

MINUTES OF THE  
MEETING OF THE SENATE COMMITTEE  
ON HUMAN RESOURCES AND FACILITIES

SIXTY-FIRST SESSION  
NEVADA STATE LEGISLATURE  
April 2, 1981

The Senate Committee on Human Resources and Facilities was called to order by Chairman Joe Neal at 8:06 a.m., Thursday, April 2, 1981, in Room 323 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Joe Neal, Chairman  
Senator James N. Kosinski, Vice Chairman  
Senator Richard E. Blakemore  
Senator Wilbur Faiss  
Senator Virgil M. Getto  
Senator James H. Bilbray

STAFF MEMBERS PRESENT:

Connie S. Richards, Committee Secretary

SENATE BILL NUMBER 423

Ms. Georgeanne Greene, Representative, Nevada State Board of Nursing expressed a concern that the language on page 2, beginning on line 43, "every practitioner or other person who...has to register with the pharmacy board" is burdensome to nurses who do in fact administer drugs to patients. She suggested deleting "administer" (line 44 and 46) would allow nurses to be free from registering which is a cost of about \$100. She suggested as an alternative the addition of a section stating that nurses need not register, but may lawfully administer on page 3, line 6.

The Chairman asked asked Ms. Greene to submit the suggested language to the committee in writing by the following Monday.

Mr. Cliff Young, Representative, State Pharmacy Board presented suggested amendments to Senate Bill No. 423 to the committee. These suggested amendments are Exhibit C.

Mr. George Tucker, Executive Secretary, Nevada State Board of Pharmacy said there should be some clarification on

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page 15, line 19 to make it clear that a person cannot fill a prescription prescribed in Nevada outside of Nevada. He added that this would be concurrent with federal laws.

The Chairman asked Mr. Tucker to submit his suggested amendment to the committee in writing.

Mr. Gene Combs, Investigator, Nevada Division of Investigation of Narcotics spoke in support of Senate Bill Number 423 with the amendments.

SENATE BILL NUMBER 452

Ms. Marion Hurst, Representative, State Welfare Division spoke in support of Senate Bill No. 452. She said the division feels the passage of the bill will result in an increase in convictions and court ordered restitutions for abusers of the welfare program which will in turn result in significant savings to the people of the State of Nevada.

Mr. Mike Harper, Supervisor, Welfare Investigations, State Welfare Division said the bill increases the penalties for those people who abuse the welfare programs. He said this should be a deterrent to those people.

Mr. Ace Martelle, Director, Department of Human Resources spoke in support of the bill. He said the thrust of the bill is not on prosecution of the abusers, but the recovery of the state and federal dollars.

The Chairman asked Mr. Martelle why the word "cheat" was chosen for use in the bill.

Mr. Martelle replied that the language parallels that in NRS 205.380.

Senator Blakemore asked how much money may be returned to the state that are not recovered under the present law.

Mr. Harper replied that in fiscal year 1981-81 some \$6,000 per month should be saved for the State of Nevada; through deterrent and prevention of duplicate payments an additional \$650 per month per investigator of which there are currently 4.

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Senator Getto asked whether those amounts were above the cost to the division.

Mr. Harper replied that the amounts quoted are gross amounts.

Ms. Hurst commented that the estimates given are conservative.

The Chairman expressed a concern that the harshness of the law may actually scare truly needy clients away. He asked what type of screening program is used for clients to determine whether they should receive assistance through the program or not.

Ms. Hurst said the intention of the bill is in no way to scare clients, but to deter anyone who may willfully wish to defraud the government. She said applicants must complete an eligibility application and a complete eligibility check is made to determine whether the person is actually working when claiming that he or she is not. She said unless the division receives an anonymous call or happens to find out, they may never find out that a person is working when receiving the benefits fraudulently.

Mr. Martelle said the division has made a diligent effort and will continue to articulate to the applicant exactly what his or her rights and obligations are under the law.

Mr. Harper told the committee that he worked as an investigator for four years in the Welfare Division. He said the law as it is written is very difficult to enforce. He said the main element in fraud cases is a person's willful intent to defraud, especially in welfare fraud in which it is usually necessary for a person to commit several overt acts before he or she is caught and may be prosecuted or forced to make restitution.

SENATE BILL NUMBER 453 (EXHIBIT D)

Mr. Bill LaBadie, State Welfare Division said there is currently no law that allows monies belonging to children of the childrens' home to be put in an interest bearing account. He said this bill would allow that and therefore would benefit those children. He suggested the word "may" be replaced with the word "must" on line 23, Section 4, page 1. He suggested the word "bank" be changed to "or any

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other insured savings and loan in Nevada" and the amount of \$1,000 on page 2 be changed to \$500.

SENATE BILL NUMBER 445

Mr. Wendell Newman, Department of Education spoke in support of Senate Bill Number 445.

Mr. George Getto spoke in support of Senate Bill No. 445.

Mr. John Hawkins, Nevada State School Board Association spoke in support of Senate Bill No. 445.

SENATE BILL NUMBER 24

Ms. Joyce Woodhouse, President, Nevada State Education Association presented suggested amendments to the committee for Senate Bill Number 24. These suggested amendments are Exhibit E.

SENATE BILL NUMBER 453 (EXHIBIT D)

Senator Getto moved to "Amend and Do Pass" Senate Bill No. 453 with the amendments suggested by Mr. LaBadie.

Senator Faiss seconded the motion.

The motion carried. (Senator Blakemore was not present for the vote.)

SENATE BILL NUMBER 452

Senator Bilbray said that many people across the country believe that everyone on welfare is a dishonest cheat. He said he thinks the penalties against defrauding the welfare system be made more stringent to discourage people from defrauding the system and therefore changing the image of the welfare system.

Senator Kosinski said he felt a felony arrest for the amount of \$100 is awfully harsh.

SENATE BILL NUMBER 24

Senator Kosinski moved to have the amendments suggested by Ms. Woodhouse drafted and the bill with the amendments

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returned to the committee.

Senator Getto seconded the motion.

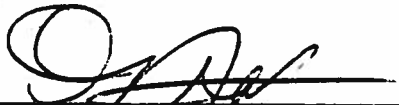
The motion carried. (Senator Blakemore was not present for the vote.)

There being no further business, the meeting adjourned at 9:59 a.m.

Respectfully submitted:

  
Connie S. Richards, Committee Secretary

APPROVED BY:

  
Senator Joe Neal, Chairman

DATE: 4-13-81

SENATE AGENDA

EXHIBIT A

COMMITTEE MEETINGS

Committee on Human Resources and Facilities, Room 323

Day Thursday, Date April 2, Time 8:00 a.m.

S. B. No. 452--Provides and increases penalties for fraudulently obtaining certain public assistance.

S. B. No. 445--Exempts certain school buses from state safety standards if federal safety standards are met.

S. B. No. 453--Authorizes certain investment of surplus in trust fund for child welfare on behalf of child.



EXHIBIT C

453.375 A controlled substance may be possessed and administered by:

1. A practitioner if he is registered by the board.
2. A physician's assistant at the direction of his supervising physician if the physician's assistant is registered by the board.
3. A registered nurse who holds a certificate from the state board of nursing and a certificate from the state board of pharmacy permitting him to administer controlled substances.
4. The following may possess and administer controlled substances without being registered with the board pursuant to NRS 453.226:
  - (a) A registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a physician, or pursuant to a chart order of individual doses:
    - (i) From an original container which has been furnished as floor or ward stock;
    - (ii) From a container dispensed by a registered pharmacist pursuant to a prescription; or
    - (iii) Furnished by a practitioner.
  - (b) An advanced emergency medical technician-ambulance, at the direction of a physician or registered nurse as provided in NRS 450B.197.
  - (c) A respiratory therapist, at the direction of a physician.
  - (d) A medical student or student nurse in the course of his studies at an approved college of medicine or school of professional or practical nursing, at the direction of a physician and:
    - (i) In the presence of a physician or a registered nurse; or
    - (ii) Under the supervision of a physician or a registered nurse if the student is authorized by the college or school to administer the substance outside the presence of a physician or nurse.A medical student or student nurse may administer a controlled substance in the presence or under the supervision of a registered nurse alone only if the circumstances are such that the registered nurse would be authorized to administer its personally.
  - (e) A medical intern in the course of his internship.



EXHIBIT C

NRS now contains a complete listing of controlled substances by NRS numbers, which must be revised every two years by legislative act. The FDA and DEA constantly reschedules drugs. This would allow the board, by regulation, to reschedule drugs into their proper category without a new legislative act each session. In the future, this would be referred as schedules I, II, III, IV and V, not by NRS numbers.

**Page 2, line 40**

At present there is no provision in the law for a practitioner to "possess" or "administer" drugs. Legal counsel feels the law should specifically so state.

**Page 3, lines 23 thru 25**

This deletes provision that gives the board, authority too broad, in the determination of who can possess, administer and dispense. In the opinion of legal counsel, this should be done only by the legislature.

**Page 10, line 30**

The term "Medical Intern" has been added to accomodate the medical graduate who must use drugs in his clinical training program.

**Page 10, line 34 and 35**

This adds wording dictated by NRS 453.226, which states that all these persons must register with the board.

**Page 11, line 16 and 17**

Again, this wording gives the board, authority too broad, and should be only authorized by legislation.

**Page 11, lines 31 thru 36**

Deleted and rewritten into part 4 of this section on page 12, lines 1 thru 6.

**Page 11, lines 36 thru 39**

This duplicates a bill already introduced, SB 286. The wording here is somewhat different from that used in SB 286. This wording was structured from the Federal Code - Food and Drug Regulation, Title 21, section 1306.04 (page 72, copy attached).

**Page 12, lines 8 and 9**

Legal opinion is, this change cannot be implemented and still comply with the Federal Code 1306.05. (copy attached)

**Page 12, lines 13 and 14**

This does not comply with 1306.05.

Page 12, line 15

EXHIBIT C

"Strength" of a drug is a very necessary requirement since drugs are being produced in various strengths.

Page 12, line 47

Under our present law, the maximum allowable, refillable periods are six month or five times, if authorized by the physician, and the date the original prescription was filled serves as the starting date. This means a prescription written months or years before would have another possible six months life from the date it was actually filled. The board does not believe this to be in the interest of the controlled substance act.

Page 13, lines 9 thru 14

Outdated language, as to additions to and antidotes for poisons is removed. Requirements as to the phone number available for the nearest poison control center is added. The poison control centers are open 24 hours and have available the latest antidote information.

Page 14, lines 1 and 2

Again, this wording oversteps the authority of the board - a legislative matter.

Page 14, lines 21 and 22

Clarifies the intent of the statute, in that a "physician assistant" must be authorized by the board. A practitioner already has that authority.

Page 14, lines 34 and 35

A prescription is a legal document and must be filled and filed on an individual basis. The crowding of more than one order on each blank may lead to errors in refilling; problems in filing when one order may be for a controlled substance and also for a dangerous drug, and problems in properly noting any refills on the back as required by statute.

Page 14, lines 37 and 38

This was a request by practicing pharmacists, stating that this was a time consuming and added cost to the patient. If this information is "readily available", why should it be written on each individual order?

Page 14, lines 43 and 44, same as above

Page 15, line 9

Retention of records from 2 to 5 years enable a more complete "inspection" period in the event of an audit by the board.

Page 15, lines 36 and 37, 39 and 40.

Clarifies the statutes as to exactly when drugs may be dispensed "without writing a prescription".

Page 15, line 45

EXHIBIT C

Again with the various strengths of the same drug, this information is important for his records.

Page 16, line 17 thru 19

This language is necessary since NRS 639.2804 authorizes the sale of "Laetrile" and "Gerovital" in Nevada although neither have been approved by the FDA.

Page 16, lines 43 thru 45

As previously discussed the NRS numbers will be deleted and the scheduled drugs listed by the number of the appropriate schedule.

he purchaser in writing of such drug. The supplier shall indicate voiding in the manner prescribed in paragraph (a) of section 1306.01.

No cancellation or voiding period by this section shall affect in any way contract rights of either the purchaser or the supplier.

FR 1796, Apr. 24, 1971, as amended at 38 FR 1386, July 21, 1971. Redesignated at 38 FR 26609, Sept. 24, 1973

5.16 Special procedure for filling certain order forms.

The purchaser of etorphine hydrochloride or diprenorphine shall file with copy 1 and 2 of the order form the supplier and retain copy 3 in his files.

The supplier, if he determines that the purchaser is a veterinarian engaged in zoo and exotic animal practice, wildlife management programs or research and authorized by the administrator to handle these substances shall fill the order in accordance with the procedures set forth in 1306.09 except that: (1) Order forms for etorphine hydrochloride and diprenorphine shall only contain these substances in reasonable quantities; (2) the substances shall only be dispensed to the purchaser at the location printed by the Administration on the order form under secure conditions using substantial packaging material with no markings on the outside which would indicate the content.

FR 17839, May 21, 1974

## PART 1306—PRESCRIPTIONS

### GENERAL INFORMATION

- 1306.01 Scope of Part 1306.
- 1306.02 Definitions.
- 1306.03 Persons entitled to issue prescriptions.
- 1306.04 Purpose of issue of prescription.
- 1306.05 Manner of issuance of prescriptions.
- 1306.06 Persons entitled to fill prescriptions.
- 1306.07 Administration or dispensing of narcotic drugs.

### CONTROLLED SUBSTANCES LISTED IN SCHEDULE II

- Sec.
- 1306.11 Requirement of prescription.
- 1306.12 Refilling prescriptions.
- 1306.13 Partial filling of prescriptions.
- 1306.14 Labeling of substances.
- 1306.15 Filing of prescriptions.

### CONTROLLED SUBSTANCES LISTED IN SCHEDULES III AND IV

- 1306.21 Requirement of prescription.
- 1306.22 Refilling of prescriptions.
- 1306.23 Partial filling of prescriptions.
- 1306.24 Labeling of substances.
- 1306.25 Filing prescriptions.

### CONTROLLED SUBSTANCES LISTED IN SCHEDULES V

- 1306.31 Requirement of prescription.
- 1306.32 Dispensing without prescription.

**AUTHORITY:** Secs. 301, 309, 501(b), 84 Stat. 1253, 1260, 1271; 21 U.S.C. 821, 829, 831(b).

**SOURCE:** 36 FR 7799, Apr. 24, 1971; 36 FR 13386, July 21, 1971, unless otherwise noted. Redesignated at 38 FR 26609, Sept. 24, 1973.

**NOMENCLATURE CHANGES:** 38 FR 26609, Sept. 24, 1973.

### GENERAL INFORMATION

#### § 1306.01 Scope of Part 1306.

Rules governing the issuance, filling and filing of prescriptions pursuant to section 309 of the Act (21 U.S.C. 829) are set forth generally in that section and specifically by the sections of this part.

#### § 1306.02 Definitions.

As used in this part, the following terms shall have the meanings specified:

(a) The term "Act" means the Controlled Substances Act (84 Stat. 1242; 21 U.S.C. 801).

(b) The term "individual practitioner" means a physician, dentist, veterinarian, or other individual licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices, to dispense a controlled substance in the course of professional practice, but does not include a pharmacist, a pharmacy, or an institutional practitioner.

(c) The term "institutional practitioner" means a hospital or other person (other than an individual) licensed, registered, 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. (e.g., an order to dispense a drug to a bed patient for immediate administration 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.

36 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.

36 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 39 FR 37986, 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

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EXHIBIT C

EXHIBIT C

453.226 1. Unless exempted by Subsection 3 hereof, or 453.375, every practitioner or other person who manufactures, distributes, possesses, administers, prescribes or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, possession, administering, prescribing or dispensing of any controlled substance within this state must obtain biennially a registration issued by the board in accordance with its regulations.

**S. B. 453**

**SENATE BILL NO. 453—COMMITTEE ON JUDICIARY**

**MARCH 25, 1981**

Referred to Committee on Human Resources and Facilities

**SUMMARY**—Authorizes certain investment of surplus in trust fund for child welfare on behalf of child. (BDR 38-1328)

**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 the trust fund for child welfare; authorizing the investment of surplus money on behalf of the child; and providing other matters properly relating thereto.

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

- 1 SECTION 1. NRS 422.253 is hereby amended to read as follows:  
2 422.253 1. The [child welfare] trust fund *for child welfare* is hereby  
3 created. All survivor benefits or other awards payable to children receiv-  
4 ing child welfare services [shall] *must* be deposited in the state treasury  
5 for credit to the fund.  
6 2. The [public assistance] trust fund *for public assistance* is hereby  
7 created. Retirement and other benefit grants to any adult recipient of pub-  
8 lic assistance in a nursing home or group care facility, except facilities of  
9 the mental hygiene and mental retardation division of the department,  
10 [shall] *must* be deposited in the state treasury for credit to the fund if  
11 the adult receiving care has been adjudicated incompetent in the admin-  
12 istration of his personal finances.  
13 3. The welfare division shall:  
14 (a) Keep a separate account for each [individual receiving funds.]  
15 *person who receives money.*  
16 (b) Deduct from the account any welfare services to the [individual]  
17 *person* that are provided by public [funds.] *money.* Any surplus remain-  
18 ing may be expended for extraordinary items deemed beneficial to the  
19 [individual.] *person.*  
20 (c) Remit any surplus balance to the named [individual] *person* when  
21 the welfare division is no longer legally responsible for that [individual.]  
22 *person.*  
23 4. *The welfare division may establish an interest-bearing account in*  
24 *the name of the child in any bank qualified to receive deposits of public*



- 1 *money and deposit in that account any surplus money in excess of \$1,000*
- 2 *belonging to the child in the trust fund for child welfare.*
- 3 5. Court-ordered and other support payments to children receiving
- 4 child welfare services [shall not be] *are not* considered as a benefit or
- 5 an award for the purpose of this section, but [shall] *must* be held in
- 6 trust in the [child welfare] trust fund [.] *for child welfare.*

AMENDMENTS TO SENATE BILL 24

EXHIBIT E

page 2, line 4, add new section:

4. The committee shall evaluate the program at the end of the first year and at the end of the second year.

page 2, line 4: [4] 5

page 2, line 8: The board of trustees of [any] a school district which seeks, or is asked to consider, [one or more applications of persons to serve as master teachers in the teacher internship program shall] may establish a local internship committee to [review the applications and make recommendations and to] oversee the operation of the program at the district level [if the district becomes a participant].

page 2, line 22: .....teachers[s].....

page 2, delete lines 24 through 27

page 3, line 10, add a new sentence at the end of the section:

The school districts participating in the teacher internship program shall select one master teacher within each district to work with the interns of that district.

page 3, delete lines 16 and 17

page 3, line 18: [3] 2

page 3, line 20: [4] 3

page 3, delete lines 40 through 43

page 3, line 44: [5] 4

page 4, line 17: [The duties must include allocating approximately 20 percent of his time to his position as a master teacher.]

page 4, line 21: and functions of the master teacher[s] in its district.....

page 4, delete lines 27 through 34

page 4, line 35: Sec. [12] 11

page 4, delete lines 40 through 47

page 4, line 48: [4] 2



page 2

page 5: delete lines 1 through 6

page 5, line 7: Sec. [14] 12

page 5, line 9: 2. The state internship committee shall allocate to Washoe County school district[s in]

page 5, line 10: [northern Nevada]

page 5, line 12: 3. The state internship committee shall allocate to Clark County school district[s in]

page 5, line 13: [southern Nevada]

page 5, line 15: Sec. [15] 13

page 5, line 16: the department of education the sum of [\$118,266] \$48,480 for.....

page 5, line 17: ing June 30, 1982 and [\$126,458] \$52,680 for .....

page 5, line 19: Sec. [16] 14