

MINUTES

ASSEMBLY COMMERCE COMMITTEE

February 21, 1977

Members Present:

Chairman Harmon  
Mr. Barengo  
Mr. Demers  
Mrs. Hayes  
Mr. Moody  
Mr. Price  
Mr. Sena  
Mr. Weise

Members Excused:

Vice Chairman Mello

Guests Present:

See Guest List Attached

Chairman Harmon called the meeting to order at 3 p.m. Mr. Demers moved that the minutes of the meeting of February 16, 1977, be approved. Mr. Sena seconded and motion carried unanimously.

Mr. Frank Daykin, Legislative Counsel, appeared to explain A.B. 220, A.B. 230 and A.B. 237. These are called revisor's bills, submitted pursuant to Chapter 220 of NRS which requires the legislative counsel to bring to the attention of the legislature conflicting or obsolete statutes.

Assembly Bill 220

Mr. Daykin stated that there is reference under the Public Utility Commission's jurisdiction over construction permit applications by public utilities to give notice to each local government and state agency entitled to receive service of a copy of the applications. However, under NRS 704.870 there is no reference to state agencies. Therefore, the reference in 704.885 is just a stray which has crept in from an earlier version of the bill. A.B. 220 would take out this improper reference.

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Assembly Bill 230

Mr. Daykin explained that this is a bill referring to mobile homes and the reference occurs in that part of the statutes which requires garages, repair shops and so forth to make certain reports. As it reads now, the provisions of this chapter, except one particular section, apply to mobile homes subject to certain sections of the motor vehicle law. The reference is not clear because it does not cover all mobile homes. It only describes those mobile homes which are required to be licensed as vehicles. This bill corrects the reference to exclude two sections, one of which requires a report when they are abandoned, and then defines mobile homes instead of referring to Chapter 482.

Assembly Bill 237

Mr. Daykin pointed out this bill is to repeal an obsolete effective date. When the statute was originally enacted relating to prequalifying a contractor to bid for construction management services, the Public Works Board was concerned with construction management services in certain projects financed by federal grants. Therefore, the effectiveness of the statute was contingent upon the enactment of certain federal legislation. This bill takes out the effective date section of Chapter 520, Statutes of Nevada 1975.

COMMITTEE ACTION

Assembly Bill 220: Mr. Demers moved Do Pass and place on the Consent Calendar. Seconded by Mrs. Hayes and carried unanimously.

Assembly Bill 230: Mr. Demers moved Do Pass and place on the Consent Calendar. Seconded by Mrs. Hayes and carried unanimously.

Assembly Bill 237: Mr. Demers moved Do Pass and place on the Consent Calendar. Second by Mr. Sena and carried unanimously.

Assembly Bill 290

Mr. Weise stated this bill was the result of a request by a constituent. A situation has developed where people come in from out of state and approach a developer or land owner with the promise of a guarantee to obtain money for development projects at a certain rate of interest. The person seeking the loan will pay a deposit to secure the loan.

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In many instances the people who guarantee the loan and receive the fee return to say the interest will be higher than originally promised or do not return. At the present time there is no provision to have the deposit or fee returned and no penalty provided if it is not. This bill is designed to remedy this situation.

Mrs. Hayes questioned the penalty provided and asked if it was consistent with other penalties for crimes of a similar nature. Mr. Barengo felt that it was.

Mr. Lester O. Goddard, Commissioner for Savings Associations, Savings & Loan, Department of Commerce, says this practice has been going on for at least ten years, but has become more significant in the last couple of years. Some of the con artists have taken people in Nevada for as much as \$10,000 to \$50,000, and it has been particularly prevalent since money has become hard to obtain.

Mr. Goddard described how the people who promise these loans operate. He feels a statute to make this a serious offense is absolutely necessary and also stressed that Nevada needs a general bunco law. He also requested that he be allowed to suggest certain amendments, a copy of which are attached as Exhibit 1.

Chairman Harmon stated that Mr. Goddard's amendments would be taken under advisement and Mr. Weise would work on them.

Mr. Donald Wilkerson, an employee of a mortgage banking company in Nevada, appeared in support of the bill but thought that the language in some instances was misleading since all financial institutions do require some sort of deposit or fee to loan money.

Assembly Bill 204 and 205.

Assemblyman Steve Coulter appeared in support of these two bills. Last session he introduced A.B. 436 which was identical to A.B. 204. This is a model bill supported by the American Pharmaceutical Association which is now in effect in 11 states around the country.

When a doctor prescribes a brand name drug, the pharmacist may substitute an equal quality but lower priced generic name drug under the terms of A.B. 204. The difference between the wholesale and retail price must then be passed along to the consumer. The doctor has the ultimate decision because he must indicate

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that he does not object to it and thus maintains control over the whole situation.

Last session the main opposition came from drug manufacturers who profit most from higher priced drugs. The State Board of Pharmacy also said they would need additional personnel to police the prescriptions.

In answer to a question by Chairman Harmon, Mr. Coulter said the presentation of this bill was a recommendation of the interim committee to study the aging, as any way the price of drugs was reduced would help the senior citizen.

Mr. Coulter presented the committee with a table of manufacturers and distributors of drug products put out by the American Pharmaceutical Association, a copy of which is attached as Exhibit 2, and explained its contents. He further discussed the amount of money drug manufacturers spend on advertising and convincing doctors to buy their products. Mr. Coulter again stressed that under A. B. 204 the doctors do retain control.

Mr. Demers asked if there has been an evidence of lower prices for drugs in the states that do have this legislation. Mr. Coulter said that it had been very slow, but this is to be expected since people are hesitant to accept new ideas. If the doctors and pharmacists want to cooperate, there can be staggering savings to the consumers.

The discussion turned to A.B. 205 which Mr. Coulter stated was at the request of the pharmacists who said they would need this legislation if drug substitution passed. Most of the drugs that are sold list only the name of the distributor and this would provide the name of the manufacturer and the final dosage form to be put on all drugs sold. A.B. 205 also provides that the pharmacist does not have to dispense a specific substitute drug when a choice of such drugs is available.

Stan Cooper, representing the Nevada Division for Aging Services, stated they were supporting A.B. 204. There are approximately 77,000 senior citizens in Nevada, the majority of whom use some form of health care. About 20 percent of these people live below poverty guidelines, and they should profit from this legislation.

Mr. George Bennett, Secretary of the State Board of Pharmacy, appeared in support of A.B. 205. Mr. Bennett presented an

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amendment which contains language that is identical to that in 18 states that have adopted similar labeling requirements on drugs. It is also identical to proposed Federal legislation. The wording is also supported by the Pharmaceutical Manufacturers Association, the American Pharmaceutical Association, The National Association of Retail Druggists and the National Association of Boards of Pharmacy. A copy of Mr. Bennett's proposed amendment is attached as Exhibit 3.

Mr. George Hawes, American Association of Retired Persons, Nevada Retired Teachers Association, lobbyist for Nevada AFL-CIO, is very hopeful that this generic drug bill will be of assistance to the senior citizens because of the economic factor.

Nellie Laird, Chairman of the Joint Legislative Committee for the NRTA/AARP, stated that passing A.B. 204 was one of their priorities identified in their plan for improvement of the laws for retired people. They strongly urge the support of this bill.

Dr. Richard C. Inskip, Secretary-Treasurer of the Nevada State Medical Association and past president of American Medical Society, appeared in opposition to A.B. 204. He commented that if he thought it was possible for this bill to help the senior citizens and other people in the state to get medication at lower cost for the same quality he would not be in opposition. The main question is, "can quality be assured?" The committee must be aware that no one can guarantee that quality generically identical to chemical substances will be available.

He stressed the term "bioequivalent" which means that when a substance enters the body it has to do certain things. There are 32 ways a chemical substance can behave differently in the body. There is no one to assure that the products introduced for consumption meet the proper standards since even the Federal Drug Administration is not doing their job very well.

Dr. Inskip discussed all his objections to the bill at length and answered questions posed by the committee.

Mr. Bennett of the State Board of Pharmacy also appeared in opposition to A.B. 204. They do not feel it is in the best interest of the public. Mr. Bennett also discussed the FDA's inability to properly inspect all plants manufacturing drugs. Generic drugs are of an unknown quality and the Board does not feel that generic substitution of drugs for brand names

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is advisable for the wellbeing of the public.

Mr. Bennett has filed a fiscal note on A.B. 204, a copy of which is attached as Exhibit 4. The Board administers Chapter 639 and they would be forced to police the generic drug substitution. They feel that \$25,000 would cover the salary and expenses of a full time inspector.

Mr. Elliott J. King, a registered pharmacist in the State for 32 years, also appeared in opposition to A.B. 204, and stated that the Nevada State Pharmaceutical Association is opposed to substitution. He also discussed the various reasons for his opposition.

Ms. Amy Veatch, President of the Northern Nevada Pharmaceutical Society, expressed their strong opposition to A.B. 204. The pharmacists are worried about liability which could be incurred under this legislation.

Mr. Bennett stated there were several other people who wished to speak in opposition to this bill if future hearings are scheduled.

Chairman Harmon said there would be no action taken on A.B. 204 or A.B. 205. The amendments to 205 will be discussed Wednesday. The meeting was adjourned at 5:15 p.m.

Respectfully submitted,

Jane Dunne  
Assembly Attache

GUEST LIST

<u>NAME</u> (Please print)	<u>REPRESENTING</u>	<u>WISH TO SPEAK</u>	
		Yes	No
Ellen Pope	Nev. L.P.N. Assoc -		NO -
Mary Ann Bantuta	Nev. L.P.N. Assoc.		No
Suzen & Candee	Nevada L.P.N. Assoc.		No
TERESA F. BENNETT	NEV. LIC. PRACTICAL NURSES ASS		NO
Sue Roberts	interested citizen		no
Nancy L. Roberts	WS m A	<del>no</del>	NO
RICHARD C. INSKIP, MD	Nev. STATE Medical ASSN	✓	
Debbie Shelton	Washoe Co. Prop. Owners		
Durd Sayers	NRTA		NO
Rick Land	NRTA/AARP Joint Legislative Comm		
ORVIS E. REIL	NRTA/AARP - State Joint Legislative Comm		
GEORGE T. BENNETT	STATE BD OF PHARMACY		
ELLIOTT J. KING	PHARMACIST - R. V.		
Lueta O. Gifford	Commander SFL Air <sup>State of Nev</sup>	✓	
Ed GASSON	CIBA PHARMACEUTICAL Co		✓
Les J. Gray	Murck Sharp & Olson		✓
GEO. R. TUCKER	STATE BD OF PHARMACY		✓
Stan Cooper	Division for Aging Services	✓	
KATHY TIDDALL	interested citizen		NO
MADELINE CHERRY	" "		"
Ann D. Kille	Nev. Nurses Assoc	✓	
Bob Broadbent	Pharmacy Assoc		
Assemblyman Coulter			

59TH NEVADA LEGISLATURE

COMMERCE COMMITTEE  
LEGISLATIVE ACTION

DATE Feb. 21, 1977

SUBJECT A.B. 220, A.B. 230, A.B. 237

MOTION: DO PASS AND PLACE ON CONSENT CALENDAR

Do Pass      Amend      Indefinitely Postpone      Reconsider     

Moved by Mr. Demers Seconded by Mrs. Hayes

AMENDMENT

Moved by                      Seconded by                     

AMENDMENT

Moved by                      Seconded by                     

VOTE:	<u>MOTION</u>		<u>AMEND</u>		<u>AMEND</u>	
	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>
Harmon	<u>x</u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>
Mello	<u>Absent</u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>
Barengo	<u>x</u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>
Demers	<u>x</u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>
Hayes	<u>x</u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>
Moody	<u>x</u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>
Price	<u>x</u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>
Sena	<u>x</u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>
Weise	<u>x</u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>

TALLY: 8

Original Motion: Passed x Defeated      Withdrawn     

Amended & Passed      Amended & Defeated     

Amended & Passed      Amended & Defeated     

Attach to Minutes Feb. 21, 1977  
Date



R O U G H D R A F T

Section 1. Chapter 645B of NRS is hereby amended by adding thereto a new section which shall read as follows:

645B.\_\_\_\_\_. Advance fees and good faith deposits.

1. Any person acting as a mortgage company, unless exempted from licensing under section 190, shall place any advance fees or good faith deposits received from a person seeking a loan or commitment for a loan, to be secured by a lien on real property, into a third party escrow account located in Nevada pending the completion of the loan or a bona fide commitment for the loan.

2. Any person who accepts such a fee or deposit without placing it in such an escrow account, and fails<sup>upon demand</sup> to return it upon expiration of the agreed time for performance:

(a) Is guilty of a misdemeanor if the amount is less than \$100, or of a gross misdemeanor if the amount is between \$100 and \$1,000; or

(b) shall be punished by imprisonment in the State prison for not less than one year nor more than six years, or by a fine of \$5,000, or by both fine and imprisonment, if the amount is more than \$1,000.

Exhibit 1  
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Table IV

## MANUFACTURERS AND DISTRIBUTORS OF DRUG PRODUCTS

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DRUG	MANUFACTURER	DISTRIBUTOR	AVERAGE WHOLESALE PRICE* (/c = per hundred)
mpicillin Trihydrate caps 250 mg	Zenith Labs	American Quinine Consolidated Midland Sherry West-ward Ladco Labs	\$ 8.00/c 7.75/c 4.40/c 8.60/c
mpicillin Trihydrate caps 250 mg	Biocraft	Columbia Medical Wolins H. R. Cenci United Pharmaceut	6.70/c 6.30/c 11.36/c
chloral Hydrate caps 500 mg	R. P. Scherer	H. R. Cenci Labs ICN Pharmaceut Invenex Pharm. Ladco Labs Life Labs MSD Progress Rexall Squibb Stanlabs Stayner Towne, Paulsen & Co. United Pharm. Alliance Labs Hoack Labs McKesson Labs Purepak Pharm.	1.60/c 1.60/c  4.04/c  5.00/c 2.15/c 1.60/c 1.60/c  1.75/c 1.48/c
			*Average Wholesale Price from 1974 <u>American Druggist</u> <u>Red Book</u>

Exhibit 2, Page 1

Table IV  
(Continued)

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Exhibit 2, Page 2

DRUG	MANUFACTURER	DISTRIBUTOR	AVERAGE WHOLESALE PRICE (/c = per hundred)
Erythromycin Stearate Tabs 250 mg	Mylan Labs	Towne, Paulsen & Co. Wyeth Progress Labs Rexall Drug Mallinkrodt Sherry Pharm. SKF Alliance	\$ 8.83/c 9.35/c  9.95/c 5.70/c 10.15/c
Erythromycin Stearate Tabs 250 mg	Zenith Labs	West-ward, Inc. Zenith Labs Columbia Medical American Quinine	8.30/c 8.69/c 8.45/c 8.65/c
Erythromycin Stearate Tabs 250 mg	Abbott	Abbott Parke Davis	17.39/c 15.87/c
Penicillin G tabs 250 mg	Biocraft	H. R. Cenci Labs Progress Labs Stanlabs, Inc. Towne, Paulsen & Co. United Pharm.	3.40/c 2.30/c
Penicillin G tabs 250 mg	Mylan Labs	Towne, Paulsen & Co. Alliance	2.30/c
Penicillin VK tabs 250 mg	Biocraft	Progress Labs A. H. Robins Stanlabs West-ward	6.60/c
Penicillin VK tabs 250 mg	Mylan Labs	Towne, Paulsen & Co. Sherry Pharm.	4.70/c
Penicillin VK tabs 250 mg	John D. Copanos & Co.	Towne, Paulsen & Co. McKesson Labs Pfizer	4.70/c 3.50/c 8.32/c

DRUG	MANUFACTURER	DISTRIBUTOR	AVERAGE WHOLESALE PRICE (/c = per hundred)
Propoxyphene Cmpd 65 caps	Caribe Chemical	Progress Labs Towne, Paulsen & Co. Wolins West-ward	\$ 3.50/c 2.10/c 3.60/c
Propoxyphene Cmpd 65 caps	Mylan Labs	SKF Wolins	3.75/c 2.10/c
Tetracycline HCl caps 250 mg	Richlyn	Columbia Medical Richlyn Ladco United Pharm.	1.60/c 1.50/c
Tetracycline HCl caps 250 mg	Heather Drug	Wolins H. R. Cenci	1.92/c 2.85/c
Tetracycline HCl caps 250 mg	International Labs	First Texas Pharm. Stayner Corp.	16.47/M* 12.00/M*
Tetracycline HCl caps 250 mg	Rachelle Labs	Rachelle Labs Stayner Corp. Towne, Paulsen & Co. Progress Labs Saron Pharmacal	2.85/c 2.80/c 1.50/c
Tetracycline HCl caps 250 mg	Mylan Labs	A. H. Robins Towne, Paulsen & Co. Wolins Wyeth Invenex Rexall American Pharm. Central Pharmacal Hoack Labs	3.25/c 1.50/c 1.92/c 2.06/c

\* /M = per thousand

Proposed Amendment to A.B. 205

(Underlined is new language)

- I. Amend NRS 585.420 (1) (a) at line 4 to read as follows:
  - (a) The name and place of business of the manufacturer, packer or distributor. Provided, however, for a prescription drug intended for use by man, the label shall contain the name and place of business of the manufacturer of the final dosage form and, if different the name and place of the business of the packer or distributor.
- II. Delete lines 6 and 7 in their entirety.
- III. Amend line 8 by re-lettering subsection (c) to become instead subsection (b).
- IV. Amend NRS 585.420 (2) at line 10 by deleting paragraph (c) to become instead paragraph (b).

Revised A.B. 205

(Underlined is new language)

Section I

NRS 585.420 is hereby amended to read as follows:

585.420 1. A drug or device shall be deemed to be misbranded if in package form unless it bears a label containing:

(a) The name and place of business of the manufacturer, packer or distributor.  
Provided, however, for a prescription drug intended for use by man, the label shall contain the name and place of business of the manufacturer of the final dosage form and, if different, the name and place of the business of the packer or distributor.

(b) An accurate statement of the quantity of the contents in terms of weight, measure or numerical content.

2. Under paragraph (b) of subsection I reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Commissioner.

Section II

Chapter 639 of NRS is hereby amended by adding thereto a new section which shall read as follows:

No person who owns a pharmacy licensed under this chapter may require a pharmacist in his employment to dispense a specific substitute drug when a choice of substitute drugs is available.

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FISCAL NOTE

BDR \_\_\_\_\_  
A.B. 204  
S.B. \_\_\_\_\_

Date Transmitted \_\_\_\_\_

• STATE AGENCY ESTIMATES Date Prepared February 16, 1977

Agency Submitting Nevada State Board of Pharmacy

<u>Revenue and/or Expense Items</u>	<u>Fiscal Note 1976-77</u>	<u>Fiscal Note 1977-78</u>	<u>Fiscal Note 1978-79</u>	<u>Continuing</u>
		<u>\$25,000</u>	<u>\$25,000</u>	<u>\$25,000</u>
<b>Total</b>		<u>\$25,000</u>	<u>\$25,000</u>	<u>\$25,000</u>

Explanation (Use Continuation Sheets If Required)

The Board of Pharmacy would administer and enforce compliance with this change in NRS 639. I estimate that an additional full-time inspector would be required to properly check the substituted prescriptions and monitor Subsection 3(a) of Section 1 to ensure that the cost of the drug to the patient is reduced by at least the difference between the wholesale price of the brand name product designated and the drug dispensed.

Local Government Impact YES  NO   
(Attach Explanation)

Signature George T. Bennett  
George T. Bennett

Title Secretary, Nev. State Board of  
Pharmacy

• DEPARTMENT OF ADMINISTRATION COMMENTS

Date \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

• LOCAL GOVERNMENT FISCAL IMPACT  
(Legislative Counsel Bureau Use Only)

Date \_\_\_\_\_

Exhibit 4  
Minutes of Feb. 21, 1977

Signature \_\_\_\_\_ **64**

Title \_\_\_\_\_