

TESTIMONY TO  
SENATE INSURANCE COMMITTEE  
S.B. 248  
April 15, 2015

I am Michael Dabbs, President of the Brain Injury Association of Michigan and Secretary of CPAN and on behalf of the members of both organizations wish to express our opposition to S.B. 248.

Let me clear that we are not opposed to reform on most of the issues identified in this bill; but rather, would urge you to take the time necessary to learn of the consequences this legislation would likely precipitate.

Specifically, I want to address the Attendant Care issue. Included with this testimony is the BIAMI Attendant Care Position Paper, which is working document reflecting what we believe are some needed reforms. You will note that our suggested changes are aimed at ensuring what is best for the survivor of a brain injury, their families, as well as ensuring that insurance companies can better document the care provided and that their payment is for the only the services as prescribed.

In addition, please consider the following:

1. Unlike any other injury, a person with a serious brain injury in nearly all instances is unable to direct their care. The persons' brain injury affects their cognitive abilities, behavioral responses, and emotions. The significance of this point is that the survivor of a brain injury may not respond, or respond inappropriately to non-family care givers.
2. Multiple caregivers from an agency canacerbate this issue. Having changes in personnel, week-to-week; month-to-month is disruptive to the individual and to the family. The ability of agency caregivers to get to the survivors' home also is problematic in winter conditions, especially in more rural settings.
3. The irony of the proposed changes to Attendant Care is that they will end up increasing the cost to insurance companies and thus, further raising the premiums we pay. I truly do not believe this consequence is what you want to achieve with your efforts to reform the auto no-fault insurance system.

Again, we are opposed to S.B. 248 and strongly recommend you vote NO on this bill.

Michael F. Dabbs  
President, Brain Injury Association of Michigan  
Secretary, CPAN

*C: Brain Injury Association of Michigan Attendant Care Position Paper, Working DRAFT*

*Our Mission:* To enhance the lives of those affected by brain injury through education, advocacy, research, and local support groups, and to reduce the incidence of brain injury through prevention.

**BRAIN INJURY ASSOCIATION OF MICHIGAN**  
**ATTENDANT CARE**  
**POSITION PAPER**

March 30, 2015

**THIS IS A WORKING DOCUMENT INTENDED TO IDENTIFY KEY AREAS OF ATTENDANT CARE AS A GENERAL FRAMEWORK FOR DISCUSSION AND IS NOT INTENDED TO BE ALL INCLUSIVE**

**PRINCIPLE:** It is our belief that for the injured person medical care is paramount and that ensuring the patient receives all care deemed reasonably necessary should be the central focus of discussions on this topic. In nearly all cases, care provided by family members who are appropriately trained to deliver the necessary care, who receive oversight by a trained physician or clinician, is reasonably necessary for the patient's care, recovery or rehabilitation.

**PHYSICIAN DETERMINATION AND OVERSIGHT:** Decisions regarding the appropriateness of in-home attendant care, as well as the type, intensity, frequency, level of care, and supervision required, should be made by the treating physician in concert with other clinicians and family members following a comprehensive assessment of the individual's care needs. In-Home Care Plans for attendant care situations for persons with a brain injury are recommended. In-Home Care Plans should have at least annual reviews of the plan; or more frequently if health care needs change. The caregiver's competence to provide the care needed should be monitored as directed in the care plan. Care determination and oversight will be retroactive in those cases with a demonstrated need for review.

**CAREGIVER TRAINING:** Appropriate training for all caregiver's is required prior to patient's discharge to a home setting. Completion of training can be documented by either a physician or RN – with periodic review of caregiver competency. Caregiver training will be retroactive in all cases- family members may provide proof of competency to physician or RN if previously trained.

**HOURLY CARE RECOMMENDATIONS:** Generally, no single family member should be responsible for 24/7 care; however, 24/7 care can be rendered by a multiple family members who are appropriately trained. Furthermore, it is recommended that no one person provide care for more than 16 consecutive hours with at least a break of 8 hours. Availability of and use of monitoring devices and other technologies will be considered in determining care needed. Care restrictions are retroactive in most cases unless there is an identified outlier scenario.

**AFFIDAVIT OF CARE:** Family is to certify that care prescribed has been rendered. Affidavit to be provided for all current and future cases.

**REIMBURSEMENT OF CARE:** The reimbursement rate should be 90 percent of the commercial rate for the defined geographic region for the level of care that is required. In absence of a rate standard for the injured person's region, then 90 percent of the commercial rate for the state for the level of care provided will be used. Those patients whose caregivers are receiving negotiated levels of reimbursement should not be required to accept lower rates due to changes in the statutory scheme.