

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING HELD

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12th DAY OF MARCH, 1973

The meeting was called to order at 9:00 a.m. Senator Close in the Chair.

PRESENT:

Senator Foley
Senator Bryan
Senator Dodge
Senator Swobe
Senator Hecht
Senator Wilson

Richard Morgan, Nevada Education Association
Madeline Rutherford, Sparks Junior High School
Counselor

Jack Clark, Counselor, University of Nevada
John Bailey, Counselor, University of Nevada
Fred Doctor, School Psychologist and President
of Washoe County Counselors'
Association

Robert Groves, Deputy Attorney General representing
the State Board of Pharmacy

Vern Calhoun, State Narcotics Division
Carroll Nevin, Crime Commission

S.B. 316 - Grant privilege against disclosure for certain
communications between students, counselors, and
teachers.

Mr. Morgan testified that this bill is necessary to increase the credibility of student confidence in their counselors and teachers. Senator Wilson felt that the bill should not encompass the iron bound language of privileged communication since the child would then be the only one who could waive that privilege. If one of the purposes of counseling is to protect the child, the counselors should have more flexibility to divulge any information they receive if it would help the child. Senator Wilson suggested deleting the traditional language of privilege and giving counselors immunity from testifying in court.

Madeline Rutherford testified that students are reluctant to confide in counselors and ask them if what they confide would be revealed in court. Presently, the counselors can be subpoenaed and must divulge testimony received from students. Chairman Close asked Mrs. Rutherford if she shouldn't be compelled to reveal information relative to drugs. Mrs. Rutherford replied that information given

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by one student about another is hearsay and commented further that most information that students reveal in confidence is not drug related but is usually related to family problems or abnormal sexual behavior.

Jack Clark testified that this bill would conform the privilege procedure with the professional code of ethics.

The code states that in order to have successful counseling, the first interest is the well-being of the student, therefore confidentiality is necessary. Considering the welfare of the individual counseled, the counselor must recognize that his ability might not be adequate and therefore would request help from other qualified persons.

Counselors must recognize that some individuals are no longer responsible for their own behavior and the counselor must be willing to assume responsibility for them. These individuals usually give their permission for the counselors to do this.

Mr. Clark stated that he is not interested in a bill which would limit him beyond the code of ethics or lock him into a situation where he could not communicate with a third party unless he got a waiver or consent from the person he is counseling.

Chairman Close remarked that he would be willing to give more confidentiality to a university counselor than grammar or middle school counselors. He feels very protective toward the family and child in lower grades because students need more help and parents need to be more involved. Mr. Clark felt that the junior or high school counselor should have the same consideration since in most cases the student is the healthiest member of the family.

Mr. John Baily testified that the goal of counseling is to increase the individual's responsibility for making his own decisions. This is sometimes tested out in fantasy. The counselor's purpose is not to seek truth, but to understand the counselee from his changing perceptions of truth. Relating to the drug problem, quite a few junior high school students admit to taking drugs so that they can be popular with other students.

Mr. Fred Doctor stated that counselors in the Washoe County School District are in full support of this bill and they would be in agreement to take out the traditional privilege language. The counselors want to be able to use their own individual judgment.

S.B. 341 - Regulates dangerous drugs.

Mr. Bob Groves testified that when the Controlled Substances Act was passed in the previous session, the Harrison Narcotics Drugs Act and the Dangerous Drugs Act were repealed. This leaves a void in the law since the Controlled Substances Act is not extended to

all prescription drugs. This bill would reinstate the Dangerous Drug law so the State would have control over prescription drugs.

Senator Bryan remarked that the Dangerous Drug Act was repealed since the Board of Pharmacy was given the authority to add any drug to the schedule that was found to be subject to abuse, and to re-schedule up or down any drugs presently listed. Mr. Grove replied that as a practical matter, the requirements which are imposed on the Board and the procedures they must go through, such as abuse studies, public hearings, and findings of abuse, are so massive that the Board does not have the financial capabilities to carry them out. Presently the Board will wait until the federal government acts on a drug because the cost is something only the federal government can bear. This usually takes quite a while because manufacturers appeal the scheduling determined by the federal government.

Vern Calhoun testified that the Controlled Substances Act gives law enforcement specific items of drug abuse potential. Dangerous Drugs are not necessarily items for potential abuse. Illegal distribution of penicillin is an example of a problem that we presently have, yet it is not a drug of abuse. This bill would allow the Division and Pharmacy Board the authority to continue working against those kinds of problems.

S.B. 342 - Amends provisions relating to controlled substances.

Mr. Grove testified that this bill merely changes the language which referred to "this chapter" to specifically refer to "NRS 453.011 to 453.551 inclusive". The committee will request further testimony from the bill drafter on the purpose of this bill.

S.B. 343 - Increases jurisdiction of State Board of Pharmacy over controlled substances.

Mr. Grove testified that this bill contains changes in the Controlled Substances Act which were requested by the Board of Pharmacy. Section 5, however, should have been a separate bill since it provides for maintenance of certain controlled substances in special care facilities such as convalescent centers and nursing homes. It is apparent that this section should also cover other legend drugs which are needed in emergency situations, such as adrenalin. He asked the committee to amend this bill to put Section 5 in the appropriate place in NRS 639 and include such other legend drugs as the Board may deem by regulation to be proper.

Section 2 of this bill includes the same definition of prescription as is contained in Chapter 639. Section 3 provides that the Board be notified of any persons convicted for any violation of the Controlled Substances Act if such person is required to be registered under that Act.

Section 4 will assist a Board inspector in determining compliance with federal and state laws. Section 6 would authorize administration of a controlled substance by a licensed nurse. Section 7 clarifies the definition of "dispense". Section 8 would give the Board more time to comply following publication in the federal register.

The Board considers Section 9 as the most important part of the bill. Federal law requires registration of manufacturers, distributors, and practitioners and the right to refuse the renewal of annual registration of manufacturers and distributors if inconsistent with public interest. This bill would allow that important tool to be used at state level, especially with respect to maintenance of effective control from diversion. This would allow the Board to take away a practitioners' license to dispense and administer certain controlled substances if convicted of violating any section of Chapter 453.

Section 10 sets out the circumstances where the board may revoke or suspend a license, and provides that no person may employ a person who has had his license revoked or suspended. Section 11 conforms the present law with the federal regulations in emergency situations. Section 12 changes the authority to make investigations which presently vests with the Narcotics Division, which they do not want, to the State Board of Pharmacy.

S.B. 349 - Modifies composition of crime commission.

Carroll Nevin testified against this bill, which would expand the commission in number from 16 to 19 by including 3 district court judges. The bill also states that "The commission shall consist of a chairman and 19 members appointed by the governor, and the court administrator" so is unclear whether the administrator would be the 20th member or would assist the governor in his appointment function.

Mr. Nevin reviewed the background of the formation and the present make-up of the commission. The commission presently includes the undersheriff of Clark County, colonel of the Highway Patrol, Sheriff of Washoe County, Mayor of Las Vegas, Chairman of the Gaming Control Board, Warden of the State Prison, Sheriff of Carson City, the Attorney General, chief of police in Las Vegas, chief of police in Henderson, sheriff of White Pine County, chief of police in Boulder City, director of Juvenile Hall, city attorney of Reno, a county commissioner of Clark County, and a juvenile officer in Clark County. Non-voting members include the Chief Justice of the Supreme Court, a special agent in charge of the FBI (who has been asked to resign by the Acting Director of the FBI since he is involved with the allocation of federal funds), the director of the Department of Motor Vehicles, and 2 youth advisors.

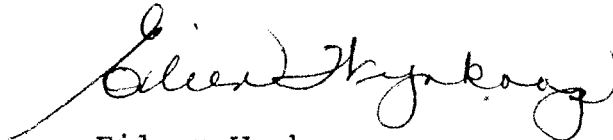
Funds are allocated on a comprehensive state plan based on input from a task force meeting where all are invited to attend. The amendment infers that the courts were not dealt with, but there was a grand total of \$781,000, or 14 per cent, awarded to the courts since 1969. That compares to 11 per cent on a national level.

I don't believe that 3 judges and the court administrator are necessary to represent the court sector. One elected official presently on the commission has volunteered to resign to allow a court representative to be appointed, and the commission would welcome that representation. Mr. Nevin again stated that he opposes this bill and feels that 3 judges, the court administrator, and 3 attorneys would give the commission a definite imbalance.

Senator Bryan moved to indefinitely postpone action on this bill. The motion was seconded by Senator Foley. Motion carried.

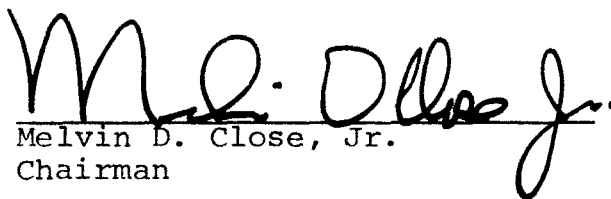
The meeting adjourned at 11:00 a.m.

Respectfully submitted,



Eileen Wynkoop
Secretary

APPROVED:



Melvin D. Close, Jr.
Chairman