

Chairman Robinson called the meeting to order at 3:12 p.m. in Room 200.

MEMBERS PRESENT: Mr. Bennett
Mr. Brady
Mr. Chaney
Mr. Dini (Late)
Mr. DuBois
Mr. Kovacs
Mr. Prengaman
Mr. Rusk
Dr. Robinson.

MEMBERS ABSENT: Mr. Bremner
Mr. Jeffrey

GUESTS PRESENT: See Attached Guest List

Chairman Robinson opened the meeting by requesting that Mr. Prengaman explain the revisions to A.B. 612 to the Committee.

A.B. 612: AUTHORIZES BOARD OF PSYCHOLOGICAL EXAMINERS TO LICENSE PERSONS WHO PRACTICE HYPNOSIS.

Mr. Prengaman explained that Amendment No. 1231 to A.B. 612, which had been adopted by the Committee on May 25th, was changing the entire bill. He indicated that the new version of A.B. 612 set up a board of examiners for hypnosis similar to other licensing boards.

MR. BENNETT MADE THE MOTION TO DO PASS A.B. 612 AS AMENDED. MR. RUSK SECONDED THE MOTION WHICH PASSED WITH A VOTE OF 7-1, WITH MR. KOVACS VOTING NAY.

Mr. Prengaman volunteered to handle the bill on the floor.

Dr. Robinson then requested action to be taken on A.B. 633.

A.B. 633: ALLOWS COORDINATING ORGANIZATION OF SURPLUS LINES INSURANCE TO CHARGE FEES.

MR. RUSK MOVED TO TO PASS A.B. 633. MR. KOVACS SECONDED THE MOTION AND IT CARRIED UNANIMOUSLY OF THE EIGHT MEMBERS PRESENT.

Chairman Robinson then opened the public hearing on S.C.R. 69.

S.C.R. 69: ENCOURAGES BOARD OF PSYCHOLOGICAL EXAMINERS TO CERTIFY PSYCHOLOGISTS ON BASIS OF TRAINING IN LIEU OF EDUCATION.

Testifying on behalf of the bill was Jim Joyce. Mr. Joyce commented that S.C.R. 69 was the result of lengthy hearings by the Senate Commerce and Labor Committee, which had determined that

the Board of Psychological Examiners "has been less than aggressive in using its authority to issue certificates to psychologists who have training deemed equivalent to the statutory educational requirements for practicing this art in Nevada." Mr. Joyce added that the Senate Commerce and Labor Committee felt that it was too late in the session to process a bill because of its "broad-reaching nature." However, the Committee did feel that the problem deserved the attention of a resolution which would encourage the Board to take a hard look at its policies of certification.

There was no further testimony, so the Chairman opened the hearing on S.B. 391.

S.B. 391: AMENDS LAW RELATING TO PHARMACISTS AND PHARMACIES.

Testifying on S.B. 391 was Joe Midmore, representing the Nevada State Board of Pharmacy, which had requested that the bill be drafted and introduced.

Mr. Midmore read through the bill and pointed out what he felt would be substantive changes to the existing law. These changes were:

1. A change to the definitions of "hospital" and "hospital pharmacy".
2. Addition of a list of publications that must be available in a Nevada Pharmacy.
3. A provision was added to permit pharmacists over the age of 65 to be licensed in Nevada as "inactive senior pharmacists."
4. A change in the Board's reporting procedures to allow it to provide a summary instead of a detailed report.
5. Changes in the fee schedule to allow fees to be charged for senior inactive pharmacists and permits for the sale of veterinary prescriptions.
6. Addition of a provision for renewal of a forfeited license.
7. Language has been added for the regulation of a hospital pharmacy which is independent and is not under the control of the Board of Hospital Trustees.
8. Controls are placed on oral orders which are transmitted by an agent of the practitioner or transmitted via the telephone.
9. New requirements have been added for prescriptions for controlled substances.
10. Procedures have been added for the reinstatement of a revoked license or certificate.
11. Deletion of the language, "Caution: Do not use with alcohol or nonprescribed drugs without consulting the prescribing practitioner."
12. NRS 639.133 and 639.135 are being repealed.
13. Addition of regulations specifying who may issue prescriptions for controlled substances in Nevada.

Assembly Committee on.....
Date: May 28, 1981
Page: 3

Mr. Midmore then explained what controlled substances were and how they were classified under the law. He stated that the first reprint of the bill required anyone prescribing controlled substances to be registered with the Board of Pharmacy. However, the Senate had changed the language to indicate that if there was any reason to doubt the validity of the relationship between the patient and the practitioner, the pharmacist was to telephone the practitioner for confirmation of the relationship and the authenticity of the prescription.

Mr. Midmore stated the provision for telephone confirmation was "so innocuous as to be useless," and suggested that the Committee return the language to that which had appeared in the first reprint. He added that the stronger requirements might effect a mail-order pharmacy located in Las Vegas when that pharmacy filled prescriptions for controlled substances. Mr. Midmore also said that there was only one other state which had drug laws as lax as those of Nevada.

Mr. Kovacs questioned why the Board of Pharmacy wanted to control veterinary prescription and nonprescription drugs.

Mr. Frank Titus, Chairman of the Board of Pharmacy, responded that veterinarians were permitted to sell prescription drugs to be used on animals and that the Board now had no control over such sales. He added that a lot of people on ranches were using veterinary medicines for human consumption and that the Board wanted to have control over these veterinary supplies. Mr. Titus stated that he did not know why the bill was seeking control by the Board over nonprescription veterinary drugs and that the Board would not be opposed to the deletion of the language "nonprescription."

Chairman Robinson commented that he was opposed to the Board of Pharmacy continually attempting to expand their scope of authority, and there ensued discussion of the effects of the Board's present requests on veterinarians, ranchers, and nurseries. He added that if the Board could provide proof of abuses in these areas, he would give consideration to extending the Board's authority.

Mr. Midmore remarked that this extension of authority was not the most important aspect of the bill, and if the Committee desired to delete it, he would have no strong objections.

There was further discussion about the Board's request to have all practitioners who issue prescriptions for controlled substances, which are filled in Nevada, to be registered with the Nevada Board of Pharmacy.

Next to testify on S.B. 391 was Harvey Whittemore. Mr. Whittemore indicated that he was representing the Nevada Retired Persons' Pharmacy in Las Vegas. Mr. Whittemore stated that the first reprint of the bill had inadvertently left out some of the amendments suggested by the Committee on Commerce and Labor, and that the second reprint reflected those amendments. He added that Section 16 of the first reprint was unconstitutional and cited a ~~145~~ 145

case in Iowa as a precedent. He went on to say that the second reprint was worded the way it should be. He also explained why it was unconstitutional as well as impractical to register every practitioner outside of the State of Nevada who writes prescriptions which can be filled in the State of Nevada.

Mr. Whittemore remarked that no court of law had ever upheld "this type of restrictive legislation." He went on to explain the membership of the Nevada Retired Persons' Pharmacy as well as the types of prescriptions the Pharmacy filled and the pricing structure.

Mr. Whittemore said that Mr. Midmore's earlier statement indicating that there was only one other state with drug laws as lax as those of Nevada was "patently not correct." He produced letters from the Pharmacy Boards of various states to prove his point. He stressed that the bill, in its second reprinted form, was acceptable; however, he was producing evidence to show that the bill should not be amended as Mr. Midmore had requested. Mr. Whittemore said that his personal research had revealed approximately 25 states with drug laws parallel to Nevada's with respect to controlled substances.

Also testifying was Virgil H. Wedge, appearing on behalf of Raleys of Nevada, Skaggs Stores, and Sav-On Drugs. Mr. Wedge indicated that he was in agreement with Mr. Whittemore's statements opposing the proposed amendments to the second reprint of S.B. 391. He also said that he had spoken to Ed Small, a member of the Board of Pharmacy, and that Mr. Small had indicated to him that he was also in opposition to the proposed amendments to the bill.

Mr. Wedge explained that it would be unfair to the purchasing public if they could not get prescriptions filled in the State when those prescriptions were written by practitioners in other areas. He added that there were thousands of people in Nevada who go to doctors in other states such as California, Utah or Idaho, and these people would be unable to have their prescriptions filled in Nevada unless the prescribing practitioners were registered with the Nevada Board of Pharmacy. He also said that those out-of-state doctors would not burden themselves with Nevada's registration requirements, consequently, it would leave a lot of Nevada residents unable to get their prescriptions filled.

In rebuttal, Joe Midmore, provided a copy of a letter written to Senator Wilson. This letter is attached as EXHIBIT A.

There being no further testimony on S.B. 391, Chairman Robinson opened the hearing on S.B. 539.

S.B. 539: DISTINGUISHES BETWEEN INSURANCE ADMINISTRATORS AND ADJUSTERS AND CLARIFIES STATUS OF OTHER EMPLOYEES.

Date: May 28, 1981

Page: 5

Testifying on the bill was Georgia Massey, representing the Nevada Insurance Division. Ms. Massey stated that the bill merely clarified that those employees working for an administrator are exempt from holding a certificate of registration as an administrator. She added that the rest of the bill was simple housekeeping by the Legislative Counsel Bureau.

There was no other testimony on the bill, so the Chairman opened the public hearing on S.B. 634.

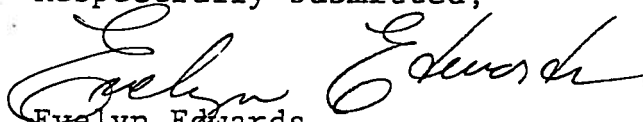
S.B. 634: REQUIRES NOTICE TO OTHER CLAIMANTS OF ACTION
ON BOND OR DEPOSIT OF CONTRACTOR.

Tom Cooke, representing the Contractors' Board, stated that the Board had a neutral position on the bill and that he did not know who had authored the bill.

Dr. Robinson remarked that he would check with Mr. Daykin to see where the bill had originated.

There being no further business, Chairman Robinson adjourned the meeting.

Respectfully submitted,


Evelyn Edwards
Committee Secretary

1447

61st SESSION NEVADA LEGISLATURE

ASSEMBLY COMMERCE COMMITTEE

LEGISLATION ACTION

DATE May 28, 1981

SUBJECT A.B. 612: AUTHORIZES BOARD OF PSYCHOLOGICAL EXAMINERS TO LICENSE PERSONS WHO PRACTICE HYPNOSIS.

MOTION: DO PASS AS AMENDED

Do Pass X Amend Indefinitely Postpone Reconsider

Moved By Mr. Bennett Seconded By Mr. Rusk

AMENDMENT:

Moved By Seconded By

AMENDMENT:

Moved By Seconded By

Table with columns: VOTE, MOTION (Yes/No), AMEND (Yes/No), AMEND (Yes/No). Rows include names like BENNETT, BRADY, BREMNER, etc., and a TALLY row showing 7 Yes and 1 No.

ORIGINAL MOTION: Passed X Defeated Withdrawn
AMENDED & PASSED AMENDED & DEFEATED

61st SESSION NEVADA LEGISLATURE

ASSEMBLY COMMERCE COMMITTEE

LEGISLATION ACTION

DATE May 28, 1981

SUBJECT A.B. 633: ALLOWS COORDINATING ORGANIZATION OF SURPLUS LINES INSURANCE TO CHARGE FEES.

MOTION:

Do Pass X Amend Indefinitely Postpone Reconsider

Moved By Mr. Rusk Seconded By Mr. Kovacs

AMENDMENT:

Moved By Seconded By

AMENDMENT:

Moved By Seconded By

Table with columns: VOTE, MOTION (Yes/No), AMEND (Yes/No), AMEND (Yes/No). Rows include names like BENNETT, BRADY, BREMNER, etc., and a TALLY row showing 8 Yes and 0 No votes.

ORIGINAL MOTION: Passed X Defeated Withdrawn

AMENDED & PASSED AMENDED & DEFEATED

AMENDED & PASSED AMENDED & DEFEATED

Attached to Minutes May 28; 1981

ASSEMBLY COMMERCE COMMITTEE

GUEST LIST

DATE: 5/28/81

PLEASE PRINT YOUR NAME	PLEASE PRINT WHO YOU REPRESENT	I WISH TO SPEAK		
		FOR	AGAINST	BILL NO.
Vincent H Wedge	Raley - Sauw Drug - SKAGS -		✓	391
Thomas A. Padhee	St. Louis (Padhee)			634

1450

BREEN, YOUNG, WHITEHEAD & BELDING

CHARTERED

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A. C. 702 786-7600

April 21, 1981

Senator Spike Wilson
Nevada State Legislature
Carson City, Nevada

RE: S.B. 391

Dear Senator Wilson:

Pursuant to your request, we have attempted to determine the laws in other states concerning out-of-state prescriptions for controlled substances. We have received replies from 34 states. Fifteen states as of this date have not replied. According to the information that we have received the breakdown is as follows:

1. States that prohibit the filling of any prescription from an out-of-state practitioner without exception and this includes dangerous drugs and controlled substances. Of those replying 16 states have this complete prohibition and they are Colorado, Florida, Indiana, Kentucky, Minnesota, Missouri, Montana, New Mexico, North Carolina, North Dakota, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, and Vermont.

2. States which prohibit out-of-state prescriptions but grant exceptions are six and they are with their exceptions as follows:

California. Exception. A prescription may be filled if the pharmacist determines that the patient needs the medication for the patient's use immediately.

Delaware. Exception. The Secretary of Health can grant exemptions subject to the following conditions:

- a) The pharmacist must establish that the physician or dentist is registered under federal law.
- b) The pharmacist must keep a record containing the name, address, F.D.E. number, the name and address of the source of the registration data
- c) The pharmacist must verify the identification of the patient and keep a record of such person.
- d) The pharmacist must determine the name of the non-resident physician or dentist does not appear on the list maintained by the office of narcotics and dangerous drugs.

Massachusetts. Exception. The out-of-state practitioner must be registered in Massachusetts. (This is the position of the Nevada State Board of Pharmacy.)

OK

Ohio. Exception. Pharmacists may fill out-of-state prescriptions within a 30-mile radius of the pharmacy.

Oregon. Exception. Only out-of-state prescriptions on dangerous drugs may be filled. No controlled or dangerous substances may be filled.

Washington. Exception. Practitioners in states sharing a common boundary with Washington may have their prescriptions filled in Washington.

3. Yes, with restrictions. There are 9 states that permit pharmacists to fill out-of-state prescriptions with certain conditions. They are Alabama, Arkansas, Georgia, Kansas, New Hampshire, New Jersey, New York, South Carolina, and Virginia.

Alabama. The pharmacist may verify the authenticity of the prescription by checking with the prescriber and be convinced that the patient is a resident or visitor to the area for valid reasons.

Arkansas. An Arkansas pharmacist may fill an out-of-state prescription "if the validity of the prescription is certain."

Georgia. All pharmacists when they receive prescriptions from out-of-state must call on any controlled substances.

Kansas. The pharmacist must be satisfied that the physician holds a valid license to practice in his jurisdiction and currently exists a professional relationship between physician and patient and that the prescription has been written for a medical need.

New Hampshire. Prescriptions by out-of-state physicians can be filled only when the traditional physician-pharmacist-patient relationship exists. This means a relationship where the pharmacist knows either the physician, patient, or both and/or can easily check on factors concerning the prescription in a customary, normal procedure.

New Jersey. It is the pharmacist's professional responsibility to refuse to refill a prescription should there be any cause for suspicion, however, if the identity of the customer is known and the prescriber is properly honored in the state it has been written, the pharmacist may fill the prescription. If the identity is not known but the prescription appears valid and it is not a prescription for a controlled dangerous substance and not a drug for potential abuse, the pharmacist may fill the prescription. If the identity of the customer is not known and the prescription is for a controlled dangerous substance or a drug of potential abuse the prescription should not be filled unless the pharmacist obtains independent verification.

New York. Prescriptions written by a physician whose practice is near the border of New York and his practice extends into New York can write prescriptions for residents of New York. Furthermore, New York state residents outside the state for treatment at medical centers or on vacation may receive prescriptions from out-of-state physicians that can be filled in New York. The pharmacist must be in a position

to identify the identity of the patient and in a proper case the identity of the prescriber. For mail orders the pharmacist must have sufficient information to identify the patient and the prescriber. For Schedule II drugs the out-of-state prescriber must use New York's official triplicate prescription forms.

South Carolina. The prescriber must meet the same standards as if he were licensed in South Carolina. The prescription for controlled substances must comply with South Carolina technical requirements and there are seven of these. Also the prescription must conform with the federal law and laws of the state where the practitioner is registered. In the event of a conflict the more stringent law shall apply. For controlled substances prescriptions there has to be a positive identification of the prescriber and/or a recipient and the good faith inquiry as to the legitimacy of the prescription and conformity to the South Carolina prescription requirements.

Virginia. There must be a bonafied physician, pharmacist-patient relationship.

4. Permitting out-of-state prescriptions without any conditions is one state--Mississippi. This is the only state supplying answers that has no restrictions on out-of-state prescriptions. However, H. W. Holleman, Executive Director of Mississippi State Board of Pharmacy, states that from time to time they see questionable instances of controlled substances being dispensed on out-of-state prescriptions however there have been no major problems with this practice in Mississippi.

5. Uncertain law. One state--Hawaii--has a law that is so vague it cannot be totally understood whether out-of-state prescriptions can be filled in Hawaii. We've been advised by the Secretary of the Board that he does not know the answer to this question.

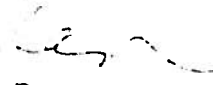
6. No answers--15 states. We did not receive answers from the following states: Arkansas, Arizona, Idaho, Iowa, Illinois, Louisiana, Maine, Maryland, Michigan, Nebraska, Oklahoma, Texas, West Virginia, Wyoming, and District of Columbia. We have been advised orally by the Secretary of the Board in Arizona that an out-of-state prescription can be filled but cannot be refilled. We have also been advised that in Idaho an out-of-state practitioner must be registered in Idaho to prescribe prescriptions for controlled substances.

At the hearing on S.B. 391 Senator Hernstadt asked if there was a serious problem involving out-of-state prescriptions. The experience of the Pharmacy Board and the D.I.N. shows conclusively that there is a serious problem. The D.I.N. received work a short time ago of a California doctor at North Tahoe writing prescriptions for Nevada residents for controlled substances. Their information is that several hundred prescriptions were written. The doctor learned that an investigation was underway and left the North Tahoe area. There is a case presently pending by the D.I.N. and the warrant has been issued for the suspect's arrest. The suspect with California prescriptions is reported to have 150 dosage units of DILAUDID in his possession offered it to an undercover agent of the D.I.N. This warrant is presently in the process of being served. The problem of the diversion of licit drugs is so substantial in this state that the D.I.N. has 3 agents working on it every day. This does not include agents with the various police and

sheriff departments. They receive 3-4 reports a day concerning the diversion of licit drugs. Most of their reports come from regular pharmacies. They have yet to receive any reports of suspect prescriptions from mail order pharmacies.

I hope this information will be of assistance to you and the members of your committee in reporting a Do Pass for 391 particularly that section requiring out-of-state physicians to register with the Nevada State Board of Pharmacy if he wants to write prescriptions for controlled substances to be filled by a pharmacist in this state. According to the information we have at this time, Nevada and Mississippi are the only two states without any restrictions on out-of-state prescriptions. As has been shown by testimony before your committee there are now more deaths and overdoses from licit drugs than from illicit drugs such as cocaine, heroin, and their derivatives.

Respectfully submitted,


F. R. Breen
Attorney for
Nevada State
Board of Pharmacy

cc: Pharmacy Board Members
Attorney General
D.I.N.