



September 12, 2019

Carrie Embree, LSW
Consumer Health Advocate
3416 Goni Road, Bldg. D-132
Carson City, NV 89706

Dear Ms. Embree,

The Nevada Association of Health Plans (NVAHP) attended the August 28, 2019 Public Workshop regarding draft regulations as they pertain to Sections 17 and 18 of the bill. The following provides written comments consistent with our verbal testimony that day and in response to the testimony of others.

It is our understanding that AB 469 grants the Department to develop regulations to implement various provision of AB 469. Specifically,

- Section 17(3) – Authorizes the Department to develop regulations related to the selection of an arbitrator
- Section 18 – Authorizes the Department to develop regulations on how a third party that is not subject to the requirements of AB 469 may elect to be covered by the provision of AB 469

During the workshop various groups have advocated that the Department develop regulation that go beyond section 17(3) and 18, which we believe is beyond the statutory authority provided for in AB 469. Additionally, these various groups have requested the Department to make substantive changes to AB 469 through regulation that we believe changes the plain meaning, language and intent in AB 469. We are very concerned that the discussion and proposed regulations being discussed are not specific to Sections 17 and 18 of the legislation.

For example, the Nevada Hospital Association's written testimony is specific to section 14(2)(b) that addresses patient transfer issues and the Nevada Hospital Association has advocated that the Department develop regulations that would invalidated the provision of AB 469 that protect Nevadans if a member is not transferred within 24 hours of the payer being notified that the patient is stable and transferable.. The Hospital Associations advocacy is clearly not supported by Section 13(3). Section 13(3) provides that the protection of AB 469 would not apply only after the third party payer has been notified that their member is stable and transferable and 24 hours have passed. The Nevada Hospital Association appears to be advocating that the Department develop

regulations that are both inconsistent with AB 469 and outside the authority granted to the Department by AB 469.

Additionally, written testimony submitted by the Emergency Department Practice Management Association and the Nevada American College of Emergency Physicians demands changes made to such definitions as prudent person (Section 8) and medically necessary emergency services (Section 6). It appears that these organization are requesting that Department substitute the clear language in sections 6 and 8 with definition more to their liking. We believe that any change to any definition would be inconsistent with AB 469 and outside the authority granted to the Department by AB 469.

During the Workshop there was much discussion regarding notification to patients that the claim was in arbitration. Notifying the patient is not required by AB469. Should notification be contemplated as a regulation it must come from the provider and a clear explanation of the process must be provided. We are concerned that notification will further confuse the patient and cause them to question what they should or should not pay. The intent behind the passage of AB469 is to protect the consumer and not make these claims more difficult to understand.

It was stated during the Workshop that it could take upwards of a year to promulgate the regulations and get a final decision by the Legislative Commission. Section 29(2) of AB469 requires the act to become effective on January 1, 2020. We would suggest that a temporary or an emergency regulation be enacted that outlines how a third party can elect to be covered by AB 469 and how the selection of an arbitrator will be done pursuant to section 17 while the Department continues to develop a permanent regulation.

We look forward to continuing to work with the Consumer Advocates Office as regulations are drafted and made available. Please provide all meeting notices, draft regulations and pertinent information to me at tom@tomclarksolutions.com. It is important to note that none of our member companies were aware of the August 28, 2019 Public Workshop as it was not posted in the traditional places. For example, meetings scheduled that occur in the Nevada Legislative Building are posted on the legislative website. This one was not.

The written testimony provided by the Nevada Hospital Association and the Emergency Department Practice Management Associates and Nevada American College of Emergency Physicians were sent to the Department eight days prior to the hearing. We would have provided much more testimony had we been notified of the hearing.

Thank you very much for the opportunity to provide input. I look forward to participating in the future.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom Clark', with a long horizontal flourish extending to the right.

Tom Clark
Nevada Association of Health Plans