

SENATE COMMITTEE ON EDUCATION, HEALTH,
WELFARE AND STATE INSTITUTIONS

MARCH 15, 1977

The meeting was called to order at 8:08 a.m. on Tuesday, March 15, 1977, in Room 323, with Senator Jack Schofield in the Chair.

PRESENT: Chairman Jack Schofield
Vice-Chairman Joe Neal
Senator William Raggio
Senator Wilbur Faiss
Senator William Hernstadt

ABSENT: Senator Richard Blakemore

GUESTS: Oliver G. Wyatt, Proponent, S.B. 104
Dr. Wm. Kanellos, Nevada Optometric Association
Cynthia Cunningham, Proponent, S.B. 104
Richard Pugh, Representing Dr. John P. Sande
Dr. Herman Hatch, Optometrist, Provo, Utah
Dr. Jim Mitchell, Optometrist, Sac., Calif.
Dr. Richard Hopping, Southern Calif. College of
Optometry
Dr. Marvin Sedway, Optometrist, Las Vegas

Chairman Jack Schofield asked the Committee to consider two BDR's whose summaries are as follows:

BDR 34-1145: "Revises probationary status provisions for certain educational personnel in categorical grant positions."

BDR 34-1146: "Makes changes to procedures and grounds for disciplining or dismissing school administrators and teachers, and requires probation before administrators are granted tenure."

Senator Raggio: Motion to accept BDR 34-1145 & BDR 34-1146 as Committee Introductions.

Senator Faiss: 2nd the Motion.

The Motion passed. (Senator Blakemore-Absent)

S.B. 104

Mr. Oliver G. Wyatt, private citizen, said that this legislation would create more competition in the field of Optometry. He said that he estimated that approximately 49% of Nevada's population wear corrective lenses, or 235,200 citizens will be affected by this bill. Mr. Wyatt

commented that by removing the restrictions for eye examinations, there would be a savings of \$5.00 to Nevadans. He arrived at this figure by researching other Western States that have a similar law in effect, and said that in comparison with even the highest priced examination in the surrounding states, Nevada's are still \$5.00 higher.

Senator Hernstadt asked if Mr. Wyatt noticed that the level of service he received in other states that have mercantile optometrics was lower than that which he receives in Nevada now? Mr. Wyatt said that he has not recently had any glasses from outside states, but previously in California had received a pair from such a commercial operation, and thought it to be extremely efficient and thorough.

Senator Raggio commented that he was very concerned about who would be conducting the eye examinations, and if there would be a thorough check for diseases that affect the eye, in a mercantile "assembly line" operation? Mr. Wyatt said that these optometrists would be controlled by the same licensing standards, and their own personal integrity. Senator Faiss asked if Mr. Wyatt had studied the New York optometric practice where they have had commercial operations for many years? Mr. Wyatt said no, he had limited his study to the western area.

Dr. William Kanellos, Optometrist, representing the Nevada Optometric Association in Reno, commented that visual 'acuity' is the only thing that a retail optometrist discovers in his examinations. He said that with such an operation, the retailer optometrist does not have the time for a proper examination. He said that there is no consideration given as to how the eyes will be used, especially in dealing with multi-focular prescriptions. Dr. Kanellos said that he spends approximately 45 minutes with each patient, as compared to 10 to 15 minutes in the retail operations. He continued that a high-quality eye examination includes: 1) health of patient's eyes and visual system; 2) functioning of the patient's visual system; 3) patient's ability to perform visual tasks adequately; 4) environmental stress on the patient's eyes; 5) patient's future needs; and, 6) counseling the patient in the use of his eyes and preventative measures. Dr. Kanellos also read part of a testimony by Dr. Robert Shannon, given at a F.T.C. hearing, "Optometrists were hired and paid a yearly salary, plus commission, based on the total monthly cash receipts of the office, therefore the optometrists and the office personnel pushed to create sales of optometrical materials in order to increase their incomes. This type of establishment of optometrists was set-up so that the individual optometrist was not allowed to hire or fire personnel without prior approval. The optometrist is not allowed to purchase any optical goods, all items have to be approved by the owners. Since volume sales in the resulting profit picture was a dominant concern, the

optometrist was kept busy doing refractions and in most cases did not have time to over-see the office, adjust spectacles or inspect the finished product received from the laboratory." (Dr. Shannon was a former owner of an optical chain that employed optometrists, opticians and lay people and also owned his own wholesale optical laboratory)

Senator Neal asked what did Dr. Kanellos charge for single lense glasses when NRS 636 was first made effective? Dr. Kanellos said that glasses for single lense cost \$24.00 then and \$25.00 now, and his fees have increased 7%. Senator Neal asked how did the doctor examine? Dr. Kanellos said he examined the eye internally and externally, and gave a diagnosis. Senator Neal said doesn't the present law create a monopoly in your profession? Dr. Kanellos said he did not understand how this was possible, because an optometrist is the only place where one can go to have their eyes examined.

In response to Senator Hernstadt, Dr. Kanellos said that the difference between an optometrist and an ophthalmologist is that an optometrist cannot operate or prescribe therapeutic drugs. Senator Hernstadt was concerned about the effect this legislation would have on advertising. Dr. Kanellos said that optometrists cannot currently advertise, only opticians who grind, cut and dispense lenses. Senator Hernstadt asked if the doctor sold glasses and frames in his office? Dr. Kanellos said yes. Senator Neal asked if the doctor wouldn't object to his patients purchasing their glasses outside of his office? Dr. Kanellos said he will give a prescription to any patient that requests it. Senator Hernstadt asked how would the Board of Optometry feel about discount optical stores? Dr. Kanellos did not know about that portion of the law.

Ms. Cynthia Cunningham spoke as a private citizen and stated that to many people a savings of \$5.00 is very important. She also stated that NRS 636 was special interest legislation, and that a law cannot guarantee integrity by merely dictating the location of an optometrist. Senator Hernstadt asked what did she mean by 'special interest' legislation? Ms. Cunningham said that the Senator should check the record. Senator Neal said that the legislation was introduced by Assemblyman Robinson, who is an optometrist. Senator Raggio said that this type of regulating legislation is no different from that of any other profession. Senator Faiss questioned if it was ethical for an optometrist to introduce such a bill.

Mr. Richard Pugh read into the record a submitted statement from John P. Sande, MD, and Chairman of the Nevada State Medical Association Commission on Governmental Affairs, (Exhibit "A").

Dr. Herman Hatch of Provo, Utah gave testimony as an individual who worked for an Optical chain, owned by Terminal Hudson. Dr. Hatch is currently working in an office with three licensed ophthalmologists. Dr. Hatch said that the office kept hours like those of neighboring retail operations; the office was only one of two of the chain that was equipped to handle contact lenses; the employees were encouraged to get people to buy more than one pair of glasses just to achieve a certain volume, and then when volume was established, the owners would raise the prices; advertising was for single vision, clear lenses only, but this was printed in small print, which was misleading; there was a tremendous turn-over in personnel, and all mail-orders were handled by the girls in the office who also did the duplications without a new prescription.

Senator Hernstadt asked if Dr. Hatch knew if Sears gave the same type of service as he had just described? Dr. Hatch said that he did not know of any specific instance. Dr. Hatch also said to Senator Hernstadt that the chain did either make good their mistakes, or refunded the client's money.

Dr. Jim Mitchell, Optometrist, 1649 Arden Way, Sacramento, California gave testimony about his employment with Opti-Cal. Dr. Mitchell said that the prescriptions were not checked as they came in from the lab, but just dispensed. Dr. Mitchell said that only about two out of ten patients would return if their glasses were incorrect, and the others would not. Senator Hernstadt asked if this wouldn't be true for all optometrist's offices? Dr. Mitchell said yes, but the difference was that the professional optometrist would try to locate the error before the person received his glasses. Dr. Mitchell said that large corporations do not have the interest of the individual patient in perspective. Senator Neal asked if Dr. Mitchell had any suggestions as to how prices could be lowered within the present framework? Dr. Mitchell said no. Senator Neal wanted to know what was the difference between being 'ripped-off' by one individual, or a corporation? Dr. Mitchell said the chances were greater by a conglomerate operation. Senator Hernstadt wanted to know why if this situation is as bad as had been presented, then why haven't other states closed these operations? Dr. Mitchell said that they cannot stop all of the bad without impeding some of the good.

Senators Faisa and Hernstadt both were concerned why this wasn't stopped in other states. Dr. Mitchell said because it involved big money. Senator Hernstadt asked wasn't the doctor in the business to make money? Dr. Mitchell said yes, but his conduct was not directed by total economic gain.

Chairman Schofield said that he felt that Assemblyman Robinson was an extremely competent optometrist, and introduced the original legislation for optometrists as a request of his constituents. Senator Hernstadt commented that no one was questioning if the Assemblyman was a good doctor, but if his action was a possible conflict of interest.

Dr. Richard Hopping, Southern California College of Optometry, said that this College provided many of the optometrists for Nevada, and the College also worked with Nevada's State Services to the Blind, through a clinic in Las Vegas. This clinic provides care for all income levels. Dr. Hopping said that the market place environment created by this bill is inconsistent with professional services and health care. The emphasis should be to vision itself and not to the materials of the practice. Dr. Hopping read excerpts from a bulletin used by chain stores for the record, (Exhibit "B" -- sections read are marked by parentheses).

Chairman Schofield said that four members of the Committee are co-sponsors of S.B. 104, and they feel that there is a problem with the people who cannot afford the services given now in this State. Senator Schofield said that this bill has come up in prior sessions, and probably will continue to do so, unless this area is dealt with in a responsive manner. Dr. Hopping said that during the years he operated in private practice in Dayton, Ohio, he operated on a relative value system. He said that his total fee, including glasses, fell about the 72% income level, but he was not charging for the materials, he was charging for the one-hour he spent with every patient.

Senator Hernstadt asked what was the reject rate on bad prescriptions? Dr. Hopping said that he could only give the figures he knew of in an operation catering to veterans, and that was 43%. Senator Hernstadt asked if the doctor thought that marijuana should be legalized for the use of treating glaucoma patients? Dr. Hopping said that not enough effective research has been done in this area.

Dr. Kanellos said that almost all the optometrists operating in Nevada will reduce their fees for those individuals on Social Security, or those who can show need.

Dr. Marvin Sedway, Optometrist, Las Vegas, said that he has never turned a patient away because of their inability to pay. Dr. Sedway said that the thrust of his practice is with children, some of which he examines without charge, and he felt that he meets the needs of his community.

Senator Hernstadt asked if there was any provision in the current law that prevented the operation of a discount store? Dr. Sedway said it was so stated in NRS 636.300, Section 9 and 10. Senator Hernstadt asked if the Doctor would see any problem in cancelling Sec. 10 which disallows competitive advertising. Dr. Sedway said absolutely. Senator Hernstadt asked, do you want to prohibit competition? Dr. Sedway answered no, but discount advertising leads to shoddy practice.

Senator Neal: Requesting to have vote for
S.B. 104 placed on the Friday,
March 18, 1977 agenda.

(This action is allowed without a motion, in accord with the Committee rules)

There was a general discussion among the Senators about conferring with some of the present witnesses on possible action of this legislation. No sub-committee was appointed, however, Dr. Kanellos and Dr. Sedway offered their time to the Committee if a conference was desired.

S.B. 269 (Exhibit "C")

Senator Hernstadt: Amend and Do Pass
Senator Raggio: 2nd the Motion.

The Motion Passed. (Senator Blakemore was absent)

Senator Faiss read into the record, "Although I am leaning in favor of A.B. 121, I feel that a further hearing is necessary so that the F.D.A. and people against passage will be allowed the same amount of time to speak as the proponents have had."

E.H.W. & S.I.
MARCH 15, 1977

PAGE SEVEN

Senator Faiss: Motion that a hearing be held on A.B. 121 on Saturday, March 19, 1977, in Las Vegas, at 9:00 A.M. in the City Hall.

Senator Hernstadt: 2nd the Motion.

The Motion passed. (Senator Blakemore was absent, and Senator Raggio was excused from attendance, due to a prior committment.)

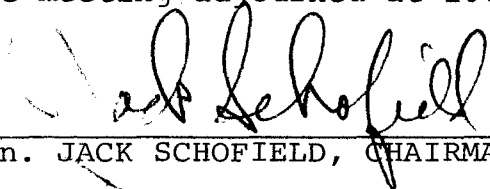
S.B. 328

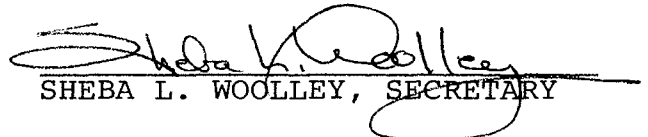
Senator Raggio: Motion to re-refer to Senate Committee on Environment, Public Resources and Agriculture.

Senator Faiss: 2nd the Motion.

The Motion passed. (Senator Blakemore was absent, and Senator Hernstadt was absent.)

The meeting adjourned at 10:52 a.m.


Sen. JACK SCHOFIELD, CHAIRMAN


SHEBA L. WOOLLEY, SECRETARY

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Mar. 15, 1977

To: Sen. Jack Schofield, Chairman Senate Committee on Education,
Health and Welfare and State Institutions

From: John P. Sande, MD, Chairman Nevada State Medical Association
Commission on Governmental Affairs

Subject: SB-104

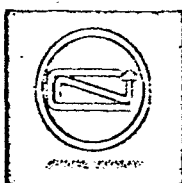
The Nevada State Medical Association supports the Nevada State Optometric Association in opposition to the passage of SB-104-- a bill which would narrow the definition of unprofessional conduct in the profession of optometry.

The present statute as it now stands has been developed by the optometric profession in Nevada in order to prevent merchandising of eye care services by its members. Merchandising of any aspect of health care has never proven to be a long term benefit to the public and can lead to the delivery of second-class health care to the people of the state.

Nevada physicians understand the importance of providing high quality eye care at reasonable costs, but we feel that SB-104 falls far short of this mark and we urge your defeat of this measure.

professionals...plus

BULLETIN NUMBER THREE • MARCH/APRIL, 1968



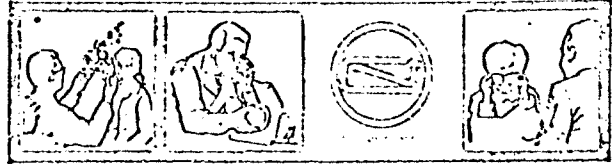
ANNOUNCING PROFESSIONALS...PLUS DOUBLE BONUS POINTS

- An Intensive 9-Week Program
Focusing On
The Two Most Important Benefits
You Can Offer Your Patients . . .
- Coated Lenses
 - The Comprehensive Service
Warranty.

Your opportunity to reap
substantially increased rewards
for your professional performance!

professionals... plus

Double Bonus Points



EVERYONE IN YOUR DEPARTMENT

CAN EARN

70 PROFESSIONALS PLUS POINTS

FOR EVERY

SERVICE WARRANTY AND/OR COATED LENS

SALE MADE FROM FEBRUARY 25 THRU APRIL 27, 1968!

Or You Can Earn 50 Points - - - Or The Usual 35 Points.

THE CHOICE IS UP TO YOU!

YOU'LL EARN 70 POINTS FOR EACH SALE WHEN:

- Your Service Warranty sales (computed against the total of your complete pair sales) combined with
- Your Coated Lens sales (computed against the total of your complete pair and lens-only sales)

TOTAL 100% DURING THE NINE-WEEK PERIOD!

YOU'LL EARN 50 POINTS FOR EACH SALE WHEN:

- Your Service Warranty sales (computed against the total of your complete pair sales) combined with
- Your Coated Lens sales (computed against the total of your complete pair and lens-only sales)

TOTAL 80% DURING THE NINE-WEEK PERIOD!

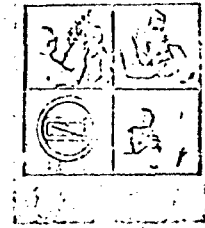
HERE ARE TWO EXAMPLES:

1. If, during the nine-week period, your department sells the Service Warranty to 53% of all patients who purchase complete pairs...and if your department sells Coated Lenses to 47% of all patients who purchase either complete pairs or lenses-only...YOU'VE ACHIEVED 100% PROFESSIONALS PLUS PERFORMANCE! YOU'VE EARNED 70 PROFESSIONALS PLUS POINTS FOR EVERY SERVICE WARRANTY AND/OR COATED LENS SALE MADE FROM FEBRUARY 25 THRU APRIL 27, 1968!
2. If your department sells the Service Warranty to 44% of all patients who purchase complete pairs...and if your department sells Coated Lenses to 36% of all patients who purchase either complete pairs or lenses-only...YOU'RE IN THE 80% BRACKET! YOU'VE EARNED 50 PROFESSIONALS PLUS POINTS FOR EVERY SERVICE WARRANTY AND/OR COATED LENS SALE MADE FROM FEBRUARY 25 THRU APRIL 27, 1968!

NOTE:

- Any combination of percentages totaling 100 will put your department in line for DOUBLE BONUS earnings of 70 Points.
- Any combination of percentages totaling 80 will put your department in line for EXTRA BONUS earnings of 50 Points.

YOU CAN DOUBLE YOUR DOUBLE BONUS POINTS AND EARN BONUS CASH, TOO!



Your performance as a professional deserves professional recognition. And the recognition can be mighty impressive!

For example, if your department winds up in the elite 100 bracket, here's what you'll earn on a patient's purchase of a Companion Pair with Coated Lenses and a Service Warranty with each pair:

- FOR 2 COATED LENS SALES
 - @ 70 DOUBLE BONUS POINTS PER PAIR.....140 POINTS
 - FOR 2 SERVICE WARRANTY SALES
 - @ 70 DOUBLE BONUS POINTS PER PAIR.....140 POINTS
- TOTAL DOUBLE BONUS EARNINGS.....280 POINTS

PLUS \$1 CASH FOR THE COMPANION PAIR SALE!

With Just 4 Sales Like This A Week...
 YOU'LL EARN 10,080 DOUBLE BONUS POINTS PLUS \$36 CASH
 During The 9-Week Double Bonus Program!
 Plus Double Bonus Points For All Other Sales
•Of Coated Lenses And Service Warranties!

RAISE YOUR SIGHTS FOR BIGGER PRIZES! BETTER PRIZES! MORE PRIZES!

Here's your chance to earn greater rewards than you originally thought possible. A black & white portable TV can now be a color TV console. A window fan can become a room air conditioner. Next to the automatic washer you want you can place an automatic dryer. Add a projector to the camera you want. Why walk with a power mower when you can get one you can sit on and drive? The sky's the limit. And your professional performance can put you right up there on Cloud Nine!

NO EXTRA FORMS!

NO EXTRA PAPER WORK!
 YOU'RE FREE TO DO YOUR
 BEST PROFESSIONAL JOB!

All of the work of computing your department's Double Bonus Points will be done for you in Cleveland. Right after the end of the program, our computers will begin to hum. And your department's Bonus Points earnings will be reported to you without delay.

A 9-WEEK PROGRAM—AND EVERY DAY COUNTS!

To earn your full share of Double Bonus Points --- to finish up in the elite 100 bracket --- you've got to do a 100% professional job each and every day. Remember -- if you recommend Service Warranty to every patient buying a complete pair and only half of them buy it --- and if you recommend Coated Lenses to every patient and only half of them buy them --- you've got it made! You're a 100% Professional Plus! You'll have fulfilled your professional obligation to every patient. You'll know the pride and satisfaction of a professional job well done. And you'll reap the tangible rewards that every professional so richly deserves.

IT TAKES YOUR TOTAL TEAM'S EFFORT TO EARN YOUR DOUBLE BONUS POINTS!

Departmental effort is the basis of the Double Bonus Points program. Percentages in each category will be computed on the basis of your total departmental sales. So every member of your team must look like a professional, act like a professional, do a 100% professional job!

You know what it means to perform as a professional in the proper atmosphere. You know how to control the fitting situation. You know what it means to gain and hold the respect of every patient and to motivate every patient to act in his own best interests. So you'll want to refer to these checklists every day to measure your team's performance.

10-POINT PERSONAL PROFESSIONAL CHECKLIST

- ARE ALL MEN WEARING CLEAN, NEAT, WELL-FITTING JACKETS?
- ARE WOMEN WEARING CLEAN, NEAT, WELL-FITTING UNIFORMS?
- DOES YOUR TEAM LOOK CLEAN AND WELL-GROOMED?
- DOES YOUR RECEPTIONIST GREET EVERY PATIENT POLITELY?
- DO YOU RECOMMEND COATED LENSES TO EVERY PATIENT?
- DO YOU RECOMMEND SERVICE WARRANTY TO EVERY PATIENT?
- DO YOU RECOMMEND A COMPANION PAIR TO EVERY PATIENT?
- DO YOU WIN YOUR PATIENT'S RESPECT BY SHOWING AN INTEREST IN HIS WELFARE?
- DO YOU ASK PERTINENT QUESTIONS ABOUT YOUR PATIENT'S OCCUPATION AND ACTIVITIES?
- DO YOU ALWAYS RECOMMEND FRAMES TO LENS-ONLY PATIENTS?

10-POINT DEPARTMENTAL PROFESSIONAL CHECKLIST

- IS YOUR DEPARTMENT CLEAN AND NEAT? NO DIRTY ASHTRAYS? NO EMPTY COFFEE CUPS? NO UNSIGHTLY CARTONS?
- IS YOUR FRAME BAR COMPLETELY FILLED WITH UP-TO-DATE MERCHANDISE?
- ARE SUNGLASSES PROPERLY DISPLAYED ON A ROTATING 4-SIDED FRAME BAR NEAR THE RECEPTIONIST?
- IS YOUR WORK SCHEDULE UP-TO-DATE AND POSTED IN THE BACK ROOM?
- ARE ACCESSORY DISPLAY UNITS PROPERLY FILLED?
- ARE YOU REGULARLY CHECKING ON ALL GLASSES LEFT UNDELIVERED FOR MORE THAN 30 DAYS?
- ARE YOUR BUYOUTS KEPT TO THE BAREST POSSIBLE MINIMUM?
- IS YOUR PROCEDURE MANUAL HANDY AND UP-TO-DATE?
- HAS EVERYONE IN YOUR DEPARTMENT READ THE PROCEDURE MANUAL?
- ARE YOUR FILES IN PROPER ORDER AND UP-TO-DATE?

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 269

SENATE BILL NO. 269—SENATORS YOUNG AND RAGGIO

FEBRUARY 24, 1977

Referred to Committee on Education, Health and Welfare
and State Institutions

SUMMARY—Limits duty of state agencies to cooperate with Nevada
archeological survey. (BDR 33-1019)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: No.



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to the Nevada archeological survey; limiting cooperation by
state agencies to the extent of appropriations for that purpose; and providing
other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

- 1 SECTION 1. NRS 381.460 is hereby amended to read as follows:
- 2 381.460 1. All departments, commissions, boards and other agencies
- 3 of the state and its political subdivisions shall cooperate with the survey
- 4 in order to salvage or preserve historic, prehistoric or paleoenvironmental
- 5 evidence located on property owned or controlled by the United States,
- 6 the State of Nevada or its political subdivisions.
- 7 2. When any agency of the state or its political subdivisions is pre-
- 8 paring or has contracted to excavate or perform work of any kind on
- 9 property owned or controlled by the United States, the State of Nevada
- 10 or its political subdivisions which may endanger historic, prehistoric or
- 11 paleoenvironmental evidence found [by the survey to be] on the prop-
- 12 erty, or when any artifact, site or other historic or prehistoric evidence
- 13 is discovered in the course of such excavation or work, the agency or
- 14 the contractor hired by the agency shall notify the survey and cooperate
- 15 with the survey to the fullest extent practicable, *within the limits of legis-*
- 16 *lative appropriations to the agency for that purpose*, to preserve or permit
- 17 study of such evidence before its destruction, displacement or removal.
- 18 3. The provisions of this section shall be made known to all private
- 19 contractors performing such excavation or work for any agency of the
- 20 state or its political subdivisions.

Original bill is on file at
the Research Library.