

The meeting was called to order at 8:10 a.m. Senator Close was in the Chair.

PRESENT: Senator Close
Senator Hernstadt
Senator Don Ashworth
Senator Dodge
Senator Ford
Senator Raggio
Senator Sloan

ABSENT: None

SB 500 Provides for appointment, powers and duties of supervisor for gaming establishment if its license is lapsed, revoked or suspended.

Ray Pike, representing the Gaming Control Board and David Russell, representing the Gaming Industry, appeared before the Joint Assembly and Senate Judiciary Committees to discuss the amendments to this bill. (See attachment A for amendments, note written changes for further changes made by the Committees.)

After going through the amendments Senator Close stated that he would get the amendments drafted and bring them back to the Senate Committee for their approval.

No action was taken on this bill at this time.

AB 546 Expands membership of medical-legal screening panels to include hospital administrators.

Fred Hillerby, the Nevada Hospital Association, stated that they are in support of this bill. A significant number of malpractice claims result from incidents in hospitals. Presently, Farmers Insurance, who carries most of the insurance on the hospitals in this state, stated that 90% to 95% of the mal-practice cases include the hospital. In about 40% of the cases, the hospital, although initially named, is released from the case. Of the remaining 60%, about 80% of those, there is either a settlement, or a judgment is awarded. The scope of these suits is very broad, and covers acts or omissions of hospital personnel. They assume the responsibility, in effect, for what the physician does. That is why they would like to share in the pre-trial panel review of the claims.

Dennis Kennedy, Attorney, representing Sunrise Hospital, stated that initially we looked at the structure of the mal-practice screening panels in other states to get guidance in drafting this bill. In approximately half of the 27 other states which have medical-legal screening panels, the panel is structured so that the type of case that is involved in

the claim is taken into account. The typical statute would say that where a hospital is involved, a hospital administrator shall be on the panel. Where a nurse is involved, a nurse shall be on the panel. Some are more specific and say where a recognized medical specialty is involved in a claim, that a doctor who is an expert in that area shall be on the panel. When structuring this bill, unless the hospital were involved, the panel would go back to the way it always has been with three attorneys and three doctors.

Senator Dodge asked, what is the ultimate exposure, simply because the doctor is on the staff.

Mr. Kennedy stated that in most cases they have found that the doctor is considered to be an agent of the hospital, even though he has a private practice.

Senator Dodge asked if the hospital and doctor are held in the judgment as joint tort feorsors.

Mr. Kennedy stated that the purpose of the medical-legal screening panel is precisely that. You want to screen out claims that have no merit, so when it goes before the panel that claim, at least against the hospital, would be deemed to have no merit.

Tom Cochran, Attorney, representing the panel and Roger Detweiler, Director of the State Bar and Harold Morse, with the law firm of Morse & Foley, currently the chair for the southern panel, testified that they are not in favor of the bill.

Mr. Detweiler stated that this bill expands the jurisdiction of the panel to include the institutions involved. By doing this he feels the entire process, as it is now operating, will be jeopardized. The medical-legal panels are simply not designed to assist everyone. The problem is that we are taking the time of a lot of expensive people who are giving freely of their time now, but who may no longer be willing to do so. Another problem is by adding the institution, where does it end? Last time we brought in the nurses and now the hospitals.

Mr. Cochran stated that he would assume that this bill would only contemplate where a specific act of negligence were alleged against the hospital. He knows of no case in the state where the hospital was found negligent simply because they allowed a doctor to be on the staff. He does not see the expertise of a hospital administrator sitting in judgment as they are not necessarily trained nurses or technicians. The hospitals have standard manuals that have been prepared by very fine doctors and lawyers. There is very little of the technical care in a hospital that is not included. It is the failure of the nurse, or doctor, or someone else to follow those procedures that brings on the charge of malpractice.

Senator Dodge stated that he was not sure that he could accept the statement that the hospital administrator doesn't know what he is doing about the staff procedures. In this day and age these people have got to have a pretty good knowledge of what they are doing or they wouldn't be there in the first place, especially in the larger hospitals.

Senator Sloan stated he would think that the philosophy of doing it for doctors would justify doing it for hospitals. The crises in mal-practice insurance is the whole idea, and hospitals do pay substantial insurance rates which falls back on the consumer who goes to the hospital.

Mr. Cochran stated that the fact that they are not on the panel does not preclude them from investigating the case and trying to settle it. "I would say this though, try it on a voluntary basis and see what it does to the panel." He feels if this bill were passed, he would hope that there would be two doctors, two administrators and four lawyers, because with one doctor you will not get the input needed on the panel.

Mr. Morse stated that he would just like to state that right now the panel is an inter-professional thing, and he doesn't feel that a commercial institution should be allowed to interject themselves into what is already established. He feels that if they feel that a panel for them is needed, they should establish their own.

No action was taken on this bill at this time.

Senator Close asked for committee consent to get the amendments to SB 500, the receivership bill and also for SB 262 the auto leasing bill.

Senator Herstadt so moved.

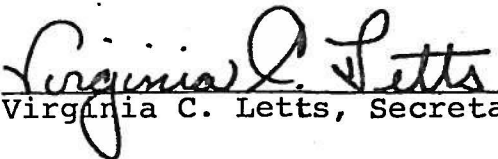
Seconded by Senator Sloan.

Motion carried unanimously.

The meeting was adjourned at 11:00 a.m.

APPROVED:

Respectfully submitted,


Virginia C. Letts, Secretary

Senator Melvin D. Close, Jr., Chairman

S.B. 500

Page 2, line 21, Section 9, paragraph 1: It should be subsection 5, not subsection 9. That line should be amended as follows: "Except as provided in subsection [9] 5, if the license of any...."

Page 2, line 32, section 9, paragraph 2: Add new language as follows: "... the commission believes are suitable and qualified to manage a gaming establishment...."

Page 2, line 40, section 9, paragraph 4: Add new language as follows: "... time has not expired for a petition for judicial review ~~or an appeal~~ from the final determination of the...."

Page 2, line 46, section 9, paragraph 5(b): Add new language as follows: "A rehearing has been granted by the commission to the licensee on the revocation or...."

Page 2-3, section 10: This section should be deleted.

Page 3, section 14, line 23, paragraph 1: Add new language as follows: "... and interest of all persons operating [in] the gaming establishment is extinguished...."

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Page 3, section 14, line 26, paragraph 2: Delete certain language as follows: "The supervisor [is a fiduciary who] shall, protect the money and...."

Page 3, section 14, line 27, paragraph 2: "... property so acquired by managing it on a [sound] prudent ~~and~~ businesslike basis."

Page 4, line 17, section 20: "[The appointment of a supervisor] This chapter does not affect the right of...."

Page 4, line 19, section 20: "... secured or unsecured debt, provided, however, consistent with the public policy of this act, neither this act nor the provisions hereunder shall be deemed to be an event precipitating a default ^{on acceleration} under any ^{notes,} deeds of trust or any other credit documents. Except as provided in this act, the [and a] supervisor is not entitled to assert any...."

Page 4, line 28, section 21, paragraph 2: The last sentence of this paragraph should be deleted. "... or persons. [The court may also order that summaries of the reports be printed in a newspaper of general circulation in the area where the establishment is located.]"

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Page 4, line 33, section 22: "... the commission, [direct that net earnings from the gaming establishment be paid to its former legal owners in an amount which does not exceed a fair rate of return on their investment, as measured by returns on investments in other gaming establishments in the state.] make periodic distribution of earnings to its former legal owners.

Page 4, lines 37-39, section 23, paragraph 1: Delete this paragraph in its entirety.

Page 4, line 42, section 23, paragraph 2: Delete a portion: "... with the commission to the [qualifications or] suitability of the supervisor."

Page 4, line 45, section 23, paragraph 3: Add certain language and delete other portions*: "of the supervisor's qualifications or performance. [The petitioner shall file a copy of his petition with the commission.]" *The committee seemed to feel the court would require adequate notice to all indispensable parties.

Page 5, line 1, section 23, paragraph 4: "... believes are suitable and qualified to manage a gaming establishment and are available...."

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Page 5, lines 5-6, section 23, paragraph 5: "... appointment of a new supervisor or for the termination of the [appointment of a supervisor] supervisorship."

Page 5, line 18, section 24: "... the supervisor, [after notifying all interested parties,] shall petition the court which appointed him for approval of the sale, providing notice to parties as the court may direct, and, if the court...."

Page 5, line 24, section 25: Add a new paragraph 1(a) as follows: "At any time prior to the time described in subsections b through d below, when requested in writing by a majority of the former equity owners to initiate sale proceedings." *Interested.*

Page 5, line 24, section 25: Current paragraph 1(a) would now be paragraph 1(b). Paragraph 1(b) would now become paragraph 1(c). Also, at lines 27-29: "If no [appeal] petition for judicial review is taken from the determination of the commission to revoke or suspend the license, 6 months after the last date on which [an appeal] a petition for judicial review could have been filed; or"

Page 5, line 24, section 25, line 30: This paragraph should be renumbered as paragraph 1(d). "If [an appeal] a petition for

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judicial review is taken, 6 months after [a final determination in a court of this state or of the United States] exhaustion of any right of appeal in the courts of this state resulting in a final determination which upholds the revocation or suspension of the license."

Page 5, line 38, section 25, paragraph 3: "... the gaming establishment , including advertising, [and shall attempt to obtain] to assure a [reasonable] fair price . [for it.] He may employ brokers and other persons to assist him in securing a suitable buyer."

Page 6, line 3, section 26, paragraph 1: "All known creditors and other persons [having a substantial interest] designated by the court who are known to have a prior legal ownership interest in the gaming establishment must be notified of the [details of] proposed sale at least ~~20~~³⁰ days before the hearing on the petition for approval of the sale. The notice shall be delivered personally or sent by registered or certified mail to all such persons. The court may also order that notice be published in a newspaper of general circulation in the county in which the establishment is located. Any person so notified may file with the court a statement of objections to the proposed sale, including all grounds for the objections no later than 10 days before the hearing."

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Page 6, line 21, section 28: "Unless otherwise authorized by the court, [I]if a gaming establishment is under the control of a supervisor:"

Page 6, line 31, section 29, paragraph 1: "... a supervisor or [in any period when a supervisor is appointed:] during the period of a supervisorship:"

Page 6, line 32, section 29, paragraph 1(a): "To sell, lease, hypothecate or otherwise convey for less than full market value...."

Page 6, line 42, section 30: "... or otherwise conveyed in [contemplation of the appointment of a supervisor,] violation of section 29 of this act, or if any property of the establishment is withheld from a...."