

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

**Eighty-second Session  
April 19, 2023**

The Senate Committee on Commerce and Labor was called to order by Chair Pat Spearman at 8:03 a.m. on Wednesday, April 19, 2023, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Pat Spearman, Chair  
Senator Roberta Lange, Vice Chair  
Senator Melanie Scheible  
Senator Skip Daly  
Senator Julie Pazina  
Senator Scott Hammond  
Senator Carrie A. Buck  
Senator Jeff Stone

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Sandra Jauregui, Assembly District No. 41  
Assemblywoman Elaine Marzola, Assembly District No. 21

**STAFF MEMBERS PRESENT:**

Cesar Melgarejo, Policy Analyst  
Bryan Fernley, Counsel  
Veda Wooley, Counsel  
Kelly Clark, Committee Secretary

**OTHERS PRESENT:**

Paul Young, Pharmaceutical Care Management Association  
Dave Wuest, R.Ph., Executive Secretary, State Board of Pharmacy  
Elizabeth MacMenamin, Retail Association of Nevada

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Barry Cole, M.D.  
Neena Laxalt, Board of Psychological Examiners  
Whitney Owens, Psy.D., President, Board of Psychological Examiners  
Susan Fisher, Baxter Pharmaceuticals  
Jessica Ferrato, Fresenius Medical Care North America  
Jimmy Lau, DaVita Inc.  
Adam Porath, Nevada Society of Health-System Pharmacists

CHAIR SPEARMAN:

We are going to start with Assembly Bill (A.B.) 107.

**ASSEMBLY BILL 107**: Revises provisions governing certain pharmacies located outside this State. (BDR 54-109)

ASSEMBLYWOMAN SANDRA JAUREGUI (Assembly District No. 41):

After talking with Paul Young last year and learning about the history of how this bill would increase pharmaceutical care for Nevadans, I was happy to submit this bill on behalf of the Assembly Committee on Commerce and Labor. This policy will allow Nevadans increased access to care and prescriptions to keep them healthy.

Paul Young is with me representing the Pharmaceutical Care Management Association to walk the Committee through the bill and help answer any questions.

PAUL YOUNG (Pharmaceutical Care Management Association):

Assembly Bill 107 came about in August 2021 regarding out-of-state pharmacists. Every pharmacist who touched the mail order drug going to a Nevada citizen would have to be licensed. We got together with the State Board of Pharmacy, the pharmacist and the pharmacy benefit managers to come up with the language in section 4, subsection 4 which says the managing pharmacist at one of these facilities must be licensed in Nevada. We think that is the cleanest from a public safety and regulatory aspect to keep the prescriptions continuing, not hold up any kind of supply chain issues and still consider safety.

SENATOR PAZINA:

Consider if someone spends half of the year as a snowbird in southern Nevada, whose health care company is based in a state other than Nevada, and he or

she needs to pick up a prescription. Oftentimes, those individuals must pay upfront for a year's worth of prescriptions before coming to Nevada because they cannot receive them from a pharmacist here out of another health plan. With this legislation, would someone coming in with an out-of-state health plan be able to use a pharmacist in Nevada to pick up a prescription prescribed by a doctor?

DAVE WUEST, R.Ph. (Executive Secretary, State Board of Pharmacy):

It works in reverse. This would not solve that problem. That is something we can look at in the future. It would allow an out-of-state pharmacist to serve somebody from Nevada.

SENATOR PAZINA:

Knowing how much work has gone into this in the Assembly, would the sponsors on the Assembly Committee on Commerce and Labor be willing to look at an amendment that would help with this issue?

MR. YOUNG:

Yes, I am always willing to work with you.

SENATOR STONE:

If it is an out-of-state facility, I assume the pharmacist would have to be licensed in the state where he or she works, as well as in Nevada.

MR. YOUNG:

Yes, they should be licensed within the state they are in as well.

SENATOR STONE:

If a pharmacist is being disciplined in the other state, is there collaboration with Nevada's State Board of Pharmacy? Is an appropriate notice being given to the pharmacy that their lifeline to Nevada could be cut off? We do not want any abrupt changes that cut off pharmaceuticals coming into Nevada because somebody got themselves in trouble in another state. Is there a collaboration and a backup system to ensure the traffic of pharmaceuticals will continue to flow into Nevada?

MR. WUEST:

We are working on all kinds of different portability, and I know you are interested in that issue. We always notify the resident board of pharmacy.

Whether that board does something rests with its rules. We would be able to safely take care of people who are bad actors if we needed to.

SENATOR STONE:

I assume the state boards of pharmacy are readily in communication with one another.

MR. WUEST:

Yes, sir.

SENATOR HAMMOND:

I was talking earlier with you and something that keeps coming to mind is we are seeing more and more where an industry will create a factory somewhere, produce something and send it somewhere else. We see that with my glasses and with your service. I have never heard of anything like this needing to be done where somebody had to be licensed in another state. Can you point to any precedent for it that is the standard now? We are going to be licensing folks outside of the state because they are going to be receiving goods and services from Nevada or any other state. Do we do that here? Do we license folks here from out of state?

MR. WUEST:

We can. There are other states doing that. We are following the model of other states. We can get you a list of those states.

ELIZABETH MACMENAMIN (Retail Association of Nevada):

I have been involved with this the entire time. Once the ruling came out from the State Board of Pharmacy, every pharmacist outside of Nevada who touched the prescription in Nevada must be licensed in Nevada. That had a potential to impede patients in Nevada being able to get their medications. This bill addresses that.

BARRY COLE, M.D.:

The one word that comes to my mind is why. The reason I ask is why a hospital must have a pharmacist. If it is coming from an out-of-state bulk supplier to a local hospital, there will be a hospital pharmacist. That person in Nevada would be registered as a Nevada pharmacist. Why would that professional need to be registered from Ohio? The same thing applies with prisons. My understanding is there is a pharmacist for our prisons. If this is such an important piece of

legislation, should it apply to all pharmacy services? I will ask my colleague, a pharmacist, why this does not make sense to a physician?

CHAIR SPEARMAN:

We will close the hearing on A.B. 107 and open the hearing on A.B. 236 sponsored by Assemblywoman Daniele Monroe-Moreno.

**ASSEMBLY BILL 236**: Revises provisions governing the practice of psychology.  
(BDR 54-799)

NEENA LAXALT (Board of Psychological Examiners):

This is a small uncomplicated bill. This ceases the use of the term psychology with the Nevada Department of Corrections (NDOC) that has four job titles, psychologist I, II, III and IV. We have been working with the NDOC for about a year and a half on this bill. The Department is okay with it, and we have not heard any negativity. I am not sure whether NDOC takes a position one way or the other.

This bill restricts the use of the title of psychologist to individuals who have received training, education and licensure to engage in the practice of psychology as defined in *Nevada Revised Statutes* 641.025. The aim of the bill is to eliminate exceptions that potentially create confusion in Nevada. I want to introduce Dr. Whitney Owens who is the President of the Board of Psychological Examiners for further explanation.

WHITNEY OWENS, PSY.D. (President, Board of Psychological Examiners):

We have been working on this language since around 2019 when we had folks from NDOC approach our Board asking about the use of the title of psychologist in NDOC. The practice of psychology is a highly educated and skilled practice that can have significant impact on vulnerable patients who are treated and evaluated by psychologists, especially in NDOC, with its exceptionally vulnerable population. There is a national movement to ensure that incarcerated individuals have a clear understanding of who is providing them with a psychological assessment of care. The goal is to ensure inmates' rights are upheld by distinguishing when evaluations are by licensed psychologists.

Four positions in NDOC hold the title of psychologist, and only one of them requires a doctoral degree for licensure as a psychologist. Our goal is to eliminate those titles. We have been working with the Division of Human

Resource Management, Nevada Department of Administration, as well as NDOC since 2021. Everything has been completely amenable.

We are in the process of working with James Dzurenda, NDOC Director, to change those titles to corrections counselor, so inmates are not confused about who is treating them. Rather than thinking they are being treated by a psychologist, they will be aware when receiving treatment by someone who is not called a psychologist. It is to clean up language that has been around since the late 1970s to make sure someone being treated knows whether he or she is being treated by a psychologist.

SENATOR SCHEIBLE:

This makes perfect sense. I want to make sure I am understanding, especially in the NDOC context. We do not want to be holding out people as psychologists without the extensive education of a psychologist. You mentioned calling some of them correctional counselors. Was that the term? Is the idea to have one term cover everybody? Or do you still distinguish between a licensed clinical social worker or a marriage and family therapist who might be employed in these settings to provide counseling services to incarcerated people?

Ms. OWENS:

Yes. The State titles are different than the licensure. In the State system, they would be called corrections counselors. If they are licensed clinical social workers, licensed psychologists or licensed marriage and family therapists, they would be able to identify themselves that way. It is more about a classification in the State system that uses titles. If they had the licensure for a particular title, they would be able to use both.

SENATOR SCHEIBLE:

This position we call a psychologist that we are changing to a correctional counselor, what are the qualification requirements for that position?

Ms. OWENS:

Of the four different classifications: psychologist I, II, III and IV, I believe a psychologist IV requires a doctoral degree in psychology. The other three levels can require anywhere from a bachelor's to a master's degree. Those could be in social work, marriage and family therapy or counseling, not necessarily psychology.

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CHAIR SPEARMAN:

We will close the hearing on A.B. 236 and open the hearing on A.B. 110.

**ASSEMBLY BILL 110 (1st Reprint)**: Makes revisions governing the dispensing and delivery of certain dialysate drugs and devices used to perform dialysis. (BDR 54-616)

ASSEMBLYWOMAN ELAINE MARZOLA (Assembly District No. 21):

This bill pertains to the delivery of home dialysis supplies and devices to end-stage renal disease (ESRD) patients in Nevada. Seven hundred ESRD patients in Nevada dialyze at home. To conduct their dialysis at home, these patients need a continual delivery of various dialysis drugs, supplies and devices. The State Board of Pharmacy is requiring a pharmacy that only distributes dialysis supplies and solutions to comply with the same requirements as retail pharmacies, such as Walgreens or CVS, that handle controlled substances, compound and dispense medications with varying safety profiles.

Since the manufacturers of home dialysis supplies and devices offer a limited product portfolio and follow all U.S. Food and Drug Administration requirements, retail pharmacy mandates are burdensome to the operations. This bill would amend the Pharmacy Act to allow manufacturers of home dialysis drugs, supplies and devices to be exempted from the pharmacy licensure if they maintain control of all products from manufacturing to patients. This bill will still require the central pharmacy to maintain an additional license, such as a wholesale license. This bill was amended to clarify the definition of a dialysis drug. Susan Fisher will walk you through the bill.

SUSAN FISHER (Baxter Pharmaceuticals):

Baxter Pharmaceuticals is based in Illinois and produces the ESRD drugs which are not dangerous. We did have an amendment on the Assembly side requesting us to add language to make certain the term not dangerous drugs is included. These are just electrolytes, fluids and sugars. There is nothing dangerous because these people are typically self-administering in their own homes. The drugs can be administered in a clinical setting, but the shipments go directly to their homes from a warehouse in Dickson, California.

This bill will allow the company to continue to operate the way it has been operating for the past ten years without having a pharmacist standing in the warehouse in California taking and sending out these prepackaged and

prelabeled boxes that typically weigh between 500 and 1,000 pounds. This is a great convenience for 700 patients here in Nevada alone.

Amendment No. 17 in section 1, subsection 6, paragraph (a) makes it clear that the prescriptions we are talking about are not dangerous drugs. A dangerous drug would have heparin insulin, a drug not allowed to be used outside of a clinical setting. The main thing section 1 does is allow self-administration. It can be done in a facility or at home.

Section 3, subsection 5, paragraph (b), subparagraph (3) says they can be dispensed directly to the patient.

Thirty-four other states allow this. Twenty-four states exempt a pharmacist from being in the warehouse. Eight states have special language, so a pharmacist is not required. There is a pharmacist examining and labeling packages at the production site. This language mirrors the Model Pharmacy Act from the National Association of Boards of Pharmacy.

SENATOR DALY:

You say there is somebody at the warehouse when it is packaged, and then it goes directly to the patient. A prescription is written by somebody to give them the machine. Pharmacists do not typically dispense machines. It comes with the electrolytes or the other noncontrolled substances and various things. It gets shipped directly from a warehouse or through a manufacturer to the patient, and that is what we are trying to do.

Ms. FISHER:

That is right. Baxter Pharmaceuticals has been operating in this manner for the past ten years and is licensed in Nevada for over a decade. In a recent review of statutes, the State Board of Pharmacy said it is aware of Baxter operating this way and that the statute requires a pharmacist at the warehouse though it was never required before. The Board suggested we get a bill to provide some language to clarify that.

JESSICA FERRATO (Fresenius Medical Care North America):

I am here today on behalf of Fresenius Medical Care in support of A.B. 110 and the amendment adopted in the Assembly. Fresenius Medical Care provides care for thousands of Nevadans who rely on life-sustaining dialysis treatments in the State. Patients who need dialysis have the option to receive treatment in their



own home rather than at an outpatient dialysis center. Choosing home dialysis can mean greater scheduling flexibility, fewer food restrictions and stronger outcomes. Home dialysis treatment can also be done longer and more frequently so it is gentler on the body, making patients feel better and have an improved quality of life.

Patients who qualify for home dialysis go through a rigorous training program which includes a home assessment and meetings with the patient's entire dialysis care team. Once on home dialysis, patients continue regular check-in meetings with their care team at least once per month, support through a clinic and 24/7 access to assistance should they experience issues at home. Depending on the type of home dialysis they are receiving, different drugs and medical devices need to be regularly delivered to their home.

Assembly Bill 110 removes the time-consuming and burdensome processes to continue easing the home dialysis treatment practice for patients. A patient's treatment decision remains between him or her and the clinic working closely with the nephrologist. The doctor will send the order to a Fresenius-licensed pharmacy in Illinois and send the order to Nevada via a licensed wholesaler. The licensed pharmacists and pharmacy technicians process all the prescription orders at the Illinois pharmacy and seal the package for delivery.

Assembly Bill 110 removes the need for licensed pharmacists to be at the warehouse when the package arrives in Nevada and removes the need for products to go through the clinic or pharmacy. Packages will be delivered to patients as they were sealed at the licensed pharmacy.

To Senator Daly's question, the nephrologist, the practicing kidney doctor for all patients, prescribes an individual prescription per patient. Each combination of dialyzer is specific per patient and done via the physician.

JIMMY LAU (DaVita Inc.):

We echo the comments of our colleagues from Fresenius and thank the sponsor for bringing forward this bill.

ADAM PORATH (Nevada Society of Health-System Pharmacists):

I am testifying in support of this bill. We appreciate the sponsor working with us for Amendment No. 17 on the Assembly side. We are supportive as amended.

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CHAIR SPEARMAN:

Seeing no further business for the Commerce and Labor Committee for this day,  
we are adjourned at 8:37 a.m.

RESPECTFULLY SUBMITTED:

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Diane Rea,  
Committee Secretary

APPROVED BY:



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Senator Pat Spearman, Chair

DATE: \_\_\_\_\_

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit Letter</b>	<b>Introduced on Minute Report Page No.</b>	<b>Witness / Entity</b>	<b>Description</b>
	A	1		Agenda
	B	1		Attendance Roster