

MINUTES

COMMITTEE: COMMERCE

DATE: Wednesday, March 21, 1973

MEMBERS PRESENT: Chairman Prince, Dr. Robinson, Messrs Demers, Bickerstaff, Hafen, Capurro, Torvinen, Dini, and Wittenberg;

MEMBERS ABSENT: None GUESTS: See Attached Ex. "B"

The meeting was called to order by Chairman Prince at 4:00 p.m. He called upon Mrs. Yvonne McClain to testify for SB 174. Mrs. McClain represented the Consumer's League of Nevada and claimed to be speaking for 50,000 consumers in the State. See Exhibit "A" for Mrs. McClain's testimony.

Mr. Capurro was not in favor of having prescription drugs advertising on the open market through newspapers and TV because he felt it would encourage "pill popping". Dr. Robinson agreed and suggested that 100 most commonly used drugs be posted in pharmacies. A specific number of drugs to be posted would be necessary because of new drugs coming onto the market all the time. Chairman Prince felt it would be too time-consuming for a druggist to be required to give drug prices to anyone at any time over the phone. Dr. Robinson stated that all trade name drugs would be the same price everywhere.

Mike Melner reminded the Committee that this bill was at the Governor's request; that the consumer needs to know the cost of drugs; that it is in the sense of the capitalistic system; that the pharmacists are the only profession who have this price fixing which has been in the law since 1967. He said it was important for people on fixed incomes, particularly, to be able to purchase drugs at the lowest price possible. He felt that SB 174 was a good bill but must be used in conjunction with AB 473. He discussed a survey that had been taken in Clark County where it was found that drugs differed in price as much as 20% in one day.

Concern over out-of-state prescriptions coming into Nevada was discussed. Dr. Robinson suggested funds being appropriated to advertise drugs; that this is only one form of competition, along with service and trust in the pharmacist. Mr. Hafen asked if this could get out of hand and could the advertising be properly regulated. Mr. Capurro stated that "We're not opposed to having prices posted and available. We're concerned about full-page advertising for prescription drugs which would place a

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financial burden on the small pharmacist, but he should be forced to make his prices available, too". Mr. Melner stated that the Pharmaceutical Board has authority to regulate unethical practices covering advertising. The Committee generally agreed that there is nothing compulsory about the bill; that a pharmacist does not have to advertise prescription drugs. Mr. Torvinen stated that the bill allows advertising, but doesn't force disclosure. Mr. Capurro felt that Mr. Melner would be back to the Commerce Committee in two years asking for more control over this matter.

Mr. Wooster, representing the Retired People stated that they need some relief to be able to determine drug prices prior to purchase. He objects to "wild" advertising on TV for drugs, and cigarettes; that the bill needs some refinement but the idea is sound; that there are many abuses on the sale of drugs; that the pharmacy profession, unlike others, has a product to sell. He asked the Committee to carefully consider the bill; that it's something that might benefit many people.

Mr. George Bennett, an inspector for the Pharmaceutical Board stated that this "bill is contrary to the public interests in that it would increase the demands for drugs, encourage wholesale houses to cut-rate drugs, increase mail orders for prescription drugs leading to more illegal drug trafficking which would hurt the small druggist. He felt that through advertising the quality of the drugs would be affected and that the FDA specifically sets up advertising standards that must be followed, including statements of possible side-effects and complete generic composition of the drugs; that in Oregon where there are no restrictions regarding advertising of prescription drugs, none are being advertised principally because of the FDA regulations which would make advertising very costly.

Mr. Bob Groves, Deputy Attorney General, stated that this bill takes authority away from the Board to regulate advertising of drugs; that the Board does not specify the quality of the drugs sold; that this is in the purview of the Health Department; that the Board only regulates the professional conduct aspect of the profession, compliance with Federal regulations and licensing. Mr. Capurro feels that the Board should see that costs are in line; that it is because of abuses by the pharmacists that we are now considering these bills. Mr. Groves suggested posting of drug prices in the pharmacies, that this would not constitute advertising as defined by the FDA as long as it was contained within the store.

Mr. Desmond, a pharmacist, stated that he will give drug prices over the phone to anyone; that it isn't against the law.

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Mr. Capurro suggested deleting "allowing discounts" from the proposed bill. Mr. Desmond stated that out-of-state pharmaceutical houses would be allowed to advertise in this state and that is "asking for trouble". That this would encourage illegal prescriptions.

Dr. Broadbent spoke on AB 473, stating that in twenty years of medical practice, he is well aware of the discrepancies in drug prices; that he instructs the pharmacist to type the name and quantity or strength of the drug on the label of all his prescriptions; that he feels most pharmacists are in favor of this practice though there is no law requiring pharmacists to do this. Regarding SB 174, he cannot see any good in an open "laundry list" of drugs primarily because there are so many new drugs coming on the market all the time; that the doctors can't even keep up with all of them. Requesting that drugs be labelled, as in AB 473, would have obvious benefits. In particular, it would enable consumers to "shop around" and would enable one physician treating a new patient or filling in for another doctor on a week-end to be able to ascertain the medication the patient is using from another doctor.

Chairman Prince asked Dr. Broadbent if he felt all drugs should be labelled. Dr. Broadbent felt they should unless specifically specified otherwise by the prescribing physician. He suggested the bill be so amended and stated that he would prepare such amendment.

Mr. Melner reiterated his feelings that AB 473 and SB 174 must be combined. Dr. Broadbent warned the Committee to "tread cautiously"; that SB 174 could lead to many illegal practices. Both Mr. Bennett and Mr. Desmond voiced their approval of 473.

Chairman Prince announced that the hearing was adjourned. Mr. Dini moved, Mr. Demers seconded that SB 174 be passed. Mr. Torvinen moved to amend the motion by adding that Nevada licensed pharmacists be required to post in their stores a list of 100 most commonly sold prescription drugs with prices and that they must provide prices upon request. Mr. Dini stated that he felt the amendment frivolous. Those members voting "aye" on the amendment were Messrs Torvinen, Dr. Robinson, Messrs Hafen and Capurro. The motion failed.

Mr. Capurro moved to amend the original motion to exempt those drugs controlled by the "Controlled Substances Act" from advertising. Mr. Torvinen seconded the motion. Mr. Dini stated that he was not ready to vote on the amendment.

Mr. Capurro moved to adjourn. Mr. Dini seconded the motion. The meeting adjourned at 6:00 p.m.

Respectfully submitted,

PHYLLIS BERKSON, Attache

AGENDA FOR COMMITTEE ON COMMERCE

Date Wed., March 21 Time 4:00 p.m. Room 222

<u>Bills or Resolutions to be considered</u>	<u>Subject</u>	<u>Counsel requested*</u>
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SB 174	Permits open-market advertising and sale of prescription drugs.	
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AB 473	Requires labels on prescription containers to show certain information.	
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My name is Yvonne McClain, I am representing the Consumers League of Nevada. I am appearing before you to ask your support ^{Senate} for ~~Assembly~~ Bill 174, which will allow the open price advertising of prescription drugs.

The Consumers League is a statewide organization with all the work done by volunteers. The organizations that have joined us, in our efforts to promote and protect the interests of consumers in Nevada include: the Machinists Union in Las Vegas, Poor People Pulling Together, the Southern Nevada Home Economics Association, The Franciscan Center, Citizens for Community Action, the Economic Opportunity Board of Clark County, the Clark County Welfare Rights Organization, the Employees at Reynolds Electrical and Engineering Company, and the Clark County Classroom Teachers Association. This represents in ~~xxx~~ excess of 50,000 consumers.

Consumers League has mailed to each of you a copy of the prescription drug price survey, done in 1972 in Clark County. I sincerely hope that you have had an opportunity to review this report. Under present Nevada law, the consumers right to know price information is not recognized.

Most of the drugs surveyed were brand names. It should be recognized that, in some cases, reliable generic versions of drugs are available and in many cases less expensive. 10 of the 29 drugs surveyed were generics and were from a listing of reliable generics from Consumers Union. An outstanding example is EQUINAL, known generically as MEPROBROMATE. When we surveyed for high-low prices for EQUINAL, we got a high of \$15.00 and a low of \$7.80. When we surveyed for MEPROBROMATE, the generic name for EQUINAL, we got a high of \$9.60 and a low of \$1.89. This price differential is dramatic.

The U. S. Justice Department has stated: "Differentials such as these can only exist when they are unknown to potential consumers, for given a choice, most consumers would refuse to pay 10 or 12 times the going price for a drug available elsewhere. The cost to the public of the lack of price competition is enormous. In 1969, \$4 billion was spent for out of the hospital prescriptions."

We are specifically asking that consumers have the right to know price information to allow for comparison shopping. A prescription can only be written by a qualified physician and the consumer should have the right to choose where to shop, based in part, on price information being available. We are not encouraging promotional advertising, in fact, we condemn drug advertising that encourages pill-popping as a way of life.

The fact is, our concern is centered, when we discuss prescription drugs, on the restriction and prohibitions placed upon free competition in advertising and sale of prescription drugs. We do not see what relevance these restrictions have to public health.

Americans spend more than \$7 billion dollars a year on pharmaceutical services. Our senior citizens, many of whom are on fixed incomes, account for 23% of all retail spending for prescription drugs.

To consumers these drugs are expensive and studies have shown that the prices are inconsistent. In a study done in the Buffalo-Rochester area, for example, it was shown that the same drug priced the same day in the same pharmacy varied 35% in price. Erma Angevine, Executive Director of the Consumer Federation of America, suggested very appropriately "If you posted drug prices, even the pharmacist would know what to charge for the prescription."

We are not trying to tell you what should go into our prescriptions -- that is the job of the pharmacist and the doctor. We are not demanding generic drugs -- that too is the doctor's decision. We are asking, however, that we be told if all the spending we do for medication is necessary, or if some of that necessary spending is inflated.

George S. Squibb, a prominent name in the drug industry, has stated: "It is clearly false and stupid to say that prescription drug prices cannot be reduced. Exploitation of medicines used in life preserving and life saving situations, by setting prices far above the cost, must be deliberately and conscientiously avoided."

We have never implied that the price is the only consideration when making a purchase. We agree that if a store has extra services they should be permitted to make that information well known. They should do that whether or not prices are posted. ~~We are all interested in who makes home deliveries, who keeps health records, whether credit is available, and so on.~~ The fact is, Nevada consumers cannot obtain that basic consideration, the cost, in order to relate it to all the ~~the~~ fringes benefits.

We encourage price information requests over the phone. We recognize that many people do not have the time or the money to drive all over town for price information -- many people with chronic diseases depend on others for transportation, and need to use their time and money wisely.

We ask that you ~~sp~~ support the statement from the Dept of Health, Education and Welfare, made in 1968, stating "... if the patient is to maintain the right to select a pharmacy, he also has a right to know the prices it charges and to compare these with other prices."

You might weigh into your judgement, a report that the Justice Dept. is considering, an anti-trust action against the American Pharmaceutical Association on the ground that it may be a party "to a ~~some~~ contract, conspiracy or combination to suppress price competition in the retail medicine market."

There have been many state actions to protect consumers rights, the Pennsylvania Supreme Court, in 1971, struck down regulations against price advertising. The Maryland drug pricing law has been declared unconstitutional by the courts and therefore is not in effect. Florida courts have also ~~a~~ struck down the ban on advertising.

Today there is an increasing consumer awareness regarding an intelligent approach to budgeting and spending, we ask that you use your power as elected representatives of the people, to correct, for all consumers, the inequities that exist in the area of prescription drug price advertising in Nevada.

We are extremely concerned about the efforts to amend this bill while it was before the Senate. We cannot discriminate against consumers who happen to have diseases requiring treatment by certain classes of prescription drugs.

Attempts to eliminate, from open price advertising, prescription drugs which contain narcotics or barbituates or drugs which specifically eliminate pain would descriminate ~~again~~ against one out of every five consumers.

Consumers who need treatment for pain with cancer, migrain headaches, hyper active children ~~orxmental~~ and emotional problems, for example, would be prohibited from getting price information. This is wrong, and we oppose any efforts to weaken this bill.

You are reminded that we want the consumers right to price information to be recognized. Do not be misled by opposing remarks which distract from the main issue.

The day has passed when we can allow any profession or industry to remain so protected that the public interest becomes secondary.

Thank you for the opportunity to speak and present our views.

Ms. Mauer Maryland State Legislature

COMMERCE COMMITTEE GUESTS - Wed., Mar. 21, 1973

<u>Name</u>	<u>Representing</u>
Yvonne McClain	Consumers' League of Nevada
Mike Melner	Commerce Department
John McSweeney	
Earl Wooster	Retired People's Association
Frank Desmong	Pharmacist
George Bennett	
Bob Groves	Deputy Attorney General
George Archer	
Erin Vergiels	
Kathleen Ricks	U of N Home Economics Dept.
Terry Sayles	
Robert Broadbent, M.D.	Assemblyman
Sharon Green	Nevada Hospital Association
Keith Ashworth	Assembly Speaker
Noel Manoukian	Governor's Legislative Counsel
Charles Levinson	Consumers' League of Nevada