

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON COMMERCE AND LABOR

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
MARCH 30, 1981

The Senate Committee on Commerce and Labor was called to order by Chairman Thomas R. C. Wilson, at 2:00 p.m., March 30, 1981, in Room 213 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Thomas R. C. Wilson, Chairman
Senator Don Ashworth
Senator William Hernstadt
Senator Clifford McCorkle
Senator William Raggio

COMMITTEE MEMBER ABSENT:

Senator Richard Blakemore, Vice Chairman

STAFF MEMBERS PRESENT:

Ron Sparks, Director, Fiscal Analysis Division, LCB
Frances A. Kindred, Committee Secretary

SENATE BILL NO. 346--Requires written estimate of costs
at time of funeral arrangements.

Senator Faiss opened the testimony on Senate Bill No. 346 by indicating he did not wish to be redundant as there has been much previous testimony. However, he did feel enactment of this bill was just good business ethics. As a case in point, he noted that Chrysler brought out their new models at a low price. But all the cars they shipped out had all the fringes and extras, which made them so expensive they just did not sell. He commented this was a case where people had a choice, and refused all the extras listed because they did not want them. He felt this pertains to any other business, including the mortuary business. People are entitled to the right to make a choice and Senator Faiss did not feel mortuaries were being singled out.

With no further testimony, Chairman Wilson closed the hearing on Senate Bill No. 346.

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ASSEMBLY BILL NO. 3--Provides for abandonment of fictitious name and makes certain other changes to requirements for conducting business under a fictitious name.

Ms. Judy Bailey, Washoe County Clerk, and Ms. Loretta Bowman, Clark County Clerk, opened the hearing on Assembly Bill No. 3, by stating they had come up with some answers to some of the problems which have arisen regarding this bill. There has been considerable difficulty with the problem of notification of fictitious name holders of nullification of the name after five years, because of the transient nature of so many of the businesses.

Ms. Bailey stated after discussing the matter with the Washoe County Sheriff's office, where business licenses are issued, they were agreeable to furnishing the clerk's office with names and addresses of current business license holders. This would help the clerk's to purge their files of names no longer in business.

Senator Raggio indicated that the city also issues business licenses and it might be a real chore to have to track down city business licenses as well as county ones. Ms. Bailey said there had not been time to contact the city offices but she felt they would be cooperative also, as the clerk's office could furnish them with information as well. Ms. Bowman stated she felt they could have good working relationships with the business license divisions; it would help the clerks to keep their lists current and set up an information exchange between the cities and counties. Ms. Bowman indicated there are approximately 60,000 to 65,000 fictitious firm names in Clark County which go back to 1904, and many of them are inactive.

Senator Wilson asked if the only filing requirement for a fictitious name is with respect to the city or county in which they do business. Ms. Bowman replied they are only required to file in with the county clerk of the county in which they do business. She said that in Clark County, they are required to furnish the business license division with a copy of their fictitious firm name before a business license is issued, but she did not know if that was a requirement of all business license divisions.

Senator Wilson asked if Mr. Swackhamer, secretary of state for the State of Nevada was present to testify on this bill. Mr. Swackhamer said he was present to answer questions, but not to offer testimony. Ms. Bowman explained Mr. Swackhamer had agreed to be present for questions regarding similarities to articles of

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incorporation and handling of firm names by the secretary of state's office.

In reply to Senator Wilson's question, Ms. Bowman stated there are a lot of fictitious names on file by businesses or firms no longer in business. In fact, she said many of them may file for a month or so, or six months, and then close the business; and at present the county clerks have no way of cancelling the fictitious names. Responding to Senator Wilson's query as to the best way to purge their files, Ms. Bowman replied that receiving an active list from the business license divisions would enable the county clerks to compare the lists and set the active names aside and purge the inactive ones. She said the problem of notifying those purged could be a problem as many of them moved with no forwarding addresses.

Senator Hernstadt asked what happened if a person filed for a name which had been filed for in 1915 but was not being used. Ms. Bowman explained that, under the present law, the county clerk cannot refuse the use of a fictitious name to an applicant if they want to use it, even if there is another similar business with the same name. Senator Hernstadt commented it was not like a corporation where, if the corporation was in good standing, another corporation could not use the same name. Mr. Swackhamer explained this was true except there was a provision in the law which allowed to owners of a corporation to give consent for the use of the corporation's name to another if they wished to do so.

Senator Hernstadt suggested that, in conjunction with this bill, perhaps they should provide for exclusivity. Ms. Bailey remarked if they were going that far in trying to keep the licenses and fictitious names up to date, they should probably try for exclusivity also. Ms. Bowman indicated she did not see any great problem because with control of filing for fictitious names with an active list from the business license division, the control would be there for exclusivity it that was desirable.

Senator McCorkle asked what was necessary to retain possession of a fictitious name. Ms. Bowman said, under the proposed legislation, the person would have to have an active business within the county. Senator McCorkle gave the example of trying to start an athletic club and trying to use the name Reno Athletic Club but it was already taken. It might take a few years to get the club developed and it did not seem fair to deny the name to some one just because he did not have the business license for it. Ms. Bowman explained under the present law he would not be denied the use of the name even if someone else was already using it.

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Senator Don Ashworth commented on another problem with regard to fictitious names. He said there are people who, when they hear a particular company is planning to move to Nevada, reserve that particular name in Nevada and force the company to buy the name from them. He remarked this was not too prevalent in the case of corporations because of the fees to be paid in forming a corporation.

In response to various questions from Senator Wilson, Ms. Bailey and Ms. Bowman explained the restrictions of the present law with regard to fictitious names, corporations, filing regulations and corporations doing business as a name other than their own. Senator Ashworth commented if a corporation used its own name, then it could not be classed as a fictitious name for business purposes. When Ms. Bowman reiterated the present conditions for accepting filing, with no right to refuse it, Senator Wilson stated the question should be how to change the present law, which really is the issue at hand.

Ms. Bailey explained again the main purpose of Assembly Bill No. 3 is to purge the county clerks' files of all fictitious names which are no longer in business. Ms. Bowman felt it was a good service to the public, and the business man, to be more secure in obtaining a fictitious name that it is not an active one. Senator Wilson commented the solution may lie in the fact a fictitious name is not a property right and is not exclusive. The other question is whether a fictitious name should become proprietary or at least exclusive as long as a person is in business.

Senator Raggio pointed out another problem because the purpose of a fictitious name statute is to apprise interested parties of the actual ownership of the noncorporate entity which it represents. If the name was purged immediately upon loss of a business license, someone with a cause of action would be unable to find out who the actual owner of a business was. Ms. Bowman stated that situation could be covered because all the revoked names could be microfilmed to become part of the official record, but inactive, with an index system for ready reference. In reply to another question from Senator Raggio, Ms. Bowman said they do microfilm records now. They would just like to be able to separate them into active and inactive files.

Senator McCorkle asked about the five year expiration limit on fictitious names and Ms. Bowman replied that business licenses are renewed each year and if they replace the time limit type of purging they could do it on a yearly basis through the business license operations information.

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The committee members discussed again the points already made, with the suggestion of a "grace" period by Senator McCorkle, an explanation of the sole purpose of the fictitious name statute by Senator Don Ashworth as only to specify the entity to be named in a law suit, and whether or not the fictitious name statute should be proprietary in nature, as suggested by Senator Wilson.

Senator Raggio was concerned about being able to consult the records to locate people and Ms. Bowman explained if they kept an active and inactive permanent record (with the latter on microfilm) that should answer the problem he was concerned with. Senator Raggio also pointed out section 2 of Assembly Bill No. 3 was in error where it prevents the filing of a fictitious name with the parent corporate entity name in its title unless the one filing was an organized corporation in this state.

With no further testimony, Chairman Wilson closed the hearing on Assembly Bill No. 3

SENATE BILL NO. 280--Amends provision on eligibility for unemployment compensation after discharge for misconduct.

Chairman Wilson opened the hearing on Senate Bill No. 280 by asking if Senator Neal had been notified of the meeting and the committee secretary responded he had been notified. Senator Don Ashworth commented this bill had been scheduled before but no one had shown up to testify. Chairman Wilson explained that Senator Neal had been ill, and the hearing was rescheduled.

Mr. Claude Evans, executive secretary-treasurer of the state AFL-CIO, stated they supported the legislation but would appreciate an explanation from the employment security department exactly why it was necessary.

Mr. Lawrence McCracken, director, employment security department, explained that adding the language on line 9, page 1 through page 2, Senate Bill No. 280 is reinstating the penalty for discharge for misconduct which was in the law prior to 1979. He said the department had no difficulty administering the law as presently written nor would they have difficulty administering the law as proposed in this particular bill since they have had previous experience with it. He cited some facts and figures on misconduct determinations and the dollar figures they would entail. He also explained the disqualification periods and how they would operate. In addition to his written testimony, Mr. McCracken submitted a policy statement on the definition of misconduct. (See Exhibit C.)

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Senator Don Ashworth said the committee should go over Senate Bill No. 280 line by line since it is new language. Senator Wilson agreed and read the new language starting with line 9 through the entire new language ending on page 2. Senator Don Ashworth questioned the meaning of lines 12 and 13 and Mr. McCracken was not sure he could give a dollars and cents answer but gave an example of the way it was possible to get around the law before 1979. Senator Don Ashworth then asked about the reference to not earning at least five times the weekly benefit. Mr. McCracken replied the weekly benefit is determined by the base period wages, and discussed the lengths of time an individual can be penalized (10 to 15 weeks) under the present law for discharged for misconduct while the penalty for a voluntary quit is not as harsh.

Senator Hernstadt commented that under the current law a person could be indefinitely disqualified if he was unable to find enough work to make up the required time limit. Mr. McCracken agreed that it was a tough job market now in spite of 5,400 new jobs last month in Nevada. He stated there are still more people coming into the state than there are jobs available.

Senator Joe Neal, introducer of Senate Bill No. 280 stated the purpose of the bill is to return to the unemployment compensation law as it was prior to 1979. He stated this issue was vigorously debated in 1979 and said he had been told the governor would support this proposed legislation. A handout of "The Great Rip-Off" was given to the committee members. (See Exhibit D.)

Mr. Chuck King, representing Central Telephone Company testified in opposition to the bill and implied the unemployment fund was grossly insolvent prior to passage of the current law in 1979. However, he did agree the 15 week penalty was a trifle harsh on the unemployed person. Mr. McCracken commented the penalty is 10 weeks for a voluntary quit; 15 to 16 weeks for misconduct, including the week the claim was filed. He stated his instructions were to keep the average disqualification time the same even if proposed legislation passes. Senator Raggio asked why a change was needed if that was the case; and if it reduced the penalty lower than the voluntary quit situation, it would be hard to justify. Mr. McCracken stated the new legislation would reduce the penalty considerably. In reply to Senator Raggio's question about the rationale making less of a penalty for misconduct than for a voluntary quit, Mr. McCracken said he did not believe there had been any testimony which compared the two situations. Senator Raggio thought there should be some.

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Mr. Bill Champion, personnel director of the MGM Grand Hotel in Las Vegas, stated he opposed the bill for the same reasons already stated and also on more philosophical grounds. He did not wish to see an incentive offered to those people who are prone to misconduct to take advantage of unemployment compensation if they have violated the rules of misconduct. He also said he did not want to see the fund become insolvent. In response to Senator Hernstadt's question as to how Senate Bill No. 280 would make the fund insolvent, Mr. Champion said he assumed it would be so from Mr. King's statement to that effect. Senator Hernstadt said that had not been demonstrated as being the cause of the fund being in better shape than in 1979 or perhaps it was due to economic conditions being better in the years since 1979.

Mr. Claude Evans, representing the state AFL-CIO, said the committee members should be aware that Senate Bill No. 280 is still a very stringent bill, but he felt it was only right it should be passed in spite of its stringency as it was fairer than the present law. He also did not feel the fund was insolvent in 1979 or that the proposed legislation would make it insolvent, in spite of the fiscal impact of \$2 million.

Senator Raggio again voiced his concern about making a lesser penalty for misconduct than for a voluntary quit. Mr. Evans was inclined to agree with Senator Raggio but stated he had difficulty understanding the proposed bill. Senator Wilson said he was not so sure he understood it either and requested a short memo to be prepared in "street" language indicating what the present law is and does, and how Senate Bill No. 280 would change it in the practical sense. Mr. Evans stated his concern that a person might be indefinitely ineligible for one mistake if he was unable to find work to make up the required penalty period time.

Mr. Tom Stuart, representing the Gibbons Company, stated the proposed legislation is much more lenient, allowing a person terminated from his employment for misconduct to receive a five week disqualification and he does not have to earn any money in order to qualify after that five week period. Therefore the Gibbons Company is opposed to the bill.

Senator Don Ashworth wondered how a person can qualify when the bill stated the next most recent employment if the applicant has not earned at least five times his weekly benefit amount. Mr. Stuart stated by working in construction industry it would be easy to earn the required amount in a week.

With no further testimony, Chairman Wilson closed the hearing on Senate Bill No. 280.

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ASSEMBLY BILL NO. 3

Senator Hernstadt moved to Amend and Do Pass
Assembly Bill No. 3. (See Exhibit F.)

Senator Don Ashworth seconded the motion.

The motion carried unanimously. (Senator Blakemore
was absent for the vote.)

SENATE BILL NO. 346

Senator Hernstadt indicated he had been trying to get copies of
the Federal Trade Commission's guidelines for mortuaries; however
the printer's office was having trouble getting a clear copy. The
committee secretary stated copies would be available in a week.
Senator Hernstadt hoped the committee would like to see a copy of
the federal guidelines before voting on the bill. The committee's
feeling was the mortuaries were already itemizing their charges,
so there was no need for the bill.

Senator Don Ashworth moved to Indefinitely Postpone
Senate Bill No. 346. (See Exhibit G.)

Senator McCorkle seconded the motion.

The motion carried. (Senator Hernstadt voted "No".)

ASSEMBLY BILL NO. 15

Senator Raggio asked if anyone on the committee had been contacted
by the deputy attorney general regarding the definition. Senator
Wilson stated he would call the deputy attorney general.

Assembly Bill No. 15, which revises provisions of law concerning
podiatrists, is to be held pending further information from the
deputy attorney general.

SENATE BILL NO. 391

Chairman Wilson indicated a letter had been received from Mr. Fran
Breen, state pharmacy board counsel, in response to the committee's
request. However, Senator Wilson indicated the letter (see Exhi-
bit E) did not answer the problem of the prescription written by
the out-of-state physician, which is in section 16 of the bill. It
gives no solution to mitigate the effect of saying such prescrip-
tions cannot be honored in Nevada.

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Senator Raggio questioned why Nevada should allow out-of-state prescriptions to be filled when the surrounding states do not. Senator Hernstadt replied because there are 20 million tourists coming to Nevada and some of them are sick and bring their prescriptions with them. In response to Senator Wilson's question, Senator Raggio affirmed that Idaho, Utah, California and Oregon do not allow out-of-state prescriptions to be filled. Senator Hernstadt agreed this was true, but testimony had only demonstrated one such abuser, "Dr. Feelgood" at South Lake Tahoe. Senator McCorkle inquired why such abuse could not exist with in-state prescriptions as well and Senator Raggio replied it is easier to check on in-state doctors.

Senator McCorkle commented another problem was the basis on which the Nevada Retired Persons' Pharmacy came into the state and now the rules are being changed on them. Senator Raggio answered that they were not invited here on the specific basis of controlled substances, and this is only a small portion of the prescriptions filled. He further stated the law cannot be made for just one company. Senator Hernstadt felt this was unfair to that pharmacy. Senator McCorkle said the law was being changed solely to restrict them. Senator Raggio disagreed saying that Raley's also had protested section 16. Senator Hernstadt still felt the Retired Persons' Pharmacy was being "screwed" as they had testified they were willing to call on every case of a Schedule 2 prescription. There was considerably more discussion on out-of-state prescriptions, Schedule 2 drugs, and mail order drug traffic by the committee members.

Senator Wilson commented that Mr. Breen's amendment to section 17 (see Exhibit E) was not too bad and they should go along with it. Senator Close brought up section 16 again. Senator Wilson felt it could be remedied by striking section 16, specifically lines 32 through 38, on page 16, and leave the present law alone except in the case of mail order prescriptions which would require oral confirmation. Senator Close replied the mail order drug company was already doing that confirmation. Senator Raggio then stated section 17 should have the same provision for telephone numbers of doctor and patient. Senator Close and Senator Don Ashworth indicated that in all cases of mail order drugs the prescriptions should contain names, addresses, and phone numbers of patient and doctor. There was general consensus of the committee regarding sections 16 and 17. After further discussion on the remainder of the bill, action was taken.

Senator Close moved to Amend and Do Pass Senate Bill No. 391.
Senator Don Ashworth seconded the motion. (See Exhibit H.)
The motion passed unanimously.

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ASSEMBLY BILL NO. 110

Senator McCorkle suggested Mr. Ron Sparks, director, fiscal analysis division, legislative counsel bureau, be called in to give an answer as to the status of the budget for the master's program in audiology and speech pathology. Senator Close stated he had never spoken to anyone about this program, although he had been quoted as doing so. The committee members discussed some general aspects of the legislation, and the problems of protecting the public in this particular field.

As soon as Mr. Sparks was present, Chairman Wilson asked him to discuss the funding. Mr. Sparks said the program was federally funded. The federal money is being withdrawn and the governor had made no move to pick it up. He said this is one area where the university had requested restoration of the program, with a rather low priority, at a cost of approximately \$26,000. Chairman Wilson commented this committee did not have jurisdiction on Assembly Bill No. 110, but suggested it be left on the desk until the University of Nevada System budget is closed. If the program is not funded, then the bill would probably not be processed.

The committee unanimously agreed to keep Assembly Bill No. 110 on the desk.

SENATE BILL NO. 366

Senator Raggio asked Senator Don Ashworth what his reservations were in regard to this bill to provide separate licensing for cosmeticians. The bill is currently on the desk. Senator Ashworth indicated his concern was on page 1, line 4 with the definition of cosmetician, which is defined; as opposed to hairdresser which is not defined. Senator Raggio agreed he had a point and suggested Mr. Crockett, acting Senate bill drafting adviser, be asked to address the problem. The committee agreed to do so.

With no further business, the committee adjourned at 4:10 p.m.

Respectfully submitted,

APPROVED:



Frances A. Kindred, Committee Secretary



Senator Thomas R. C. Wilson, Chairman

DATE: _____

EXHIBITS - MEETING - MARCH 30, 1981

Exhibit A is the Meeting Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is the memo from Employment Security, and Statement, submitted by Mr. McCracken, re Senate Bill No. 280.

Exhibit D is an article "The Great Rip-Off" from U.S. World News, submitted by Senator Neal, re S.B. No. 280.

Exhibit E is a letter from Mr. Breen, re Senator Bill No. 391.

Exhibit F is a copy of Assembly Bill No. 3.

Exhibit G is a copy of Senate Bill No. 346.

Exhibit H is a copy of Senate Bill No. 391.

SENATE AGENDA

COMMITTEE MEETINGS .

Committee on Commerce and Labor , Room 213 .

Day Monday , Date March 30, 1981 , Time 1:30 p.m.

S.B. No. 346--Requires written estimate of costs at time of funeral arrangements.

A.B. No. 3--Provides for abandonment of fictitious name and makes certain other changes to requirements for conducting business under a fictitious name.

S.B. No. 280--Amends provision on eligibility for unemployment compensation after discharge for misconduct.

ATTENDANCE ROSTER FORM

COMMITTEE MEETINGS

SENATE COMMITTEE ON

Commerce & Labor

DATE: 3/30/81

EXHIBIT B

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME

ORGANIZATION & ADDRESS

TELEPHONE

243 Judi Bailey	Washoe County Clerk, Reno, NV	785-6180
243 Loretta Bowman	Clark County Clerk L.O.	
Larry Mcracken	Employment Security	
John Bradley	" "	
K. Phung	" "	
Bob Ostrovsky	MEM GRAND-RENO	789-2203
Ken Suraggs		602-938-0019
ORVIS E. Reil	NRTA/AART - Nevada Joint Staff - Legislative Committee	832-1675
Ernest W. ...	AART - NRTA	...
Bill ...	MS 11 GRAND LAS VEGAS	739 4111
...	...	855-5403

MEMORANDUM

STATE OF NEVADA

EXHIBIT C

EMPLOYMENT SECURITY DEPARTMENT

3/30/81

TO Senator Thomas R. C. Wilson, Chairman and
Members, Committee on Commerce and Labor DATE March 18, 1981

FROM Larry McCracken, Executive Director SUBJECT SB 280

By adding new language on line 9, page 1, through line 4 on page 2, this Bill would reinstitute the penalty for discharge for misconduct which was in the law prior to the most recent change in 1979. The department has no difficulty in administering the law as presently written, likewise, the department would have no difficulty in again administering the change in SB 280 based upon our prior experience with it. This change would have no effect upon the number of individuals disqualified from receiving benefits. Its only effect would be to increase the amount of benefits paid.

As a matter of information, during calendar year 1980, the department issued 16,810 determinations in cases where the employer stated that the discharge had been for misconduct. In 5,747 of these cases, or 34%, benefits were denied. This is historically true, that is, in only one-third of the cases where misconduct is charged does the department find supporting evidence and thus invoke the penalty provided in the law. The penalty for discharge for misconduct presently found in NRS 612.385 is about twice as severe in its impact as the penalty proposed in SB 280. This Bill, by imposing a less severe penalty, would have the effect of increasing payout by about 3%, or about \$2 million per year at the current rate of payout.

bam

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Part. Chap.	V 4700-4899	UNEMPLOYMENT INSURANCE BENEFIT PROGRAM POLICY STATEMENTS	Sec. 4835-4836 Date: December 3, 1979 Mtl: 232
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...must be an act of wanton or willful disregard of the employer's interests, a deliberate violation of the employer's rules, a disregard of standards of behavior which the employer has the right to expect of his employee, or negligence in such degree or recurrence as to manifest culpability, wrongful intent, or evil design, or show an intentional and substantial disregard of the employer's interest or the employee's duties and obligations to the employer."

The Nevada law requires a denial of benefits only for "misconduct connected with his work". For misconduct to be connected with the work, the act of misconduct must have a direct relationship with the work. An example would be a cab driver arrested on the job for drunk driving. Usually off duty misconduct is not connected with the work but it may be. A cab driver arrested for drunk driving off the job would be considered to have been discharged for misconduct connected with the work because the arrest would reflect adversely upon the employer and show a disregard for the employer's interests and standards. Certainly, cab companies cannot have the reputation of hiring drivers who would drink on the job. However, some proof or reasonable assurance that an employee's misconduct did in fact have that result is necessary in order to deny unemployment benefits.

A Nevada court decision held that persons convicted of a felony, such as forceful rape, who were discharged from a job should not automatically be denied unemployment benefits. Had the legislature intended this to be true, it could have easily so provided. The decision stated:

"The conviction of any off duty felony and specifically forceful rape, by an employee, could in many instances reflect adversely upon the employer and show a disregard for the employer's interest and standards. However, some proof that the employee's misconduct did in fact have that result is necessary in order to deny unemployment compensation benefits."

The Great Ripoff in Unemployment Pay

THE GIBBENS CO
PORTLAND

Alabama companies are accustomed to declaring one or two-week plant shutdowns each year and sending their employes to pick up unemployment checks in lieu of vacation pay. It's a lawful ripoff, say state officials.

More and more scams are uncovered every year. But these aren't the only abuses that plague the program, and some are actually legal.

Hundreds of millions of dollars spent to compensate the jobless is being wasted each year through overpayment, abuse and outright fraud.

Based on government studies and this magazine's own survey, that's how much money may be going into the pockets of people who aren't qualified to receive such payments or who take unfair advantage of the elaborate system for helping workers during periods of unemployment.

While this occurs, the unemployment-insurance funds that pay the benefits are running into trouble in one state after another. Employers are being assessed sharply higher payroll taxes to put these jobless funds back in the black.

"The monumental concern of small businessmen is the extent to which unemployment compensation is abused," says Wilson Johnson of the National Federation of Independent Business.

The subject of jobless benefits is certain to be hotly discussed this year. President Reagan wants to cut off payouts for unemployed persons who, after receiving 13 weeks of benefits, refuse to accept work in occupations different from the ones in which they were employed—and that pays at least the minimum wage. Presently, jobless workers qualify for at least six months of benefits if they cannot find work in their former occupations.

As changes in the system are being debated, it's the abuse by both workers and employers that concerns many. Consider these instances—

• An unemployed woman in central Ohio listed her pet canary as a dependent child in order to receive greater benefits. This was discovered when officials checked with the school that the "child" supposedly attended.

• State investigators in Indiana found that banquet waiters in Indianapolis were working several nights a week while collecting jobless benefits from other jobs.

• Ore-boat workers on the Great Lakes—some of whom earn \$56,000 a season—are entitled to unemployment

benefits in Minnesota each winter when the lakes freeze. "It's like having the Chicago Bears claim unemployment compensation in the summer," remarks John Lennes of the Minnesota Association of Commerce and Industry.

• A personnel officer for Uniroyal allegedly conspired with five members of a Detroit motorcycle gang to steal \$50,000 in jobless funds. Indictments returned on February 25 charged that the gang members falsely said they had been laid off by Uniroyal, and the supervisor backed them up, though none had worked for the company since 1966. The scheme lasted two years before the FBI began an investigation.

• Until Michigan recently tightened its requirements, students could collect benefits after their summer jobs ended and they returned to school.

• A 52-year-old Bronx woman bilked New York out of \$86,000 by filing multiple claims under fictitious names and addresses. A former bookkeeper, she understood the intricacies of the system and successfully eluded detection for almost five years, until tripped up by a tip given to state authorities. She was convicted of fraud last October.

• In New Jersey, strikers qualify for unemployment compensation—financed, of course, by taxes on that state's employers.

Employers also misuse the unemployment-insurance system. Some Ala-

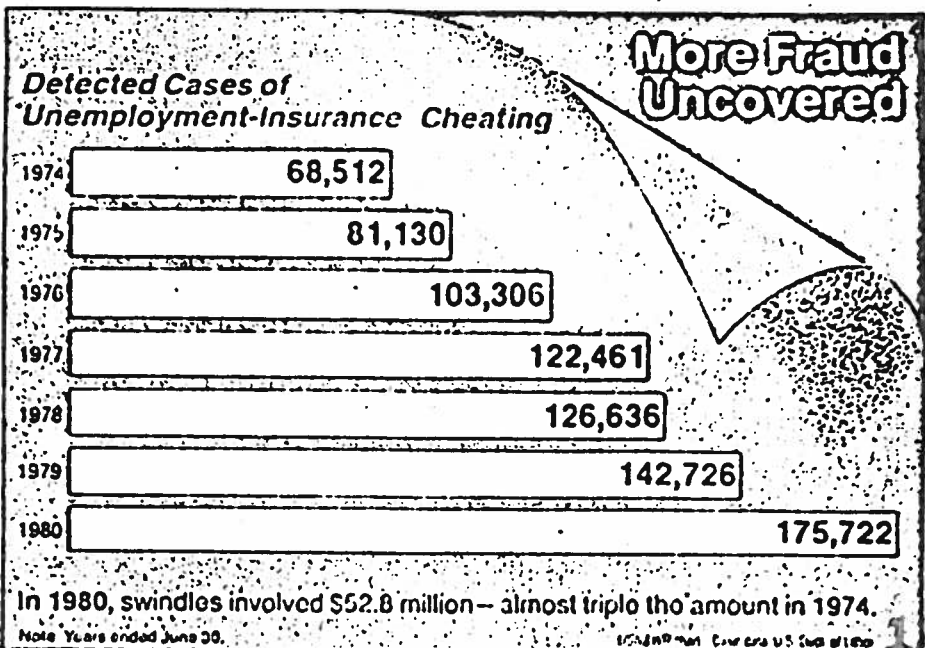
Decidedly illegal are other schemes used by some employers. A merchant in Northern California says he "lays off" an employe each time she qualifies for a new batch of jobless benefits, then "rehires" her when benefits run out. All the time, the young woman remains on the job. That scam began two years ago and is still going on.

North Carolina officials recently moved in on a building-supply company that subsidized its operation by urging employes to obtain jobless benefits while still working. This lasted a month, until one of the workers blew the whistle.

"As the economy grows worse," says Ronnie Hawks, chief claims investigator for the North Carolina Employment Security Commission, "employers, just like claimants, attempt fraud."

For that matter, so do some employes of the state agencies that administer the programs. A caseworker in New York got \$69,000 before being detected. He informed claimants—incorrectly—that they did not qualify for benefits. Later, he took their applications, changed the addresses to post-office boxes he rented, and claimed the benefits himself.

Living off the system. Nothing makes some critics of unemployment compensation madder than the men and women who linger on jobless benefits far longer than necessary. One such person is a young father of two in Atlanta who was laid off by General





How Unemployment Insurance Works

Who benefits from it—About 97 percent of the nation's workers are eligible. In most states, persons who quit jobs without good cause or are fired for misconduct do not qualify, or must wait several weeks to begin receiving benefits.

Who finances it—Employers, through payroll taxes. A federal tax of 0.7 percent of the first \$6,000 of a worker's wages pays for administration of the program. Benefits are financed by state taxes, which in some states exceed 6 percent of wages.

Size of benefits—Different in each state. Generally equal to one half of gross full-time weekly pay, up to a maximum that varies from \$84 in Puerto Rico and \$90 in Alabama, Georgia and Mississippi to a high of \$215 in Ohio.

Duration of benefits—26 weeks in most states. However, in times of high unemployment, an additional 13 weeks of benefits are sometimes available.

Motors. Thanks to jobless pay, he's saving money for the first time since he was married. "I'm better off financially," he declares. "The money's easier. I've enjoyed myself."

Regular unemployment compensation, plus extra benefits from having lost his auto-making job because of foreign competition, almost equals what he took home from GM—except that now his income is not taxed. Unbeknown to state officials, he also has done odd jobs, such as working in a liquor store, to earn extra money—most of which, if reported, would have led to deductions being made from his benefits.

All this time he has been promised full-time work in construction. "I'll wait until my compensation is exhausted" this month, he says.

Untold millions. These and other uses, abuses and misrepresentations add up to untold amounts of wasted money that comes out of the bank accounts of businesses—millions more, in

fact, than the government, until now, had supposed was the case.

During the 12-month period ended last June, state governments, which administer unemployment compensation, uncovered close to 176,000 instances of fraud involving nearly 53 million dollars in payments.

In that same period, 508,000 instances of overpayments amounting to 83 million dollars were also uncovered. These overpayments, which did not involve fraud, resulted from errors by state agencies, the unemployed persons themselves or their former employers.

Together, the fraud and other overpayments that were discovered amounted to 136 million dollars. They involved nearly 8 percent of the 9 million claims for unemployment benefits during that period, but just a bit more than 1 percent of the 12.1 billion dollars in benefits that were paid out.

Yet there is every reason to believe that far more money was wasted. The National Commission on Unemployment Compensation, in a special study in six cities, discovered that overpayments

were being made in 18.5 percent of the claims for jobless pay. In more than half of these instances, the commission said, the recipients were not looking for work as required. About 1.6 percent of the claims in these six cities were believed to be fraudulent.

A second study undertaken for the commission found that 13.6 percent of the jobless-pay recipients in Denver and 7.6 percent of those in Seattle had failed to report all the money they were earning from other jobs while officially unemployed.

Is enough being done to stop the ripoffs? The national commission doesn't think so. "Many state agencies," it said in its final report to the President and Congress last summer, "are simply unwilling to take a closer look at their real rates of fraud or overpayment for fear that the results would create a bad image of the program or their performance. These considerations may even be inhibiting the effective application of existing controls."

The U.S. Department of Labor, which oversees the performance of state agencies, assigns just one full-time employe in Washington, D.C., to work on controlling the overpayment of benefits, according to the President's commission. At the state level, about 2,000 persons, in all, work to verify the correctness of claims.

Many state officials are proud of their successes in rooting out fraud and overpayments. One technique is to regularly cross-match the names and Social Security numbers of benefit recipients with the lists of employes that companies submit with unemployment-insurance taxes.

New York's computers not only cross-check names of employed workers and claimants, but also identify persons who file new claims frequently. "We figure that if the system is going to be ripped off, the chances are it's going to be in New York, and this keeps us on our toes," says Charles McMahon, director of special investigations for the New York State Department of Labor.

Squeezing out waste. Beyond catching abusers, many states are tightening up their requirements for receiving jobless compensation. As of March 1, persons fired for misconduct, theft or sabotage are ineligible for benefits in Michigan. The Kansas Legislature is being asked to ban benefits for people who voluntarily quit their jobs. At present, such people are disqualified for the first six weeks.

The waste of unemployment-insurance money is one reason for the poor condition of benefit funds in many states. In 13 states and the District of Columbia, the funds have gone broke, and more than 5 billion dollars has been borrowed from the federal government to continue paying benefits. In most of these states, payroll taxes of employers were increased to repay the loans and replenish the balances.

Pennsylvania and Illinois both owe Washington more than 1 billion dollars, and Illinois expects to need 1.1 billion more during 1981 because of continued high unemployment.

The higher tax rates that result for businesses create numerous raw nerves. Says Eileen Measel of the New Jersey Business and Industry Association: "The state's benefits are so attractive that we have a difficult time getting people back to work. The high cost of these social benefits, compared with those in other states, weighs against business and industries either relocating or expanding in the state." (C)

By FRED W. TRALEY and JENNIFER THORNTON
and the magazine's domestic bureau

3/20/81

SB 391

BREEN, YOUNG, WHITEHEAD & BELDING
CHARTERED
ATTORNEYS AND COUNSELLORS AT LAW

EXHIBIT E

F. R. BREEN
C. CLIFTON YOUNG
JERRY CARR WHITEHEAD
DAVID RAY BELDING

232 COURT STREET
RENO, NEVADA 89501
A.C. 702 786-7600

March 25, 1981

Senator "Spike" Wilson
Nevada State Senate
Carson City, Nevada 89710

Re: SB 391

Dear Spike:

Pursuant to your request, the following is a suggested amendment to the referenced bill in connection with the contents of a prescription for controlled substances.

I would suggest that Section 17, which amends N.R.S. 639.2353, sub-paragraph 2, be amended as follows:

2. A prescription must contain,
 - a. The name of the practitioner and his address if not immediately available to the pharmacist.
 - b. The name of the patient and his address if not immediately available to the pharmacist.
 - c. The classification of his license.
 - d. The name, strength and quantity of the drug or drugs prescribed.
 - e. Directions for use.
 - f. The date of issuance.
 - g. If the prescription is for a controlled substance, it shall be dated as of and signed on the day when issued and shall bear the full name and address of the patient and the name, address and the Drug Enforcement Administration registration number of the practitioner. A practitioner may sign a prescription in the same manner as he would a check or legal document (e.g. J. H. Smith or John H. Smith).

Hon. Spike Wilson,
Nevada State Senate
March 25, 1981
Page Two

The underlined portion is taken from Title 21, Chapter II of the Food and Drugs Code of Federal Regulation, Section 1306.05, a copy of which I have enclosed herewith.

Thank you for your courtesy and consideration.

Very truly yours,



F. R. Breen

FRB/p

cc: Mr. Frank Titus
Mr. Bob Tucker
Mr. Gene Coombs

3/30/71

Starn

Title 21—Food and Drug Administration

Chapter II—Drug Enforcement Admin., Dept. of Justice

§ 1306.05

CONTROLLED SUBSTANCES LISTED IN SCHEDULES II

Requirement of prescription. Filing prescriptions. Partial filling of prescriptions. Dispensing of substances. Issuance of prescriptions.

CONTROLLED SUBSTANCES LISTED IN SCHEDULES III AND IV

Requirement of prescription. Filing of prescriptions. Partial filling of prescriptions. Dispensing of substances. Issuance of prescriptions.

CONTROLLED SUBSTANCES LISTED IN SCHEDULES V

Requirement of prescription. Dispensing without prescription.

Secs. 301, 309, 501(b), 84 Stat. 71; 21 U.S.C. 821, 829, 871(b).

FR 7799, Apr. 24, 1971; 36 FR 18732, Sept. 21, 1971, unless otherwise noted. Redesignated at 38 FR 26609, Sept. 24, 1973.

REGULATORY CHANGES, 38 FR 26609.

GENERAL INFORMATION

Scope of Part 1306.

Regarding the issuance, filling, and partial filling of prescriptions pursuant to the Act (21 U.S.C. 829) and the regulations in that section, the following definitions apply to the sections of this part:

Definitions.

In this part, the following definitions apply to the meanings specified:

"Act" means the Controlled Substances Act (84 Stat. 1242).

"Individual practitioner" means a physician, dentist, veterinarian, or other individual licensed, or otherwise permitted, by the laws of the jurisdiction in which he practices, to dispense a controlled substance in the course of his professional practice, but does not include a pharmacist, a pharmacy, or an institution.

"Institutional practitioner" means an individual (other than an individual practitioner) who is licensed, or otherwise permitted,

by the United States or the jurisdiction in which it practices, to dispense a controlled substance in the course of professional practice, but does not include a pharmacy.

(d) The term "pharmacist" means any pharmacist licensed by a State to dispense controlled substances, and shall include any other person (e.g., a pharmacist intern) authorized by a State to dispense controlled substances under the supervision of a pharmacist licensed by such State.

(e) The term "prescription" means an order for medication which is dispensed to or for an ultimate user but does not include an order for medication which is dispensed for immediate administration to the ultimate user. (e.g., an order to dispense a drug to a hospitalized patient for immediate administration in a hospital is not a prescription.)

The terms "register" and "registration" refer to registration required and permitted by section 303 of the Act (21 U.S.C. 823).

Any term not defined in this section shall have the definition set forth in section 102 of the Act (21 U.S.C. 102) or § 1301.02 of this chapter.

FR 7799, Apr. 24, 1971, as amended at 36 FR 18732, Sept. 21, 1971. Redesignated at 38 FR 26609, Sept. 24, 1973.

§ 1306.03 Persons entitled to issue prescriptions.

(a) A prescription for a controlled substance may be issued only by an individual practitioner who is:

(1) authorized to prescribe controlled substances by the jurisdiction in which he is licensed to practice his profession and

(2) either registered or exempted from registration pursuant to § 1301.24(c) and 1301.25 of this chapter.

(b) A prescription issued by an individual practitioner may be communicated to a pharmacist by an employee or agent of the individual practitioner.

FR 7799, Apr. 24, 1971, as amended at 36 FR 18732, Sept. 21, 1971. Redesignated at 38 FR 26609, Sept. 24, 1973.

§ 1306.04 Purpose of issue of prescription.

(a) A prescription for a controlled substance to be effective must be

issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of section 309 of the Act (21 U.S.C. 829) and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.

(b) A prescription may not be issued in order for an individual practitioner to obtain controlled substances for supplying the individual practitioner for the purpose of general dispensing to patients.

(c) A prescription may not be issued for the dispensing of narcotic drugs listed in any schedule for "detoxification treatment" or "maintenance treatment" as defined in Section 102 of the Act (21 U.S.C. 802).

36 FR 7799, Apr. 24, 1971. Redesignated at 38 FR 26609, Sept. 24, 1973, and amended at 38 FR 37980, Oct. 25, 1974.

§ 1306.05 Manner of issuance of prescriptions.

(a) All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, and the name, address, and registration number of the practitioner. A practitioner may sign a prescription in the same manner as he would sign a check or legal document (e.g. J. H. Smith or John H. Smith). Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or typewriter and shall be manually signed by the practitioner. The prescriptions may be prepared by a secretary or agent for the signature of a practitioner, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to the

SUBSTANCES LISTED IN SCHEDULE I

Requirement of prescription. Filing prescriptions. Filing of prescriptions. Filing of substances. Filing of prescriptions.

SUBSTANCES LISTED IN SCHEDULES III AND IV

Requirement of prescription. Filing of prescriptions. Filing of prescriptions. Filing of substances. Filing of prescriptions.

SUBSTANCES LISTED IN SCHEDULES V

Requirement of prescription. Issuing without prescription. Secs. 301, 309, 501(b), 84 Stat. 21 U.S.C. 821, 829, 871(b).

FR 7799, Apr. 24, 1971; 36 FR 1971, unless otherwise noted; 36 FR 26609, Sept. 24, 1971; CHANGES: 38 FR 2663.

GENERAL INFORMATION

of Part 1306. Filing the issuance, filling prescriptions pursuant to the Act (21 U.S.C. 829) general in that section by sections of the

tion. In this part, the following have the meanings specified: 'Act' means the Controlled Substances Act (64 Stat. 1242)

'Individual practitioner' means a physician, dentist, veterinarian, or other individual licensed or otherwise permitted, by law of the jurisdiction in which he practices, to dispense a substance in the course of his practice, but does not include a pharmacist, or an institution.

'Institutional practitioner' means a hospital or other institution (other than an individual) licensed, or otherwise per-

mitted, by the United States or the jurisdiction in which it practices, to dispense a controlled substance in the course of professional practice, but does not include a pharmacy.

(d) The term "pharmacist" means any pharmacist licensed by a State to dispense controlled substances, and shall include any other person (e.g., a pharmacist intern) authorized by a State to dispense controlled substances under the supervision of a pharmacist licensed by such State.

(e) The term "prescription" means an order for medication which is dispensed to or for an ultimate user but does not include an order for medication which is dispensed for immediate administration to the ultimate user. An order to dispense a drug to a patient in a hospital is not a prescription.

(f) The terms "register" and "registered" refer to registration required and permitted by section 303 of the Act (21 U.S.C. 823).

(g) Any term not defined in this section shall have the definition set forth in section 102 of the Act (21 U.S.C. 802) or § 1301.02 of this chapter.

(h) FR 7799, Apr. 24, 1971, as amended at 36 FR 1971, Sept. 21, 1971; Redesignated at 38 FR 26609, Sept. 24, 1973.

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- (a) authorized to prescribe controlled substances by the jurisdiction in which he is licensed to practice his profession; and
- (b) either registered or exempted from registration pursuant to sections 1301.24(c) and 1301.25 of this chapter.

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(3) FR 7799, Apr. 24, 1971, as amended at 36 FR 1971, Sept. 21, 1971; Redesignated at 38 FR 26609, Sept. 24, 1973.

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(36 FR 7799, Apr. 24, 1971, Redesignated at 38 FR 26609, Sept. 24, 1973, and amended at 38 FR 26609, Oct. 25, 1974)

§ 1306.05 Manner of issuance of prescription.

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(REPRINTED WITH ADOPTED AMENDMENTS)

SECOND REPRINT

A. B. 3

ASSEMBLY BILL NO. 3—ASSEMBLYMAN BANNER

JANUARY 20, 1981

Referred to Committee on Judiciary

SUMMARY—Provides for abandonment of fictitious name and makes certain other changes to requirements for conducting business under a fictitious name. (BDR 52-401)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to doing business under a fictitious name; limiting the use of fictitious corporate names; permitting earlier destruction of certificates of fictitious names; 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. Chapter 602 of NRS is hereby amended by adding
2 thereto a new section which shall read as follows:
3 1. *No person may adopt any fictitious name which includes "Corpo-*
4 *ration," "Corp.," "Incorporated," or "Inc." in its title, unless that person*
5 *is a corporation organized or qualified to do business pursuant to the laws*
6 *of this state.*
7 2. *No county clerk may accept for filing a certificate which violates*
8 *any provision of this chapter.*
9 SEC. 2. NRS 239.110 is hereby amended to read as follows:
10 239.110 1. The clerk of the supreme court, a county clerk, clerk of
11 a justice's court or clerk of a municipal court may destroy all documents,
12 records, instruments, books, papers, depositions and transcripts in any
13 action or proceeding in the supreme court, district court, justice's court
14 or municipal court, respectively, or otherwise filed in his office pursuant
15 to law, including transcripts of coroners' inquests and depositions, if
16 the records of the clerk do not show that the action or proceeding is
17 pending on appeal or review in any court, except that:
18 (a) When the written consent of the district attorney is first obtained,
19 transcripts of preliminary hearings may be destroyed as provided in this
20 section; and
21 (b) Minutes of the supreme court, district court, justice's court or
22 municipal court [and] , affidavits supporting applications for marriage
23 licenses, after such licenses have been issued, *and certificates of fictitious*

1 *names of businesses* may be destroyed immediately subject to the provi-
2 sions of subsections 2 and 3.

3 2. The clerk shall maintain for the use of the public a microphoto-
4 graphic film print or copy of each document, record, instrument, book,
5 paper, deposition or transcript so destroyed, if the print or copy is placed
6 and kept in a sealed container under certificate of the clerk and properly
7 indexed. This print or copy shall be deemed to be the original.

8 3. The clerk shall promptly seal and store at least one original nega-
9 tive of each microphotographic film in such manner and place as rea-
10 sonably to assure its preservation indefinitely against loss, theft, deface-
11 ment or destruction.

12 SEC. 3. Section 2 of this act shall become effective at 12:01 a.m. on
13 July 1, 1981.

⊙

S. B. 346

SENATE BILL NO. 346—SENATOR FAISS

MARCH 2, 1981

Referred to Committee on Commerce and Labor

SUMMARY—Requires written estimate of costs at time of funeral arrangements. (BDR 54-1112)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to funeral directors; requiring a written estimate of costs at the time funeral arrangements are made; 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. Chapter 642 of NRS is hereby amended by adding
2 thereto a new section which shall read as follows:
3 1. *Every funeral director licensed pursuant to this chapter shall fur-*
4 *nish, at the time when any funeral arrangements are made, a written esti-*
5 *mate of the total cost of the funeral, including an itemized list of the price*
6 *of each item of merchandise and service to be furnished, and a statement*
7 *of any money to be advanced.*
8 2. *The actual charge for any funeral must not exceed by 5 percent*
9 *the written estimate furnished pursuant to subsection 1.*

S. B. 391**SENATE BILL NO. 391—COMMITTEE ON
COMMERCE AND LABOR**

MARCH 10, 1981

Referred to Committee on Commerce and Labor

SUMMARY—Amends law relating to pharmacists and
pharmacies. (BDR 40-855)FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to pharmacy; requiring certain publications in pharmacies; providing for the registration of inactive senior pharmacists; relating to reports and the schedule of fees of the state board of pharmacy; pertaining to the qualifications and examination of applicants for certification; specifying the contents and filing of prescriptions and the labeling of prescription drug containers; 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. Chapter 639 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 5, inclusive, of this act.
- 3 SEC. 2. *"Hospital" means any institution, place, building or agency*
4 *licensed by the department of human resources as a hospital and which*
5 *operates facilities for the care and treatment of human illness or other*
6 *abnormal physical or mental conditions of patients who occupy beds*
7 *within it, including any such facility operated by this state, any political*
8 *subdivision or the Federal Government.*
- 9 SEC. 3. *"Hospital pharmacy" means a pharmacy complying with the*
10 *requirements of NRS 639.2324 and operated in conjunction with a*
11 *hospital.*
- 12 SEC. 4. *Each licensed pharmacy must maintain in its prescription*
13 *department:*
- 14 1. *Current copies of chapters 453, 454, 585 and 639 of NRS.*
 - 15 2. *A current copy of the regulations of the board.*
 - 16 3. *Copies of any two of the latest editions of:*
 - 17 (a) *United States Pharmacopoeia-National Formulary;*
 - 18 (b) *United States Dispensatory;*
 - 19 (c) *Pharmaceutical Sciences;*
 - 20 (d) *Remington's Practice of Pharmacy;*
 - 21 (e) *Facts and Comparisons; or*
 - 22 (f) *Hospital Formulary.*

1 SEC. 5. 1. A registered pharmacist 65 years of age or older who no
2 longer wishes to practice pharmacy in this state may apply in writing to
3 the secretary of the board for registration by the board as an inactive
4 senior pharmacist. The required fee must accompany the application. The
5 board may issue to the applicant a certificate of registration as an inactive
6 senior pharmacist.

7 2. A registered inactive senior pharmacist:

8 (a) Shall not practice pharmacy in this state.

9 (b) Need not comply with the requirements of this chapter for con-
10 tinuing professional education.

11 3. Each person to whom such a certificate has been issued may, if he
12 so desires and if his certificate has not been revoked, renew his certificate
13 biennially upon making application and paying the renewal fee. Applica-
14 tion for the renewal of such a certificate, together with the renewal fee,
15 must be delivered to the secretary of the board on or before the 1st
16 Monday in September next preceding the expiration date of any existing
17 valid certificate or renewal receipt. A certificate as a registered inactive
18 senior pharmacist must be renewed biennially, dated as of November 1,
19 and delivered to the applicant on or before that date. The board may
20 refuse to renew a certificate if the applicant has committed any act
21 proscribed by NRS 639.210.

22 4. If an inactive senior pharmacist desires to resume the practice
23 of pharmacy in this state he must petition the board for registration as a
24 pharmacist. The board shall determine whether the petitioner is capable
25 and qualified by education or experience, or both, adequately to resume
26 the practice of pharmacy. If the board finds the petitioner qualified, the
27 board may then register the petitioner as a pharmacist upon payment
28 by him of the required registration fee.

29 SEC. 6. NRS 639.001 is hereby amended to read as follows:

30 639.001 As used in this chapter, the words and terms defined in
31 NRS 639.002 to 639.016, inclusive, and sections 2 and 3 of this act
32 have the meanings ascribed to them in those sections unless a different
33 meaning clearly appears in the context.

34 SEC. 7. NRS 639.015 is hereby amended to read as follows:

35 639.015 "Registered pharmacist" means:

36 1. A person registered in this state as such on July 1, 1947; [or]

37 2. A person registered in this state as such in compliance with the
38 provisions of paragraph (c) of section 3 of chapter 195, Statutes of
39 Nevada 1951; or

40 3. A person who has complied with the provisions of NRS 639.120
41 [and 639.133] and whose name has been entered in the registry of
42 pharmacists of this state by the secretary of the board and to whom a
43 valid certificate as a registered pharmacist or valid renewal thereof has
44 been issued by the board.

45 Sec. 8. NRS 639.060 is hereby amended to read as follows:

46 639.060 Before September 1 of each even-numbered year, for the
47 biennium ending June 30 of such year, the board shall report to the gov-
48 ernor upon the condition of pharmacy in the State of Nevada. The report
49 shall contain:

1 1. [A full and complete record of the proceedings of the board for
2 the year.

3 2. The names of all pharmacists registered under this chapter.

4 3. A complete statement of all fees received.] *A summary of the*
5 *proceedings of the board for the biennium.*

6 2. *The number of pharmacists registered under this chapter.*

7 3. *A statement of all fees received.*

8 SEC. 9. NRS 639.120 is hereby amended to read as follows:

9 639.120 An applicant to become a registered pharmacist in this state
10 must:

11 1. Be of good moral character.

12 2. Be a graduate of a college of pharmacy or department of pharm-
13 acy of a university accredited by the American Council on Pharma-
14 ceutical Education and approved by the board.

15 3. Satisfactorily pass an examination approved and given by the
16 Nevada state board of pharmacy with a grade of at least 60 [percent]
17 on any part of the examination and a grade of at least 75 [percent] for
18 the entire examination. An applicant for reciprocity registration [shall]
19 must take and pass the [law] examination *in law* with at least a grade
20 of 75. [percent.]

21 4. Complete 1 year of practical pharmaceutical experience as
22 defined in NRS 639.125.

23 SEC. 10. NRS 639.130 is hereby amended to read as follows:

24 639.130 1. An applicant for a certificate as a registered pharmacist
25 who has failed to pass the board's examination for such a certificate is
26 not eligible for reexamination until the next regularly scheduled meeting
27 of the board.

28 2. An applicant failing the entire examination is required to
29 retake the entire examination. If the applicant fails only part of the
30 examination, he is required to retake only that part and may retake any
31 other part of the examination.

32 3. No applicant for a certificate as a registered pharmacist is
33 entitled to more than three examinations for such certificate.

34 4. [Except as specifically provided in NRS 639.133, no] *No* sub-
35 sequent examination may be given any applicant until he has filed a new
36 application and paid a new fee therefor.

37 SEC. 11. NRS 639.170 is hereby amended to read as follows:

38 639.170 1. The board shall charge and collect not more than the
39 following fees for the following services:

40	For investigation or examination of applicant for certifi-	
41	cate as registered pharmacist.....	\$100
42	For investigation or examination of applicant for certifi-	
43	cate as registered pharmacist by reciprocity.....	150
44	For the investigation or issuance of an original license to	
45	conduct a retail pharmacy.....	150
46	For biennial renewal of a license to conduct a retail	
47	pharmacy.....	300
48	For the investigation or issuance of an original license	
49	to conduct a hospital pharmacy for inpatients.....	150

1	For biennial renewal of a license to conduct a hospital	
2	pharmacy for inpatients.....	\$300
3	For issuance of certificate of registration as registered	
4	pharmacist.....	50
5	For biennial renewal of certificate of registration as	
6	registered pharmacist.....	100
7	<i>For issuance of certificate of registration as inactive</i>	
8	<i>senior pharmacist.....</i>	<i>10</i>
9	<i>For biennial renewal of certificate of registration as</i>	
10	<i>inactive senior pharmacist.....</i>	<i>20</i>
11	For reinstatement of lapsed certificate of registration (in	
12	addition to renewal fees for period of lapse).....	50
13	For issuance of duplicate certificate of registration.....	25
14	For biennial registration of a hospital pharmaceutical	
15	technician.....	10
16	For issuance of manufacturer's or wholesaler's permit.....	100
17	For issuance of biennial renewal of permit for manu-	
18	facturing or wholesaler.....	200
19	For issuance of permit to vend, sell, offer to sell or	
20	furnish any hypodermic device.....	25
21	For biennial renewal of permit to vend, sell, offer to	
22	sell or furnish any hypodermic device.....	50
23	For issuance of permit to supply or operate vending	
24	machines or devices for distribution of any pro-	
25	phylactic.....	100
26	For biennial renewal of permit to supply or operate	
27	vending machines or devices for distribution of	
28	any prophylactic.....	200
29	<i>For issuance of permit to sell veterinary prescription</i>	
30	<i>or nonprescription drugs.....</i>	<i>25</i>
31	<i>For biennial renewal of permit to sell veterinary pre-</i>	
32	<i>scription or nonprescription drugs.....</i>	<i>50</i>
33	For reissuance of license issued to retail pharmacy, when	
34	no change of ownership is involved, but the license	
35	must be reissued because of a change in the infor-	
36	mation required thereon.....	25

37 For reissuance of license issued to retail pharmacy, when
 38 the board to convene a special meeting, he shall pay the actual costs
 39 to the board as a condition precedent to the rendition of the special
 40 service or the convening of the special meeting.

- 41 3. All fees are payable in advance and must not be refunded.
 42 4. The board may, by regulation, set the penalty for failure to pay
 43 the renewal fee for any license, permit or certificate within the statutory
 44 period, at an amount not to exceed 100 percent of the renewal fee for
 45 each year of delinquency in addition to the renewal fees for each year of
 46 delinquency.

47 SEC. 12. NRS 639.180 is hereby amended to read as follows:
 48 639.180 1. A certificate as a registered pharmacist [shall] *must* be
 49 issued to each person who is deemed qualified by the board in compliance
 50 with the provisions of NRS 639.120, 639.127, [639.133,] 639.134 and

1 NRS 639.217 to 639.2178, inclusive. The certificate entitles the person
2 to whom it is issued to practice pharmacy in this state.

3 2. Each person to whom such certificate has been issued may, if he
4 so desires and if his certificate has not been revoked, renew his certificate
5 biennially upon making application and paying the renewal fee fixed by
6 the board [as provided in NRS 639.170] and complying with the provi-
7 sions of NRS 639.217 to 639.2178, inclusive.

8 3. Application for the renewal of such certificate, together with the
9 renewal fee, [shall] *must* be delivered to the secretary of the board on
10 or before the 1st Monday in September next preceding the expiration date
11 of any [presently] existing valid certificate or renewal receipt.

12 4. A certificate as a registered pharmacist shall be renewed biennially,
13 dated as of November 1, and delivered to the applicant on or
14 before that date.

15 5. The board may refuse to renew a certificate if the applicant has
16 committed any act proscribed by NRS 639.210.

17 SEC. 13. NRS 639.190 is hereby amended to read as follows:

18 639.190 1. Within 30 days after the renewal date, the secretary of
19 the board shall notify the holders of all certificates of registration who
20 have failed to pay their renewal fee that failure to pay the renewal fee
21 and the penalty thereon within 60 days will result in forfeiture of their
22 respective certificates of registration.

23 2. If any holder of a certificate of registration fails to pay the renewal
24 fee and penalty within 60 days, after having been notified by the secre-
25 tary of the board, his certificate of registration [shall be] *is* automatically
26 forfeited to the board.

27 3. If the certificate of any person is forfeited as provided in this
28 section, the board may, [nevertheless,] within 5 years thereafter, issue
29 a certificate of registration to [such person, if the] *the former holder if:*

30 (a) *He makes written application to the board accompanied by the*
31 *amount of the fee for reinstatement of a lapsed certificate of registration*
32 *and the renewal fees for the period of lapse; and*

33 (b) *The board determines that he is capable and is qualified by educa-*
34 *tion or experience, or both, adequately to practice the profession of*
35 *pharmacy in this state.*

36 SEC. 14. NRS 639.2174 is hereby amended to read as follows:

37 639.2174 The board shall not []:

38 1. Issue a certificate as a registered pharmacist to any person pur-
39 suant to NRS 639.133; or

40 2. Renew] *renew* the certificate of any registered pharmacist [],
41 until the applicant has submitted proof to the board of the receipt of
42 the required number of continuing-education units, obtained through the
43 satisfactory completion of an accredited program of continuing profes-
44 sional education during the period for which the certificate was issued.

45 SEC. 15. NRS 639.2324 is hereby amended to read as follows:

46 639.2324 1. The operation of a pharmacy in conjunction with a
47 hospital [shall] *must* meet the following requirements:

48 [1.] (a) In hospitals with 100 or more beds, the pharmacy [shall]
49 *must* be under the continuous supervision of a pharmacist during the time
50 it is open for pharmaceutical services.

1 [2.] (b) In hospitals with less than 100 beds, the services of a
2 pharmacist may be on less than a full-time basis, depending upon the
3 needs of the hospital, and pursuant to the regulations and recom-
4 mendations of the state board of pharmacy and the board of hospital
5 trustees charged with the administration and control of [such] the
6 hospital.

7 [3.] (c) In the absence of a pharmacist from the hospital, a nurse
8 designated by the pharmacist may obtain from the pharmacy such neces-
9 sary quantities of drugs to administer to a patient until the pharmacy
10 reopens as are ordered by a medical practitioner and needed by a
11 patient in an emergency.

12 [4.] (d) The pharmacist in charge of the pharmacy shall initiate
13 procedures to provide for administration and technical guidance in all
14 matters pertaining to the acquiring, stocking, recordkeeping and dispens-
15 ing of drugs and devices.

16 2. *A pharmacy located in a hospital, if the pharmacy is not subject*
17 *to the administration and control of the board of hospital trustees or*
18 *other governing body of the hospital, is not "operating in conjunction*
19 *with a hospital" as that term is used in this chapter.*

20 SEC. 16. NRS 639.235 is hereby amended to read as follows:

21 639.235 1. No person other than a practitioner holding a currently
22 valid license to practice his profession in this state may prescribe or
23 write a prescription, except that a prescription *other than for a controlled*
24 *substance* written by a physician not licensed to practice in this state
25 but authorized by the laws of another state to prescribe [shall be con-
26 sidered to be] *is a legal prescription.*

27 2. [If a prescription, written by a physician not licensed to practice
28 in this state, calls for a Schedule II controlled substance, as defined in
29 chapter 453 of NRS, it is the responsibility of the registered pharmacist
30 who is to fill the prescription to establish that the prescription is authentic
31 and that a bona fide doctor-patient relationship did exist at the time the
32 prescription was written.] *A prescription for a controlled substance may*
33 *be written only by:*

34 (a) *A practitioner who is registered with the board pursuant to chapter*
35 *453 of NRS.*

36 (b) *A physician not licensed to practice in this state but authorized by*
37 *the laws of another state to prescribe if he is registered with the board*
38 *pursuant to chapter 453 of NRS.*

39 SEC. 17. NRS 639.2353 is hereby amended to read as follows:

40 639.2353 1. A prescription must be given:

41 (a) Directly from the practitioner to a pharmacist;

42 (b) Indirectly by means of an order signed by the practitioner; or

43 (c) By an oral order transmitted by an agent of the practitioner.

44 *If a prescription is given indirectly by means of an order signed by the*
45 *practitioner, each prescription must be written on a separate prescription*
46 *blank.*

47 2. A prescription must contain:

48 (a) The name [and address of the practitioner;] *of the practitioner,*
49 *and his address if not immediately available to the pharmacist;*

50 (b) The classification of his license;

1 (c) His registration number assigned by the Drug Enforcement
2 Administration [;], *if the prescription is for a controlled substance.*

3 (d) The name [and address of the patient;] *of the patient, and his*
4 *address if not immediately available to the pharmacist;*

5 (e) The name, *strength* and quantity of the drug or drugs prescribed.

6 (f) Directions for use; and

7 (g) The date of issue.

8 3. The directions for use must be specific in that they indicate the
9 portion of the body to which the medication is to be applied or, if to be
10 taken into the body by means other than orally, the orifice or canal of
11 the body into which the medication is to be inserted or injected.

12 SEC. 18. NRS 639.236 is hereby amended to read as follows:

13 639.236 1. All prescriptions filled in any pharmacy must be serially
14 numbered and filed in the manner prescribed by regulation of the board.
15 Prescriptions for Schedule II controlled substances as defined in chapter
16 453 of NRS, must be filed separately from other prescriptions or in a
17 readily retrievable manner as the board may provide by regulation. All
18 prescriptions must be retained on file for at least [2] 5 years.

19 2. Each prescription on file must bear the date on which it was
20 originally filled and be personally signed or initialed by the registered
21 pharmacist who filled it.

22 3. Prescription files are open to inspection by members, inspectors
23 and investigators of the board and by inspectors of the Food and Drug
24 Administration and agents of the department of law enforcement assist-
25 ance.

26 SEC. 19. NRS 639.257 is hereby amended to read as follows:

27 639.257 1. A person whose certificate, license or permit has been
28 revoked may petition the board for reinstatement after a period of not
29 less than 1 year has [lapsed] *elapsed* since the date of revocation. *If 3*
30 *years have elapsed since the date of revocation of his certificate of*
31 *registration a pharmacist may not petition the board for reinstatement,*
32 *but if he wishes to be registered must file a new application, pay the fee*
33 *therefor and pass the examination with the grade provided in NRS 639.-*
34 *120. The provisions of subsection 4 of NRS 639.120 do not apply to*
35 *such an applicant.*

36 2. The petition [shall state such facts as may be required by the
37 board and shall be heard by the board at its next regular meeting held not
38 earlier than 30 days after the petition is filed.] *must:*

39 (a) *State such facts as may be required by the board;*

40 (b) *Be accompanied by a fee specified by regulation of the board; and*

41 (c) *Be heard by the board at its next regular meeting held not earlier*
42 *than 30 days after the petition is filed.*

43 Such a petition may be considered by the board while the petitioner is
44 under sentence for any criminal offense, including any period during
45 which he is on probation or parole, only if the board members, by a
46 majority vote, find that the public interest would best be served by
47 [such] *his* reinstatement.

48 3. In considering reinstatement the board may investigate and con-
49 sider all activities of the petitioner since the time his original certificate,
50 license or permit was issued, his ability, character and reputation. The

1 affirmative vote of at least three members is necessary for reinstatement
2 of a certificate, license or permit with or without terms, conditions and
3 restrictions.

4 **SEC. 20.** NRS 639.2801 is hereby amended to read as follows:

5 639.2801 Unless specified to the contrary in writing on the prescrip-
6 tion by the prescribing practitioner, all prescriptions filled in any pharm-
7 acy must be dispensed in a container to which is affixed a label or other
8 device which clearly shows:

- 9 1. The date;
- 10 2. The name, address and prescription serial number of the pharm-
11 acy;
- 12 3. The names of the prescribing practitioner and of the person for
13 whom prescribed;
- 14 4. The number of dosage units;
- 15 5. Specific directions for use given by the prescribing practitioner;
- 16 6. The expiration date of the effectiveness of the drug or medicine
17 dispensed, if such information is required on the original label of the
18 manufacturer of such drug or medicine;
- 19 7. The proprietary or generic name of the drug or medicine as writ-
20 ten by the prescribing practitioner; and
- 21 8. The strength of such drug or medicine. [, and contains the warn-
22 ing:

23 **Caution:** Do not use with alcohol or nonprescribed drugs with-
24 out consulting the prescribing practitioner.

25 **SEC. 21.** NRS 639.133 and 639.135 are hereby repealed.