clark:** Are you charging interest or are you charging a late charge, because it makes a difference.

**Rep. Porter:** I don't think a lot of people understood that it did.

**Ms. Peterson:** We charge interest, but we very rarely collected on them.

**Rep. Porter:** I think everyone was using the terms interchangeably.

**Sen. Lee:** The terms aren't interchangeable.

**Ms. Clark:** And they have for years, and that's how we've had such great litigation. So now you've got a, b and c. And your c) clarifies, there was some discussion and I wasn't sure when I left yesterday, my assumption is that if you're going to charge a late charge, you just keep popping it back on the same account. I talked to some accountants in my office, and found out that perhaps I am right. That the late charge, it may well fall within established accounting principles, that just hops into your accounts receivable and you're going to up that. So that clarifies that, that you can't calculate your 1% off unpaid late charges. You are calculating it off your unpaid medical bill. So in theory, those should be the changes in this version, are those a, b and c.



**Rep. Porter:** So there is potentially, depending on what's out there in the world, the computer programs, would be a pretty large rewrite if somebody is doing it now. Technically, now they can put a late charge on that.

**Ms. Clark:** I can't answer that. I'm not sure.

**Rep. Porter:** Right now, technically, under the existing provisions, you could have the late fee on top of a previous month's balance and compound that, right now. So what you're saying in .0700, is that you couldn't.

**Ms. Clark:** I'm not sure, I would think it would be another great Supreme Court case. I mean right now it says the creditor may charge a late payment charge on all money due on account. I think that after talking to Jim Smith, sure you could argue that money due on your account, all those late charges should be enforceable.

**Rep. Porter:** It's already being compounded now?

**Sen. Dever:** Once you reach your limit, you're okay.

**Rep. Porter:** Well, when you reach the \$25, yes you would be okay.

**Sen. Lee:** It might affect our attitude about both the interest rate, if we want to call it that, and the amount of the cap, if we know they're compounding.

**Sen. Warner:** Given Shelly's comments, 45 days is 35 days longer than they currently allowing. So given the fact that the bill is, all it did was realistically take the cap off nursing homes, we're making it worse for nursing homes.

**Rep. Porter:** And a few others.

**Sen. Warner:** Those were House amendments.

**Rep. Porter:** How soon you change. Was there anything else in .0500 or .0700, Ms. Clark.



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**Sen. Lee:** Except you suggested, didn't you, that in .0200, we would delete the "beyond 90 days".

**Ms. Clark:** Yes, I think it works better.

**Rep. Porter:** Okay, well we're done for the day. Meeting adjourned.



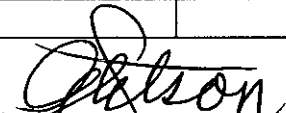
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1359

House Human Services Committee

☒ Conference Committee

Hearing Date April 13, 2005

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Minutes:

**Chairman Porter** opened the Conference Committee on HB 1359.

**Members:** Rep. Porter, Nelson, Kaldor - Sen. J. Lee, Dever, Warner.

**Chairman Porter:** As we departed yesterday, with versions 0205-0207, I asked Ms. Clark to come up with a 0208 that still stayed with the concept that created a new section of the code. The main substance of the changes is Subsection C, before the word Section 2, is where the exception is put into place, where medical fields portion of it, only applies hospital or clinic accounts receivable for medical bills. It goes on to the Section 2 which is basically the same as 0205 except on the back page, subsection 4, goes back to the "not to exceed \$50.00 per month". In subsection 3 it also has the \$50.00 per month inserted. So it's 1% not to exceed \$50.00 per month in both of those subsections. That is the basic differences between 0205- & 0208. Ms. Clark did make the change in subsection 2 that took that beyond 90 days out, which I don't think anyone had a problem with.



**Sen. J. Lee:** I certainly want to treat hospitals and clinics in a group, I don't have a problem with that. But I do have a problem with every other provider being able to charge whatever they want, whenever they want and for as long they want. And that what is what we are doing. If our goal was to clean this up to where everybody knew where they were, now we are not doing that anymore. That is a big exemption, I have no problem with hospitals and clinic's being in a separate section, but I am really not interested in letting other medical providers go to the other statutes, charging anything they want.

**Chairman Porter:** It is difficult to try to make a "one size fits all" statute this late in the session. And it is all hard to try and fit all sorts of different types of small businesses into that one size area, whether it a major conglomerate nonprofit corporation all the way down to a mom & pop operation. I don't know how that would possible to do, either way - lumping them all into one, or exempt everybody but the ones that specifically ask for or are looking for this.

**Sen. Lee:** But the patient who needs medical services doesn't have any control over and doesn't really care about whether or not it is a mom/pop thing, which reminds me, of a grocery store, and not a medical service provider of any sort. They do not have any choices, but their are a lot of providers that are exclusive or nearly exclusive in the larger communities. I think it is very different having a medical service provider than any kind of consumer purchase. It is not like buying a couch.

**Rep. Nelson:** Sen. Lee, if there were, in the other sections, for the other providers, a 1% limit a month, would that satisfy your concern?

**Sen. Lee:** I would be more willing to consider that possibility, than leaving them out entirely, because, right now they can go to 21%. If we let this go without having them in there at all.



**Rep. Nelson:** The 1% would be consistent with what we have done in this proposal.

**Sen. Lee:** I would want to visit with my colleagues before giving a firm answer. I want the cap on for hospitals and clinics. We already learned yesterday, that the late fees are being compounded, late fees are being figured on top of late fees. So the 1% is a big deal on those. I'm not trying to be a jerk about this, but medical bills are an entirely different animal, than every other kind of bill and I want to be fair to people that want to have their money collected, I want to get paid for my work as well. But it is not fair to threaten impoverishment to people because of the significant bill over which they have no control. That is the deal with health care, most of the time, the choice is not to get the care.

**Sen. Dever:** Or the choice is to get the care and then file bankruptcy.

**Chairman Porter:** You will not stop that, no matter what you do here. That is just part of how it works, it will happen. There is a breaking point for everybody, no matter if you have health insurance or not. That point is different and it really has nothing to do with late payments and percentage of interest applied, if some accrues a principal balance of \$100,000.00 and their net worth is \$40,000.00, whether you charge one percent or one hundred percent on that account, you have bankrupted them anyway. That breaking point exists for everybody.

**Chairman Porter:** Rep. Nelson, as you look at 0208, sub section C is an exclusion for everybody. Ms. Clark drafted that for me. Is there a way in 0208 to leave the exclusion and verbiage the way it is, so that section two applies just to hospitals and clinics and then have it so that all the other providers, that are excluded are at 1%, or 12% annually on a late fee.



**J. Clark:** We can work that out, if you want to have medical providers in two sections, either 1301-14, which is current law or section two which is restricted to hospital/clinics and if you want the 90 days, finance aspect, the extension of credit, and that should direct where you put it. In 1301-14 (30 days) there is no limitation on the extension of credit, or in new section two, address the extension of credit and the question of 90 days.

**Sen. Lee:** Does it make any difference where you put it?

**J. Clark:** For drafting purposes, it makes a difference time frame/extension of credit.

**Rep. Kaldor:** Is there a difference between what we define as accounts receivable and an extension of credit?

**J. Clark:** We have tried to address that. 1301-04 refers to A/R, not the extension of credit.

There are exclusive options, sub section 3, says you can only charge a late fee on charges and is not able to extend credit. Existing law only addresses A/R. New section says A/R and subsection 4, caption refers to a limitation of credit. You added a new piece into, in sec 1-2-3, refers to A/R, in addition to that you are addressing the extension of credit. This is, ironically as it sounds, intended to clarify that. We are trying to say that we are recognizing that there may be a way to clarify the way to comply with each of these.

Medical providers believed that they were limited in the financial aspects.

**Chairman Porter:** What would stop a provider from saying, "no" we are not going to do it but we accept VISA/MC. You can certainly charge it and then we will do whatever you want us to do.

**J. Clark:** I am not sure what may or may not provide that.

**Chairman Porter:** I am talking about non elective - non emergency area.



**J. Clark:** They may just say "we are a cash only business"

**Chairman Porter:** Then there is nothing in there that would stop them from saying it would stop them from saying we are not doing this unless you pay for it up front.

**J. Clark:** This body of law does not address that. There may be a different body of law that does.

I don't believe that current law addresses it either. Nor, does your proposed amendment.

**Rep. Nelson:** It looks to my like that provision that we have been discussing would work for either section, in the new section (08) is there any reason/benefit to putting in one section over the other?

**J. Clark:** You can put it where ever you want, excepting hospital or clinics. But you haven't given a limit/set percentage. You only get 30 day and no limitation on the finance.

**Rep. Nelson:** In section two, what are the scenarios.

**J. Clark:** In two, subsection four, would address finance/limits and 90 day limit. But the more we start adding restrictions - you have more problems.

**Rep. Nelson:** The way I read it , I would prefer to put it in the new section of code.

**Chairman Porter:** If we do that, refer to 0205 and subsection C would do what Rep. Nelson said, and then insert that language in 0208.

**J. Clark:** The only way you can get late charges, you need to say designate in sub section 3, then in sub 4, do you want to limit it some other way?

**Rep. Nelson:** That would be consistent, I don't think there is a problem.

**J. Clark:** Better if they are all in one place.



**Sen. Warner:** First of all, are we referencing, 51-14 or 47-14? Will they be able to understand if we do not insert the medical areas in those?

**J. Clark:** We should, however things get lost in cross referencing.

**Sen. Warner:** What about a search engine.

**J. Clark:** Yes, you can do that also.

**Sen. Warner:** Under Rep. Porter's suggestion on transferring the balance to a credit card. They may affect credit law. As, I understand it, in doing that they automatically loose whatever protection under this statute, right? That then, takes the provider out of the equation, is that correct?

**J. Clark:** That is my understanding. 51-14 (resolving line of credit) 47-14-05 ( rate of interest.)

I don't have enough back round in the Federal part of it to give you an answer.

**Chairman Porter:** What happens if the provider at the 91st day to just turn it over to a collection agency? That then falls under a whole different code of law entirely, right?

**J. Clark:** That is my understanding.

**Chairman Porter:** Is that true with the Prime+ 3. What happens if they turn it over to the collection agency, and they just collect the existing account? Does it then fall under the collection statute which fall under the dept. of finance?

**J. Clark:** I am not sure about the body of law that would fall under.

**Sen. Lee:** I have the answer to that, I sent a message to the financial institutions, the interest that would be in the contract, prevails, and all the agency does, is negotiate a fee from the provider that they are collecting it from. It is not altered. It does not change the terms. In my



view, it would be up to the provider as to the rate. In going through 0208 then 0207, why are there differences that I am not understanding.

**J. Clark:** In 07, we have not broken down all of the areas.

**Sen. Lee:** We don't want LTC under this.

**Chairman Porter:** They may have agreed to 13/4% in the Senate, in the House, they agreed to 1% per month.

**J. Clark:** They are in the same section. In the version of 01-13, we have removed the medical providers.

**Rep. Kaldor:** In the first engrossment of HB 1359, as I understand it, was a Do Pass from the House. We restricted the late payment charge to 1% per month for all medical providers.

**Chairman Porter:** Yes, that is correct, in 0200, we took the \$25.00 cap from all providers off. That is the only thing we did in 0200.

**Rep. Nelson:** The suggestion I offered, wouldn't that include NH/Basic Care as well?

**Chairman Porter:** Yes, it would, although it is not under version 0208 because of the exemption language in subsection C. (If you are not a hospital/clinic you fall under 13-01-14, sub sections 1-2-3 and 5 because 4 would be removed) So that every other provider except hospitals/clinics would fall under 13-01-14 ss 1-2-3-5. They would fall under 1 ¾ in that 30 days.

**Sen. Lee:** 08 is not acceptable to me because it doesn't include the other providers with any kind of interest rate or cap, and it hasn't really provided for LTC/Basic Care facilities at a reasonable return.



**Rep. Nelson:** If we would impose that 1% a month across the board, would that change your opinion.

**Sen. Lee:** 1% per month is better than  $1\frac{3}{4}$ %, which is where it is, but it is long ways from the process of where we sent it to you in the first place. There are two separate issues here, one being how we are going to do the language so that the providers know where they are, the other is if we are going to live with 1% or  $1\frac{3}{4}$ % or some other interest rate like 9%. If we are talking remove the cap, in the real world, you can borrow money at a lower rate. Floating is fine, and if your not willing to go with the Prime +3, which the LTC said is no problem. If your not willing to look at something that works with market, then we need to come back and look at it whenever there is a change in the market, make an adjustment, but 12 is not acceptable and 18/21 are not at all reasonable.

**Chairman Porter:** O.K., I guess we will just adjourn for today and reschedule. Thank you.



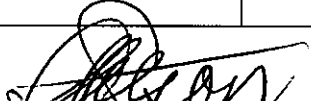
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1359

House Human Services Committee

☒ Conference Committee

Hearing Date April 14, 2005

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Minutes:

**Chairman Porter:** I call the Conference Committee on HB 1359 to order.

Members: Rep. Porter, Nelson & Kaldor. Sen. J. Lee, Dever & Warner.

**Chairman Porter:** As quorum is present, I am passing out this amendment, after yesterday's conversation in the morning, this is the rewrite of 0204. This amendment does in Sub Section C in page one, it does move all medical services providers into the new section, it is the 90 days.

**Sen. J. Lee:** I am sorry, I can't find 0204.

**Chairman Porter:** I am actually going through the differences between 0204 and 0209. Sub Section 2, the words that Ms. Clark had suggested be removed "beyond 90 days" was taken out. In Sub section 3, hospitals and clinics are the ones that are under the capped amount, which is the \$50.00. The interest is at 1% in Sub section 4, which is the extension of credit. It also has the separation between medical service providers at 1% and hospitals and clinics at 1% not to exceed \$50.00. That is the difference between 0204 and 0209. Any questions on 0209.



**Rep. Nelson:** I move the amendment.

**Rep. Kaldor:** I second

**Sen. Dever:** I would like more than a second to decipher what we are doing here.

**Sen. J. Lee:** I have also asked Jennifer to prepare something that I would also have considered, I plan to vote against the amendment, I would like to have the committee have an opportunity to review and consider the other amendment.

**Rep. Nelson:** I would with draw my motion.

**Rep. Kaldor:** I with draw my second.

**Sen. J. Lee:** Ms Clark brought these down just before this meeting, so we haven't had a chance to look at them, either. Maybe I could ask Ms. Clark to go over that.

**Chairman Porter:** I see that the 90 days are back in.

**Sen. J. Lee:** We don't want the 90 days for LTC/Nursing Homes. I want to make that clear from the beginning. Part of our discussion when we were on the phone this AM, was the suggestion that we might consider that we take them out of this, and because we wanted the 30 days for LTC/NH. Just for purposes, that it might even be put in another section.

**J. Clark:** We are following the framework, the first change you have is on page 2, sub division B, we are talking about the delinquent piece for LTC/NH and it is 45 days following billing of the medical services.

**Sen. Warner:** The beginning of the month that the services are provided?

**J. Clark:** That is correct, it just changes when you are to start calculating. The next changes, are sub sections 3-4-5, talking about recalculation of late payment charges. We are basing is on the



prime that is published in the Wall St. Journal. There is new language regarding accrued/judgment.

**Rep. Kaldor:** That would be consistent with 2204 also?

**J. Clark:** Yes. We established that as 3% points rounded out to the next 1/2. Sub 5 is now Sub 4 and reworked the extension of credit. We have extended that language through out the bill, basing interest rates, in case there is an extension of credit, and put the \$50.00 cap on hospitals, clinics and air ambulances.

**Chairman Porter:** Section 3 is the same.

**J. Clark:** There used to be a date referenced on the delinquent date, I took out the reference out.

**Chairman Porter:** In visiting with the collection agency people, there is reference to a part of the law that when an account is turned over to them, it reverts back to a straight 6% simply interest across the board. What happens if on the 91st day, the facility decides they don't want to hold their accounts, and they turn it over to a collection agency. Does this footprint follow that?

**J. Clark:** We haven't amended any of the collection statues in this provision.

**Sen. J. Lee:** How would they be affected by this when the director of the financial institution says that whatever the rate is between the patient/facility is what prevails.

**Chairman Porter:** I am not sure, I was in a conversation with someone, that was explaining on how it works from start to finish now. My understanding was that when it passes to a collection agency, it passes on to another section of code. If a judgment is received on a claim, after Aug. 1st. then is goes to the prime + 3. If it is under the judgment section. It seems to pass through a couple different sections of code, before it gets to the final judgment area.



**Sen. J. Lee:** I think it interesting, and maybe we should find out, since the dept. of finance, says there can't be any increase in interest or fees. In this case there would be a decrease, which I find very interesting.

**Kim Rau, North Dakota Collector's Association and Hospital Services.**

In 1983, we had to revert when we do a judgment (47-14-05) which is under loans of money. That only allows us 6%, unless there is a written contract. If the interest is different that what we can charge under the written contract, we can do by that contract. Without a written contract the judges are indicating that we follow 47-14-05. (6%)

**Chairman Porter;** If there is a contract signed, you can go by the contract, if none are signed, you use the 6% figure?

**Kim Rau:** Yes, that is correct.

**Rep. Kaldor:** When you do a collection, a creditor will bring it to you and you collect it and then get a commission off of it?

**Kim Rau:** Yes

**Rep. Kaldor:** Does your industry also factor accounts receivable or you buy them?

**Kim Rau:** Yes, they do buy them, we do not do that in our office, I believe there is one in the state that does it.

**Sen. J. Lee:** Ms. Clark has also brought down the prime copy of the Wall Street Journal to give us an idea of the prime is. I want to say that I was not trying to change what we talked about with LTC regarding the billing dates, etc. In visiting with my colleagues, they still have some discomfort with the 12%. But taking the cap off and leaving it at 12%, I feel is ridiculous, when



prime is at 5 ¼. If it a challenge to have a yearly review of the interest rate, then we need to pick a number. We do not make it hard for industry.

**Rep. Kaldor:** In pondering the subject of rates, one of the reasons that I haven't had a problem with the 12%, is that I have seen the intent of this as the purpose/ goal is to just get someone into to the office to talk about their responsibility of paying this debt. I put myself in that position, I agree with you Sen. Lee, but if it takes that to someone to take that bill from the bottom of the pile and move it to the top, if we can just get their attention, I just want to assist the businesses in getting some of their money they are due.

**Rep. Nelson:** Since we met, I have called all of my providers in my area, and not one of those providers charge interest if there is an attempt to pay. The computer systems do have some problems with compounding interest. Smaller facilities defiantly will have a problem with compounding interest. I think that it is a real problem to put that on them. The prime problem, I agree with Rep. Kaldor. In my area,. that % rate is just an attention getter. Under the provisions of this law, under a hardship, they are out. The people that are working to pay their bills are exempt from interest from the local basis. I think we are creating a monster here from an administrative point. I think we need to put this in perspective. I don't agree with the floating interest rate. I think we need a set fee.

**Sen. J. Lee:** I agree about the businesses, and am glad that the people in your area are honorable, but I am not so sure they are in my area. I would like to address the areas of the whether or not the sections here are appropriate of who gets caps and who doesn't. The other issue is if the number is correct. If the language allows our goal is to bring someone to the table and that we have limits on certain bills, then we should find a form that does what we want it to do. The



other less complicated part of the issue is what that number is. So which format says what we want it to say in a way that makes it clear, not only to us, but to all providers who can benefit from the fact that we are putting everything in one place and they know where to look. And they are not going into 51-14 to charge 18%, and I am really anxious for that to happen.

**Rep. Nelson:** The additional thought I have and also have a problem with is in Sub section 4, is the inclusion of air ambulance in this section. This started out as a bill to exempt nursing homes from the \$25.00 limit, and I don't know where that came from.

**Sen. J. Lee:** From your committee chairman.

**Rep. Nelson:** I don't like the fact that this appears to fit from a discussion in a conference committee, including the clinic's, was a big enough fight and I really don't want to going any farther than that personally.

**Rep. Kaldor:** Just a note here, I really believe that was included because of the big dollars involved in that, just as you are with hospital & clinic bills.

**Rep. Nelson:** Well, I still don't like it.

**Chairman Porter:** Rep. Nelson, for the sake of time and we started 5 minutes late, I would be ready for you motion.

**Rep. Nelson:** I would defer to Sen. Lee for her amendment.

**Sen. J. Lee:** I am not wanting more meetings as you are not, I am sure. I would like an opportunity to review some of the discussion that we have had with my colleagues, that we may come back and have something that we can put together. I would appreciate you consider our concerns as well. I am not vote on either amendment at this time.

**Chairman Porter:** OK, then we are adjourned. (22.0)



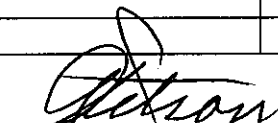
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1359

House Human Services Committee

☒ Conference Committee

Hearing Date April 18, 2005

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Minutes:

**Chairman Porter** opened the Conference Committee meeting on HB 1359.

**Members:** Rep. Porter, Nelson, Kaldor - Sen. J. Lee, Dever, Warner.

Clerk called the roll, all members were present.

**Sen. Lee:** Mr. Chairman, whichever one might have the copy of the prime rate please pass that over to the clerk so I can mark that off my list.

**Chairman Porter:** Sen. Lee, 0210.

**Sen. Lee:** I have since the Senate passes 2204 on Friday, and I can say unequivocally that we are not enchanted with the 12 per cent at all, and we figured that out about ten amendments ago, that it is obvious that the Senate supported the IBL committee on that so these amendments reflect what was done in 2204 and I visited with Sen. Krebsbach so she could look them over also. I encourage you to visit with her about that.. She indicated she had no reservations about where we are going. I explained that what we were really doing with the rest of this is based on all the research and work of Jennifer Clark has done in trying to include all of the areas of statutes in one section that might apply to medical providers so this has the 12 percent rate for hospitals and clinics would have the fifty dollar cap but other



providers of long term care and basic care would not. It is the 45 day for long term care and all of the other things that we talked about. There should be no surprises in there so those amendments, Mr. Chairman, would reflect consolidating all of those things.

**Chrm. Porter:** Senator, 2204 didn't include clinics in the caps.

**Sen. Lee:** But, in visiting with Sen. Krebsbach, I pointed that out to her, that the reason we had looked at including it and we did feel that this is important because that is another large bill. It isn't just going in for a check up. Those kinds of bills, but if somebody for example, is receiving chemotherapy in a clinic or an ongoing treatment of one sort or another, even a physician's bills involving surgical procedures can end up being a significant bill. I had communicated with a couple of local people and got a couple of messages back again by e-mail from the providers in my area and no one seemed to be excited about that figure and Mr. Tomasco had not spoken to me about having any reservations about that and was supportive of having it all in one section. We had discussed on earlier occasions of this committee having the clinics included because of their potentially large bills.

**Sen. Dever:** Mr. Chairman, should I have a copy 0212?

**Chrm. Porter:** I have one.

**Sen. Lee:** They are sitting in front of me. I had sent copies over for Chrm. Porter and Rep. Nelson because he had asked for them before. I apologize for not having gotten them to everybody else. There are more here.

**Chrm. Porter:** Any further discussion on 0212? Is there a motion?

**Rep. Nelson:** I move amendment 0212.

**Sen. Lee:** I'll second.

**Chrm. Porter:** This is a motion for the Senate to recede from its amendments. Is there a discussion?

**Sen. Warner:** I would have preferred to see a smaller cap with a variable rate. I will support this bill.

**Sen. Dever:** 2202 is Prime plus 3.



**Sen. Warner:** Does this mean that if they failed to pay that they would be taken to court and would be adjudicated as the judgment rate was lower.

**Sen. Lee:** If it went to collections, it would be 6 percent simple which is why I thought prime plus 3 would be just fine.

**Sen. Warner:** Then if they failed to pay, it means that they would go to court?

**Sen. Lee:** Their credit rating is low.

**Chrm. Porter:** Is there any further discussion? I'm not going to support this version. I am going to support 2204 because it will do a better job and it is the one on which we held all the hearings. I believe it will be adopted. I think 2204 is a better version.

**Sen. Lee:** My concern about 2204 is that it doesn't do anything to eliminate medical providers from going to other sections of the statutes to do an end run around what the intent of the Legislature is, which is exactly what was done these last 2 years to other sections of the statutes using 51-14. We eliminated 51-14 in 2204. Otherwise everything in 2204 is in here. The equally important part of this bill is pulling it together because we didn't know before that there were several other sections of statutes under which medical providers could go in order to do an end run around what the legislative intent was. I think this is an extremely important bill and putting it all into one place so that any medical provider can go to one statute and see exactly what the rules are, depending on what they do. That is why this bill is important to me and I think to other people, too.

**Chrm. Porter:** Further discussion? Hearing none, the clerk will take the vote.

**Vote: 5-1-0. Chairman Porter will carrier the bill.**



April 12, 2005

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1359

That the Senate recede from its amendments as printed on page 1190 of the House Journal and page 739 of the Senate Journal and that Engrossed House Bill No. 1359 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new section to chapter 13-01 of the North Dakota Century Code, relating to the amount of late payment charges and finance charges on medical bills; to", replace "section" with "sections", and after "13-01-14" insert "and 13-01-15"

Page 1, line 6, after "receivable" insert "**- Exceptions**"

Page 1, line 10, overstrike "Except as provided in subsection 4, the" and insert immediately thereafter "The" and after "charge" insert "provided under this section"

Page 1, line 12, overstrike "in" and insert immediately thereafter "under", after "may" insert "not", and overstrike "only if" and insert immediately thereafter "unless"

Page 1, line 15, overstrike "A creditor may not charge, receive, or collect a late payment charge on medical or"

Page 1, overstrike line 16

Page 1, line 17, overstrike "charge may be imposed at a rate that does not exceed one percent per month"

Page 1, line 18, overstrike ". This subsection does not"

Page 1, overstrike line 19

Page 1, line 20, overstrike "5."

Page 1, after line 22, insert:

"c. Money due a medical services provider on accounts receivable for medical bills.

**SECTION 2.** A new section to chapter 13-01 of the North Dakota Century Code is created and enacted as follows:

**Late payment charge on accounts receivable for medical services -  
Limitations on extensions of credit by medical providers.**

1. A creditor that is a medical services provider may not charge, receive, or collect a late payment charge on money due on an account for medical services except as provided under this section. For purposes of late charges on accounts receivable, an account for medical services does not become delinquent until ninety days have passed following receipt of the billed medical services.
2. The accounts receivable late payment charge allowed under this section may not be charged unless, when the obligation was incurred, the creditor



did not intend to extend any credit beyond ninety days and late payment of the obligation was unanticipated.

3. If the creditor is a licensed nursing facility or basic care facility, the creditor may charge, receive, and collect an accounts receivable late payment charge at a rate that does not exceed one percent per month. If the creditor is not a licensed nursing facility or basic care facility, the creditor may charge, receive, and collect an accounts receivable late payment charge at a rate that does not exceed one percent per month, not to exceed twenty-five dollars per month. A creditor may not charge, receive, or collect an accounts receivable late payment charge under this section if the creditor has certified a case of financial hardship.
4. Notwithstanding higher rates or amounts that may be allowed under chapter 51-14, section 47-14-05, or a written agreement, the credit service charge, rate of interest, or finance charge a medical services provider charges on an extension of credit for medical services may not exceed one percent per month, not to exceed twenty-five dollars per month.

**SECTION 3. AMENDMENT.** Section 13-01-15 of the North Dakota Century Code is amended and reenacted as follows:

**13-01-15. Late payment on accounts receivable - Periodic statement to be furnished to debtor.**

1. A creditor may not charge the accounts receivable late payment charge provided for ~~in~~ under section 13-01-14 ~~only if~~ or section 2 of this Act unless the creditor promptly supplies the debtor with a statement as of the end of each monthly period, or other regular period agreed upon by the creditor and the debtor, in which there is any unpaid balance.
2. Such statement must ~~recite~~ state, in any order, the following:
  1. a. The percentage amount of the late payment charge which will be charged beginning thirty days after the obligation is incurred for purposes of section 13-01-14, or beginning after ninety days after the receipt of the billed medical services for purposes of section 2 of this Act.
  2. b. The unpaid balance at the end of the period.
  3. c. An identification of any amount debited to the debtor's account during the period.
  4. d. The payments made by or for the debtor to the creditor during the period.
  5. e. The amount of the late payment charge.

~~The items need not be stated in the sequence or order set forth above.~~

3. Additional items may be included in the statement to explain the computations made in determining the amount to be paid by the debtor."

Renumber accordingly



**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

Bill Number HB 1359 (, as (re)engrossed)

Date: 4/13/05

Your Conference Committee Human Services

**For the Senate:**

**For the House:**

|              | YES / NO |               | YES / NO |
|--------------|----------|---------------|----------|
| Sen Cook     | ✓        | Chrm R. Wiley | ✓        |
| Sen Helacher | ✓        | Rep Price     | ✓        |
| Sen Bersier  | ✓        | Rep Sandvig   | ✓        |

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) 1260 -- 1262

Sen 953-955  
and place \_\_\_\_\_ on the Seventh order.

✓, adopt (~~for~~) amendments as follows, and place HB 1359 on the Seventh order:

\_\_\_\_\_, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: 4/13/05

CARRIER: Rep Wiley

|                                   |                |
|-----------------------------------|----------------|
| LC NO.                            | of amendment   |
| LC NO.                            | of engrossment |
| Emergency clause added or deleted |                |
| Statement of purpose of amendment |                |

MOTION MADE BY: Sen Bersier

SECONDED BY: Sen Cook

VOTE COUNT 5 YES 0 NO 1 ABSENT

Revised 4/1/05



April 14, 2005

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1359

That the Senate recede from its amendments as printed on page 1190 of the House Journal and page 739 of the Senate Journal and that Engrossed House Bill No. 1359 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new section to chapter 13-01 of the North Dakota Century Code, relating to the amount of late payment charges and finance charges on medical bills; to", replace "section" with "sections", and after "13-01-14" insert "and 13-01-15"

Page 1, line 6, after "receivable" insert "- Exceptions"

Page 1, line 10, overstrike "Except as provided in subsection 4, the" and insert immediately thereafter "The" and after "charge" insert "provided under this section"

Page 1, line 12, overstrike "in" and insert immediately thereafter "under", after "may" insert "not", and overstrike "only if" and insert immediately thereafter "unless"

Page 1, line 15, overstrike "A creditor may not charge, receive, or collect a late payment charge on medical or"

Page 1, overstrike line 16

Page 1, line 17, overstrike "charge may be imposed at a rate that does not exceed one percent per month"

Page 1, line 18, overstrike ". This subsection does not"

Page 1, overstrike line 19

Page 1, line 20, overstrike "5."

Page 1, after line 22, insert:

"c. Money due a medical services provider on accounts receivable for medical bills.

**SECTION 2.** A new section to chapter 13-01 of the North Dakota Century Code is created and enacted as follows:

**Late payment charge on accounts receivable for medical services -  
Limitations on extensions of credit by medical providers.**

1. A creditor that is a medical services provider may not charge, receive, or collect a late payment charge on money due on an account receivable for medical services except as provided under this section. For purposes of late charges on accounts receivable under this section:
  - a. An account for medical services, except an account for medical services of a licensed nursing facility or basic care facility, does not become delinquent until ninety days have passed following receipt of the billed medical services;



- b. An account for medical services of a licensed nursing facility or basic care facility does not become delinquent until forty-five days have passed following billing of the medical services; and
  - c. The basis upon which a late charge is calculated may not include unpaid late charges.
2. The account receivable late payment charge allowed under this section may not be charged unless, when the obligation was incurred, the creditor did not intend to extend any credit and late payment of the obligation was unanticipated.
  3. The creditor may charge, receive, and collect an account receivable late payment charge under this section at a rate that does not exceed a rate equal to the prime rate published in the Wall Street Journal on the first Monday in December of each year plus three percentage points rounded up to the next one-half percentage point.
  4. Notwithstanding subsection 3, an account receivable late payment charge that is charged by a hospital, a clinic, or an air ambulance under this section may not exceed fifty dollars per month.
  5. Notwithstanding higher rates that may be allowed under chapter 51-14, section 47-14-05, or a written agreement, the credit service charge, rate of interest, or finance charge a medical services provider charges on an extension of credit for medical services may not exceed a rate equal to the prime rate published in the Wall Street Journal on the first Monday in December of each year plus three percentage points rounded up to the next one-half percentage point. In addition, a credit service charge, rate of interest, or finance charge by a hospital, a clinic, or an air ambulance for medical services may not exceed fifty dollars per month.

**SECTION 3. AMENDMENT.** Section 13-01-15 of the North Dakota Century Code is amended and reenacted as follows:

**13-01-15. Late payment on accounts receivable - Periodic statement to be furnished to debtor.**

1. A creditor may not charge the accounts receivable late payment charge provided for in under section 13-01-14 ~~only if~~ or section 2 of this Act unless the creditor promptly supplies the debtor with a statement as of the end of each monthly period, or other regular period agreed upon by the creditor and the debtor, in which there is any unpaid balance.
2. Such statement must ~~recite~~ state, in any order, the following:
  - a. The percentage amount of the late payment charge which will be charged beginning thirty days after the obligation is incurred for purposes of section 13-01-14, or beginning the billed medical services become delinquent for purposes of section 2 of this Act.
  - b. The unpaid balance at the end of the period.
  - c. An identification of any amount debited to the debtor's account during the period.
  - d. The payments made by or for the debtor to the creditor during the period.
  - e. The amount of the late payment charge.



~~The items need not be stated in the sequence or order set forth above.~~

3. Additional items may be included in the statement to explain the computations made in determining the amount to be paid by the debtor."

Renumber accordingly



April 15, 2005

**Conference Committee Amendments to Engrossed HB 1359 (50336.0212) - 04/15/2005**

That the Senate recede from its amendments as printed on page 1190 of the House Journal and page 739 of the Senate Journal and that Engrossed House Bill No. 1359 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new section to chapter 13-01 of the North Dakota Century Code, relating to the amount of late payment charges and finance charges on medical bills; and to", replace "section" with "sections", and after "13-01-14" insert "and 13-01-15"

Page 1, line 6, after "receivable" insert "- Exceptions"

Page 1, line 10, overstrike "Except as provided in subsection 4, the" and insert immediately thereafter "The" and after "charge" insert "provided under this section"

Page 1, line 12, overstrike "in" and insert immediately thereafter "under", after "may" insert "not", and overstrike "only if" and insert immediately thereafter "unless"

Page 1, line 15, overstrike "A creditor may not charge, receive, or collect a late payment charge on medical or"

Page 1, overstrike line 16

Page 1, line 17, overstrike "charge may be imposed at a rate that does not exceed one percent per month"

Page 1, line 18, overstrike ". This subsection does not"

Page 1, overstrike line 19

Page 1, line 20, overstrike "5."

Page 1, after line 22, insert:

"c. Money due a medical services provider on accounts receivable for medical bills.

**SECTION 2.** A new section to chapter 13-01 of the North Dakota Century Code is created and enacted as follows:

**Late payment charge on accounts receivable for medical services -  
Limitations on extensions of credit by medical providers.**

1. A creditor that is a medical services provider may not charge, receive, or collect a late payment charge on money due on an account receivable for medical services except as provided under this section. For purposes of late charges on accounts receivable under this section:

a. An account for medical services, except an account for medical services of a licensed nursing facility or basic care facility, does not become delinquent until ninety days have passed following receipt of the billed medical services; and



- b. An account for medical services of a licensed nursing facility or basic care facility does not become delinquent until forty-five days have passed following billing of the medical services.
- 2. The account receivable late payment charge allowed under this section may not be charged unless, when the obligation was incurred, the creditor did not intend to extend any credit and late payment of the obligation was unanticipated.
- 3. A creditor that is not a hospital or clinic may charge, receive, and collect an account receivable late payment charge under this section at a rate that does not exceed one percent per month. A creditor that is a hospital or clinic may charge, receive, and collect an account receivable late payment charge under this section at a rate that does not exceed one percent per month, not to exceed fifty dollars per month.
- 4. Notwithstanding a higher rate or amount that may be allowed under chapter 51-14, section 47-14-05, or a written agreement, the finance charge, credit service charge, or rate of interest for an extension of credit for medical services which is charged by:
  - a. A medical services provider that is not a hospital or clinic may not exceed one percent per month.
  - b. A hospital or clinic may not exceed one percent per month, not to exceed fifty dollars per month.

**SECTION 3. AMENDMENT.** Section 13-01-15 of the North Dakota Century Code is amended and reenacted as follows:

**13-01-15. Late payment on accounts receivable - Periodic statement to be furnished to debtor.**

- 1. A creditor may not charge the account receivable late payment charge provided for ~~in~~ under section 13-01-14 only if or section 2 of this Act unless the creditor promptly supplies the debtor with a statement as of the end of each monthly period, or other regular period agreed upon by the creditor and the debtor, in which there is any unpaid balance.
- 2. Such statement must ~~recite~~ state, in any order, the following:
  - ~~1-~~ a. The percentage amount of the late payment charge which will be charged beginning thirty days after the obligation is incurred for purposes of section 13-01-14, or beginning after the billed medical services become delinquent for purposes of section 2 of this Act.
  - ~~2-~~ b. The unpaid balance at the end of the period.
  - ~~3-~~ c. An identification of any amount debited to the debtor's account during the period.
  - 4. d. The payments made by or for the debtor to the creditor during the period.
  - ~~5-~~ e. The amount of the late payment charge.

~~The items need not be stated in the sequence or order set forth above.~~

- 3. Additional items may be included in the statement to explain the computations made in determining the amount to be paid by the debtor."



Renumber accordingly



**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

Bill Number HB 1359 (, as (re)engrossed):

Date: 4/18/05

Your Conference Committee \_\_\_\_\_

**For the Senate:**

**For the House:**

|              | YES / NO |  |                | YES / NO |   |
|--------------|----------|--|----------------|----------|---|
| ✓ Sen Lee    | ✓        |  | ✓ Chron Paster |          | ✓ |
| ✓ Sen Deuer  | ✓        |  | ✓ Rep Nelson   | ✓        |   |
| ✓ Sen Warner | ✓        |  | ✓ Rep Kaldor   | ✓        |   |

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) \_\_\_\_\_ -- \_\_\_\_\_

\_\_\_\_\_, and place \_\_\_\_\_ on the Seventh order.

\_\_\_\_\_, adopt (further) amendments as follows, and place \_\_\_\_\_ on the  
Seventh order:

\_\_\_\_\_, having been unable to agree, recommends that the committee be discharged  
and a new committee be appointed.

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: \_\_\_\_\_

CARRIER: \_\_\_\_\_

|                                   |                |
|-----------------------------------|----------------|
| LC NO.                            | of amendment   |
|                                   |                |
| LC NO.                            | of engrossment |
|                                   |                |
| Emergency clause added or deleted |                |
| Statement of purpose of amendment |                |

**MOTION MADE BY:** \_\_\_\_\_

**SECONDED BY:** \_\_\_\_\_

**VOTE COUNT**       YES       NO       ABSENT

Revised 4/1/05



**REPORT OF CONFERENCE COMMITTEE**

**HB 1359, as engrossed:** Your conference committee (Sens. J. Lee, Dever, Warner and Reps. Porter, Nelson, Kaldor) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1190, adopt amendments as follows, and place HB 1359 on the Seventh order:

That the Senate recede from its amendments as printed on page 1190 of the House Journal and page 739 of the Senate Journal and that Engrossed House Bill No. 1359 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new section to chapter 13-01 of the North Dakota Century Code, relating to the amount of late payment charges and finance charges on medical bills; and to", replace "section" with "sections", and after "13-01-14" insert "and 13-01-15"

Page 1, line 6, after "**receivable**" insert "- Exceptions"

Page 1, line 10, overstrike "Except as provided in subsection 4, the" and insert immediately thereafter "The" and after "charge" insert "provided under this section"

Page 1, line 12, overstrike "in" and insert immediately thereafter "under", after "may" insert "not", and overstrike "only if" and insert immediately thereafter "unless"

Page 1, line 15, overstrike "A creditor may not charge, receive, or collect a late payment charge on medical or"

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Page 1, line 17, overstrike "charge may be imposed at a rate that does not exceed one percent per month"

Page 1, line 18, overstrike ". This subsection does not"

Page 1, overstrike line 19

Page 1, line 20, overstrike "5."

Page 1, after line 22, insert:

"c. Money due a medical services provider on accounts receivable for medical bills.

**SECTION 2.** A new section to chapter 13-01 of the North Dakota Century Code is created and enacted as follows:

Late payment charge on accounts receivable for medical services - Limitations on extensions of credit by medical providers.

1. A creditor that is a medical services provider may not charge, receive, or collect a late payment charge on money due on an account receivable for medical services except as provided under this section. For purposes of late charges on accounts receivable under this section:

a. An account for medical services, except an account for medical services of a licensed nursing facility or basic care facility, does not become delinquent until ninety days have passed following receipt of the billed medical services; and



- b. An account for medical services of a licensed nursing facility or basic care facility does not become delinquent until forty-five days have passed following billing of the medical services.
- 2. The account receivable late payment charge allowed under this section may not be charged unless, when the obligation was incurred, the creditor did not intend to extend any credit and late payment of the obligation was unanticipated.
- 3. A creditor that is not a hospital or clinic may charge, receive, and collect an account receivable late payment charge under this section at a rate that does not exceed one percent per month. A creditor that is a hospital or clinic may charge, receive, and collect an account receivable late payment charge under this section at a rate that does not exceed one percent per month, not to exceed fifty dollars per month.
- 4. Notwithstanding a higher rate or amount that may be allowed under chapter 51-14, section 47-14-05, or a written agreement, the finance charge, credit service charge, or rate of interest for an extension of credit for medical services which is charged by:
  - a. A medical services provider that is not a hospital or clinic may not exceed one percent per month.
  - b. A hospital or clinic may not exceed one percent per month, not to exceed fifty dollars per month.

**SECTION 3. AMENDMENT.** Section 13-01-15 of the North Dakota Century Code is amended and reenacted as follows:

**13-01-15. Late payment on accounts receivable - Periodic statement to be furnished to debtor.**

- 1. A creditor may not charge the account receivable late payment charge provided for ~~in~~ under section 13-01-14 ~~only if~~ or section 2 of this Act unless the creditor promptly supplies the debtor with a statement as of the end of each monthly period, or other regular period agreed upon by the creditor and the debtor, in which there is any unpaid balance.
- 2. Such statement must ~~restate~~ state, in any order, the following:
  - ~~1-~~ a. The percentage amount of the late payment charge which will be charged beginning thirty days after the obligation is incurred for purposes of section 13-01-14, or beginning after the billed medical services become delinquent for purposes of section 2 of this Act.
  - ~~2-~~ b. The unpaid balance at the end of the period.
  - ~~3-~~ c. An identification of any amount debited to the debtor's account during the period.
  - ~~4-~~ d. The payments made by or for the debtor to the creditor during the period.
  - ~~5-~~ e. The amount of the late payment charge.



~~The items need not be stated in the sequence or order set forth above.~~

3. Additional items may be included in the statement to explain the computations made in determining the amount to be paid by the debtor."

Renumber accordingly

Engrossed HB 1359 was placed on the Seventh order of business on the calendar.



**2005 TESTIMONY**

HB 1359



#1

**TESTIMONY**  
**HB1359**  
**By Representative Gary Kreidt**  
**January 24, 2005**

Good morning Chairman Price and members of the House Human Services Committee.

I am Representative Gary Kreidt, District 33 New Salem. I am here to introduce HB 1359 and urge a Do Pass from this committee.

Currently a medical provider cannot charge a late fee on medical bills during the initial 90 days following services. After the initial 90 days, a late payment charge may be imposed at a rate that does not exceed one percent per month; nursing and basic care facilities are considered "medical providers". The \$25 per month penalty limit is little incentive for paying the monthly long term care bill on time.

I urge a Do Pass on HB 1359 and would be happy to answer any questions.

Thank you,

Gary Kreidt

State Representative District 33



#2

HB 1359

Rep Gerald Uglem

Madam Chairman, Committee members

Just wanted to give you a prospective of what the \$25 limit does relative to nursing home bills.

|          | Bill        | Monthly<br>Interest @ 1.75% | Monthly<br>Interest @ 1% |
|----------|-------------|-----------------------------|--------------------------|
|          | \$1,429.00  | \$25.01                     | \$14.29                  |
| 1 month  | \$3,000.00  | \$52.50                     | \$30.00                  |
| 2 months | \$6,000.00  | \$105.00                    | \$60.00                  |
| 3 months | \$9,000.00  | \$157.50                    | \$90.00                  |
| 1 year   | \$36,000.00 | \$630.00                    | \$360.00                 |

Assuming \$3000 per month in a nursing home, the \$25 limit allows a nursing facility to charge less than one half month interest. Even if the facility charged 1% interest, it would not be able to charge a full months interest.

We do not want North Dakota's nursing homes to be the best deal in financing debt. Lets let them charge the interest rate our laws allow.

Questions?



# Hi-Acres Manor

## Nursing Center

January 24, 2005

Representative Clara Sue Price, Chairman  
Human Services Committee  
State Capitol, Fort Union Room  
600 East Boulevard Avenue  
Bismarck, ND 58505

Dear Representative Price and Committee Members:

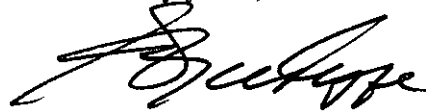
RE: HB 1359

My name is Gary Riffe and I am the administrator and president of Hi-Acres Manor Nursing Center, a 42-bed skilled nursing facility in Jamestown, North Dakota. I am here speaking in favor of the amendment to HB 1359.

As a nursing home administrator, we don't have too many people that don't pay their bills on time. But, as the costs of providing long-term care continue to rise, there is a tendency from time-to-time where families will delay (for whatever reasons) in making their payments in a timely fashion. By having the restriction of a \$25 limit for interest charged to their bill, gives the family no incentive to go to the bank or to find a way to pay the bill sooner. We are not lending institutions, as you know, and when you have a bill anywhere from \$12,000 to \$15,000 over a period of time, \$25.00 doesn't seem like very much to have to pay as a penalty. So, we ask that you would exempt long-term care facilities and basic care facilities from this particular regulation.

Thank you for allowing me to share my thoughts. If you have any questions, I'll be glad to answer them.

Sincerely yours,



Gary M. Riffe, CNHA, Fellow\*  
Administrator/President

\*Certified Nursing Home Administrator - Fellow  
American College of Health Care Administrators

GMR:drf

1300 2nd Place NE • Jamestown, ND 58401-3709  
Phone: (701) 252-5881 • Fax: (701) 252-7765  
[www.hi-acres.com](http://www.hi-acres.com)



**Testimony on HB 1359**  
**House Human Services Committee**  
**January 24, 2005**

Chairman Price and members of the House Human Services Committee, thank you for the opportunity to testify on HB 1359. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. I am here to testify in support of HB 1359.

We have shared with you in past hearings that nursing facilities are experiencing significant collection problems. Some are related to Medicaid ineligibility, others related to a family member controlling the residents income and choosing not to pay the bill on time.

Four years ago a question was raised by a member regarding the standard rate facilities charged for interest, if any. It was found very few ever charged interest and if so it was used as an incentive to encourage families to pay the bill on time. Some found if there was not a policy that interest could be charged, payment was habitually late and sometimes not received until the following month. Once payment is late it is very difficult continually catching up. We also found those that charge interest, generally never collected the interest. In practice they are happy when the monthly bill is paid and rarely go after the interest charge.

Four years ago when we were researching this issue for members we were informed of NDCC 13-01-14 regarding late payment limits on medical or hospital bills. The attorney doing our research concluded that nursing facilities and basic care facilities may be considered "medical bills" and thus we should limit our charges to one percent per month, not to exceed twenty five dollars per month. We don't know what the legislature intended by "medical bills." We found most facilities were unaware of the limitation of the law.

For those facilities who have significant account receivable problems, the \$25 maximum is found to carry little incentive for paying the monthly bill or accumulating bill, in a timely manner.

Nursing facilities are allowed to discharge a resident for non-payment. As you've heard it is distasteful, stressful, expensive, difficult and only used as a last resort. The process of discharge, from the 30 day notice, fair hearing process and appeal to the Supreme Court, can last for more than a year. During this lengthy process we still have the right to be paid each month. If interest isn't "threatened" some would not pay during this process. Remember it's a case of non-payment, so just trying to get any money can be difficult, if not impossible.

As we work with our members on Best Practices to minimize collection problems, the limitation of the \$25.00 maximum is seen as a significant problem.

Your consideration in removing this barrier in collections is appreciated. I would be happy to answer questions you may have.

Shelly Peterson, President  
North Dakota Long Term Care Association  
1900 North 11<sup>th</sup> Street  
Bismarck, ND 58501  
(701) 222-0660



**TESTIMONY**  
**HB1359**  
**By Representative Gary Kreidt**  
**February 23, 2005**

Good morning Chairman Lee and members of the Senate Human Services Committee.

I am Representative Gary Kreidt, District 33 New Salem. I am here to introduce HB 1359 and urge a Do Pass from this committee.

Currently a medical provider cannot charge a late fee on medical bills during the initial 90 days following services. After the initial 90 days, a late payment charge may be imposed at a rate that does not exceed one percent per month; nursing and basic care facilities are considered "medical providers". The \$25 per month penalty limit is little incentive for paying the monthly long term care bill on time.

I urge a Do Pass on HB 1359 and would be happy to answer any questions.

Thank you,

Gary Kreidt

State Representative District 33



**Testimony on HB 1359**  
**Senate Human Services Committee**  
**February 23, 2005**

Chairman Lee and members of the Senate Human Services Committee, thank you for the opportunity to testify on HB 1359. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. I am here to testify in support of HB 1359.

We have shared with you in the hearing on HB 1281 that nursing facilities are experiencing significant collection problems. Some are related to Medicaid ineligibility, others related to a family member controlling the residents income and choosing not to pay the bill on time.

Four years ago a question was raised by a member regarding the standard rate facilities charged for interest, if any. It was found very few ever charged interest and if so it was used as an incentive to encourage families to pay the bill on time. Some found if there was not a policy that interest could be charged, payment was habitually late and sometimes not received until the following month. Once payment is late it is very difficult continually catching up. We also found those that charge interest, generally never collected the interest. In practice they are happy when the monthly bill is paid and rarely go after the interest charge.

Four years ago when we were researching this issue for members we were informed of NDCC 13-01-14 regarding late payment limits on medical or hospital bills. The attorney doing our research concluded that nursing facilities and basic care facilities may be considered "medical bills" and thus we should limit our charges to one percent per month, not to exceed twenty five dollars per month. We don't know what the legislature intended by "medical bills." We found most facilities were unaware of the limitation of the law.

For those facilities who have significant account receivable problems, the \$25 maximum is found to carry little incentive for paying the monthly bill or accumulating bill, in a timely manner.

Nursing facilities are allowed to discharge a resident for non-payment. As you've heard it is distasteful, stressful, expensive, difficult and only used as a last resort. The process of discharge, from the 30 day notice, fair hearing process and appeal to the Supreme Court, can last for more than a year. During this lengthy process we still have the right to be paid each month. If interest isn't "threatened" some would not pay during this process. Remember it's a case of non-payment, so just trying to get any money can be difficult, if not impossible.

As we work with our members on Best Practices to minimize collection problems, the limitation of the \$25.00 maximum is seen as a significant problem.

The original legislation removed the \$25 limitation for only nursing and basic care facilities. The House amended the bill to remove this limitation for all medical providers.

Your consideration in removing this barrier in collections is appreciated. I would be happy to answer questions you may have.

Shelly Peterson, President  
North Dakota Long Term Care Association  
1900 North 11<sup>th</sup> Street  
Bismarck, ND 58501  
(701) 222-0660



## Example of Interest Options

Average daily rate is \$144.48, \$4334.40 monthly.

1% interest on \$4334.40 = \$43.34

½% interest on \$4334.40 = \$21.67

Note - For first 90 days we can't charge interest.

\$4334.40 x 3 months = \$13,003.20

1% interest on \$13,003.20 = \$130.03

½% interest on \$13,003.20 = \$65.02



Testimony Regarding House Bill 1359

Chairman Lee, Members of the Committee,

For the record my name is Steve Rixen. I am a lobbyist for Medcenter One Health Systems. I am here today to provide testimony in favor of House Bill 1359. As Medcenter One Health Systems operates three Nursing Facilities, we believe that this bill is an important step toward assuring that nursing homes have the opportunity to provide fair billing policies, while assuring that those who have the ability to pay for care, do so. Although the possibility of charging interest on medical bills is not a favorable option for any of the parties involved, it may prove to be a necessary measure to encourage debtors to pay what they are able.

I am aware that the potential by-product of increasing interest charges on medical bills in a hospital or clinic setting could be substantial. Any risk of making the already complex payment structure of medical billing more cumbersome is something that we take very seriously. It is Medcenter One's policy not to charge interest on hospital or clinic bills. It would be a far too burdensome process for our institution to accurately keep tabs on every timetable and situation where charging interest may be appropriate.

We understand the complexities of this legislation as it relates to hospital settings. As we do not charge interest on late medical bills in our hospitals and clinics, we would be comfortable with any amendments that would limit the impact of this legislation to a long term care setting.

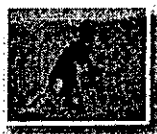
We do urge a do pass recommendation on HB1359.

Thank you,

Steve Rixen  
Medcenter One Health Systems



FOR YOUR INFORMATION  
JOHN RISCH, NORTH DAKOTA  
STATE LEGISLATIVE DIRECTOR  
UNITED TRANSPORTATION UNION



## Healthy Living

Rocklin & Roseville Today

Medical bills to blame for half of all family bankruptcies  
LEE BOWMAN (Scripps Howard News Service)

Medical bills and serious illness are a cause of about half of all household bankruptcies, even though most families have health insurance before the sickness occurs, researchers reported Wednesday.

"Our study is frightening. Unless you're Bill Gates, you're just one serious illness away from bankruptcy," said Dr. David Himmelstein, an associate professor at Harvard Medical School. "Too often, private health insurance is an umbrella that just melts in the rain."

The Harvard researchers found that illness and health costs contributed to between 46 percent and 54 percent of bankruptcy filings in 2001.

They estimated that more than 2 million people living in 700,000 households were affected by medical bankruptcies that year, according to their study published online by the journal Health Affairs.

More than three-quarters of the families had health insurance at the start of the bankrupting illness, but among those with private insurance, a third had lost their coverage, at least temporarily, by the time they filed for bankruptcy.

The research, sponsored with a grant from the Robert Wood Johnson Foundation, is one of the most in-depth studies ever done of medical causes of bankruptcy. The authors \_ with the permission of federal bankruptcy judges in California, Illinois, Pennsylvania, Tennessee and Texas \_ sent questionnaires to 1,771 bankruptcy filers and reviewed their court records.

They eventually did more detailed interviews about the financial and medical circumstances of 931 of the families.

"Most of the medically bankrupt were average Americans who happened to get sick," said Himmelstein, one of the study's authors. "Health insurance offered little protection as families faced unaffordable co-payments, deductibles and bills for uncovered items like physical therapy, psychiatric care and prescription drugs. Even the best job-based health insurance often vanished when prolonged illness caused job loss."

Among the bankruptcy filers, out-of-pocket medical costs averaged \$13,460 for those with private health coverage at the start of their illness, compared with \$10,893 for the uninsured. Those who initially had

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When he was a child, biochemist Jonathan Schuermann loved to ride roller coasters. But before every ride, he had to give his dentures to his father, who feared [read more ::](#)

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health insurance but lost it during their illness incurred the highest bills \_ an average of \$18,005.

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The uninsured may have had lower bills than those with insurance because families without insurance tend to put off treatment or seek charity care.

The researchers found that many of the families were bankrupted by medical expenses well below the catastrophic thresholds of high deductible plans that require employees to pay the first several thousand dollars of health expenses themselves before coverage kicks in, plans that are becoming increasingly common.

"We need to rethink health reform," said Dr. Steffie Woolhandler, another co-author from Harvard Medical School and a primary care physician. "Covering the uninsured isn't enough. We must also upgrade and guarantee continuous coverage for those who have insurance."

Study co-author Elizabeth Warren, a professor specializing in personal bankruptcy at Harvard Law School, stressed that families seek bankruptcy protection as a "last chance to stop the collection calls and try to put their lives back on track."

"Bankruptcy costs these families substantial assets and deep personal shame. A person may recover physically from a medical problem, but millions of Americans will never recover financially from their encounters with the health care system."

On the Net: [www.healthaffairs.org](http://www.healthaffairs.org)

(Contact Lee Bowman at [BowmanL@SHNS.com](mailto:BowmanL@SHNS.com).  
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**Proposed Amendments to House Bill 1359**

February 25, 2005

Page 1, line 16, after the period, insert "Interest shall not begin to accrue until the 91<sup>st</sup> day after the obligation of the debtor to pay has been incurred."

Page 1, line 17, remove overstrike over "~~but~~"

Page 1, line 18, remove overstrike over "~~the charge cannot exceed twenty five dollars per month~~"

—OR—

Page 1, line 17, after "rate" insert "equal to the prime rate published in the Wall Street Journal on the first Monday in December of each year plus two percentage points rounded to the nearest whole number percentage point and may not be compounded in any manner or form", and overstrike "that does not exceed one percent per month"

Renumber accordingly



50336.0100

Fifty-ninth  
Legislative Assembly  
of North Dakota

HOUSE BILL NO. 1359

Introduced by

Representatives Kreidt, Galvin, Uglem

Senator Brown

1 A BILL for an Act to amend and reenact section 13-01-14 of the North Dakota Century Code,  
2 relating to the amount of late payment charges a licensed nursing facility or basic care facility  
3 may charge on medical bills.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 13-01-14 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **13-01-14. Late payment charge on accounts receivable.**

- 8 1. A creditor may charge, receive, and collect a late payment charge on all money  
9 due on account from thirty days after the obligation of the debtor to pay has been  
10 incurred.
- 11 2. Except as provided in subsection 4, the late payment charge may not exceed one  
12 and three-fourths percent per month.
- 13 3. The late payment charge provided in this section may be charged only if, when the  
14 obligation was incurred, the creditor did not intend to extend any credit beyond  
15 thirty days and any late payment of the obligation was unanticipated.
- 16 4. A creditor may not charge, receive, or collect a late payment charge on medical or  
17 hospital bills during the initial ninety days following services. A late payment  
18 charge may be imposed at a rate that does not exceed one percent per month, but  
19 the charge cannot exceed twenty-five dollars per month. The twenty-five dollar  
20 limit under this subsection does not apply to a creditor that is a licensed nursing  
21 facility or a basic care facility. This subsection does not apply in cases of financial  
22 hardship as certified by the creditor.
- 23 5. This section does not apply to:
- 24 a. Money due on retail installment contracts, as defined in chapter 51-13.

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1

b. Money due on revolving charge accounts, as defined in chapter 51-14.



Proposed Amendments to House Bill 1359

~~February 25, 2005~~  
March 7

Page 1, line 2, replace "on medical bills" with "a licensed nursing facility or basic care facility may charge on medical bills"

Page 1, line 16, after the period, insert "Interest shall not begin to accrue until the 91<sup>st</sup> day after the obligation of the debtor to pay has been incurred."

Page 1, line 17, after "rate" insert "equal to the prime rate published in the Wall Street Journal on the first Monday in December of each year plus two percentage points rounded to the nearest whole number percentage point and may not be compounded in any manner or form", overstrike "that does not exceed one percent per month", and remove the overstrike over "~~but~~"

Page 1, line 18, remove overstrike over "~~the charge cannot exceed twenty five dollars per month~~" and after the period, insert "The twenty-five dollar limit under this subsection does not apply to a creditor that is a licensed nursing facility or a basic care facility."

Renumber accordingly

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