

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

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
April 21, 1981

The Senate Committee on Human Resources and Facilities was called to order by Chairman Joe Neal at 9:03 a.m., Tuesday, April 21, 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 Fairs
Senator Virgil M. Getto
Senator James H. Bilbray

STAFF MEMBERS PRESENT:

Connie S. Richards, Committee Secretary

ASSEMBLY BILL NUMBER 53

Mr. Joe Midmore, Representative, State Board of Pharmacy spoke in support of Assembly Bill No. 53. He asked that lines 31-35, page 4 of the First Reprint of the Bill be amended to the current (2nd reprint) version (Exhibit C).

Mr. Frank Clayton, Compliance Investigator, Department of Law Enforcement Assistance, Division of Investigations and Narcotics spoke in favor of Assembly Bill No. 53 as well as the amendment suggested by Mr. Midmore. He said the problem with sample drugs is that they often get into the hands of nurses, office help, cleaning people, and onto the street. He said any doctor can request samples from any manufacturer of which to give at lower prices or for free, to the elderly and the needy. He said when the doctor actually requests the drugs, a record of the receipt of such samples is put on file with the manufacturer, the doctor, the board of pharmacy, and the narcotics division. Through such procedures, drugs that may not be wanted by a doctor will not end up on the street or in the hands of those whom they have not been prescribed for.

SENATE COMMITTEE ON HUMAN RESOURCES AND FACILITIES
APRIL 21, 1981

Senator Kosinski asked Mr. Clayton whether there are any provisions for prescriptions to be phoned in to the pharmacy.

Mr. Clayton said the bill does not prohibit phone-in prescriptions; the bill controls the drugs listed on Schedule II but does not apply to drugs that have always been legally phoned in to the pharmacy.

Mr. Fred Hillerby, Executive Director, Nevada Hospital Association spoke in support of Assembly Bill No. 53. He submitted a suggested amendment for the committee's review. This amendment is listed as Exhibit D. He said the amendment would allow the quality insurance in hospitals to be more effective by not allowing for discovery, those minutes of meetings not only of organized committees of hospitals, but also of organized committees of those hospitals' medical staffs.

Mr. Hillerby said the organized committees meet to determine and prioritize problems within the hospital and to find solutions to such problems. He stated for example cases in which a physician may not be fully competent to perform some surgery. This may be brought out at a meeting and the committee can help to determine that that particular physician should no longer have that particular privilege and the problem could be corrected.

The Chairman asked whether the provision for non-discovery of those minutes would not be a hinderance in a case of malpractice against a doctor who may have been a subject of such a meeting.

Mr. Hillerby said in that case the doctor's record which is subject to discovery could be used in evidence in such a case.

Senator Kosinski suggested the amendment be worded so as to specify organized committees of hospitals and organized committees of hospitals' medical staffs rather than the verbage used on Mr. Hillerby's proposed amendment (Exhibit D).

Mr. Hillerby said he would have no objection to clarifying language.

ASSEMBLY BILL NUMBER 158

Mr. Bill Furlong, Chief, Child Support Enforcement Program, Nevada Welfare Division spoke in support of Assembly Bill

SENATE COMMITTEE ON HUMAN RESOURCES AND FACILITIES
APRIL 21, 1981

No. 158. He said section 1 of the bill removes the requirement for a recipient of assistance to be a resident of the State of Nevada for one year. He said a U. S. Supreme Court decision outlaws the residency requirement and the conflict is being removed under section 1.

The Chairman asked Mr. Furlong to provide the case number of the supreme court decision cited.

Mr. Furlong said he did not know the number, but would find out.

Mr. Michael Harper, Supervisor, Welfare Fraud Unit told the committee section 2, page 2 increases the penalty for fraudulently receiving welfare assistance from a gross misdemeanor to a felony. The law change will bring existing welfare statutes into conformity with the general fraud statutes found under NRS 205.380; current laws under chapters 205 and 425 of the Nevada Revised Statutes provide for substantially different penalties for similar types of offenses. He said the maximum penalty under the existing welfare statute is one year in jail and \$1,000 fine; the proposed change would make the penalty one to ten years imprisonment and/or a fine of \$10,000. He added that under current law, they cannot extradite and the statute of limitations for a gross misdemeanor is not spelled out.

The Chairman asked how much money the division believes is being lost through welfare fraud.

Mr. Harper said he estimates some 1515 fraud cases pending investigation, of those about 365 are in excess of \$1,000. He said in a partial survey of western states, it was found that Idaho, Colorado, Washington, Utah, Montana, Oregon, and California have felony provisions for welfare fraud.

Senator Kosinski asked what the caseload of welfare recipients is currently.

Mr. Furlong said he did not have those figures, but would get them and return to the committee.

Ms. Sharon McDonald, Deputy Attorney General, Child Support Program, Welfare Division explained that it is the parents' obligation under the law to support their children, she said this includes a mother as well as a father in cases in which

SENATE COMMITTEE ON HUMAN RESOURCES AND FACILITIES
APRIL 21, 1981

the mother has abandoned her child(ren) and a father remains raising the children and receiving assistance from the welfare department. She explained the statute of limitations is six years in cases in which there is a court order; in cases in which there is no court order but the common law duty to support the child is determined, the statute of limitations is three years.

The Chairman asked Ms. McDonald to explain what happens if the parent refuses to pay the child support.

Ms. McDonald said in that case they may garnish the wages of the parent, place a lein against his/her personal property, wage assignment, or as a last resort use the internal revenue service as collection agent or criminally prosecute, though this is not cost effective as the reason for the child support is to lift the burden from the state for the support of that child.

Mr. Furlong explained that the amount paid by the parent is based on his/her ability to pay; even if the parent has little income, any amount helps alleviate the burden from the Nevada taxpayers.

Ms. McDonald explained that section 4 provides language changes. The welfare division is no longer subrogated in this assignment; the assignment of rights to the welfare division creates a support debt. Section 4 tells exactly what that support debt is and how much it is. She said section 5 enlarges avenues for the gathering of information to determine where a parent lives, what his/her salary is, and thus his/her financial ability to pay. She said these avenues include access to credit reports, financial institutions, and public utility institutions.

Senator Kosinski asked whether there are not federal prohibitions against access to credit reports.

Mr. Furlong replied that there are, but added that those prohibitions do not pertain to the child support program as it has stringent protections safeguarding such information and the program is authorized to receive such information under the federal law.

Senator Kosinski asked about the term "caretaker relative" as used in section 1, page 1.

SENATE COMMITTEE ON HUMAN RESOURCES AND FACILITIES
APRIL 21, 1981

Mr. Furlong said the term refers to cases in which the child is not under the care of a parent, but of another relative of that child.

Senator Kosinski asked whether the child would be entitled to support if he or she is under the care of a friend or other legal guardian.

Mr. Furlong said he did not know but would find out and report back to the committee.

Senator Kosinski asked if the hearing could be extended to such a time as Mr. Furlong could return with additional information pertaining to Assembly Bill No. 158.

The Chairman agreed to extend the hearing to Thursday morning at 9:00 a.m.

ASSEMBLY BILL NUMBER 53

Senator Bilbray moved to "Amend and Do Pass" Assembly Bill No. 53 with the amendments suggested by Mr. Hillerby and Mr. Midmore.

Senator Kosinski asked what the word "registrants" refers to in line 33, page 4, first reprint (Exhibit C). He said he would like to meet with Mr. Midmore to determine what the reference is to before taking action on the bill.

The motion died for the lack of a second.

SENATE BILL NUMBER 503

Senator Kosinski provided copies of the amendment to Senate Bill Number 503 for the committee's approval, as the amendment as it was first printed had been in error.

The committee agreed that the amendment was correct and sent it back to the secretary's desk.

The Chairman explained that the bill requested by the State of Nevada Employees Association, Bob Gagnier for the classification of employees on the Equal Rights Commission as well as a request for the classification of state gaming control board employees has been included in Assembly Bill Number 494 at the direction of Mr. Will Crocket, Senate Bill Drafting Advisor.

SENATE COMMITTEE ON HUMAN RESOURCES AND FACILITIES
APRIL 21, 1981

The Chairman asked for a committee introduction on the following bill draft request:

BILL DRAFT REQUEST 40-1528 (S.B. 574)

Extends review of indirect sources of air pollution by certain state agencies.

Senator Kosinski moved to give the bill draft request a committee introduction.

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 10:25.

Respectfully submitted:


Connie S. Richards, Committee Secretary

APPROVED BY:


Senator Joe Neal, Chairman

DATE: April 22, 1981

SENATE AGENDA

EXHIBIT A

COMMITTEE MEETINGS

Committee on Human Resources and Facilities, Room 323.
Day Tuesday, Date April 21, Time 9:00 a.m.

A. B. No. 53--Amends certain provisions relating to controlled substances and dangerous drugs.

A. B. No. 158--Revises statutes relating to aid, to and support of dependent children.

Assembly Bill No. 53 First Reprint

— 4 —

1 of any of the foregoing upon any drug or container or labeling thereof
2 so as to render the drug a counterfeit [substance.] substance;

3 (h) Possess prescription blanks which have been signed before being
4 filled out; or

5 (i) Make a false representation to a pharmacist for the purpose of
6 obtaining a controlled substance.

7 2. Any person who violates this section shall be punished by impris-
8 onment in the state prison for not less than 1 year nor more than 6 years,
9 and may be further punished by a fine of not more than [\$2,000.]
10 \$5,000.

11 SEC. 5. NRS 453.381 is hereby amended to read as follows:

12 453.381 1. Except in cases of emergency, a [physician, dentist or
13 podiatrist] practitioner is prohibited from prescribing, administering or
14 dispensing controlled substances listed in schedule II for himself, his
15 spouse or children.

16 2. Each prescription for a controlled substance listed in schedule II
17 [shall] must be written on a separate prescription blank.

18 3. A veterinarian, in good faith and in the course of his professional
19 practice only, and not for use by a human being, may prescribe, admin-
20 ister, and dispense controlled substances, and he may cause them to be
21 administered by an assistant or orderly under his direction and supervi-
22 sion.

23 4. Any person who has obtained from a [physician, dentist, podia-
24 trist or veterinarian] practitioner any controlled substance for adminis-
25 tration to a patient during the absence of [such physician, dentist,
26 podiatrist or veterinarian] the practitioner shall return to [such physi-
27 cian, dentist, podiatrist or veterinarian] the practitioner any unused
28 portion of such substance when it is no longer required by the patient.

29 5. A pharmacist shall not knowingly fill a prescription if he has rea-
30 son to believe that it was not issued in good faith.

31 6. A manufacturer, wholesale supplier or other person legally able
32 to furnish or sell controlled substances shall not provide samples of con-
33 trolled substances to registrants.

34 7. A salesman of any manufacturer or wholesaler of pharmaceuticals
35 shall not possess, transport or furnish controlled substances.

36 SEC. 6. NRS 453.385 is hereby amended to read as follows:

37 453.385 1. A prescription must contain:

38 (a) The name and address of the practitioner;

39 (b) The classification of his license;

40 (c) His registration number from the Drug Enforcement Administra-
41 tion;

42 (d) The name and address of the patient;

43 (e) The name and quantity of the drug or drugs prescribed;

44 (f) Directions for use; and

45 (g) The date of issue.

46 2. A prescription for a controlled substance included in schedule II
47 must be written entirely by the practitioner who issues it.

48 3. Directions for use must be specific in that they must indicate the
49 portion of the body to which the medication is to be applied, or, if to be

MUST

PROPOSED AMENDMENT TO A.B. 53

EXHIBIT D

A.B. 53 is hereby amended to read as follows:

Page ~~8~~^{//}, line 32, add a new section to read as follows:

NRS 49.265 is hereby amended to read as follows:

49.265 Privilege for hospital and medical review committees.

1. Except as provided in subsection 2;

(a) The proceedings and records of organized committees of hospitals, and their medical staffs having the responsibility of evaluation and improvement of the quality of care rendered in such hospital and medical review committees of medical societies are not subject to discovery proceedings.

(b) No person who attends a meeting of any such committee may be required to testify concerning the proceedings at such meetings.

2. The provisions of subsection 1 do not apply to:

(a) Any statement made by a person in attendance at such meeting who is a party to an action or proceeding the subject of which is reviewed at such meeting.

(b) Any statement made by a person who is requesting hospital staff privileges.

(c) The proceedings of any meeting considering an action against an insurance carrier alleging bad faith by the carrier in refusing to accept a settlement offer within the policy limits.

(d) Any matter relating to the proceedings or records of such committees which is contained in health care records furnished in accordance with NRS 629.061.