

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

**Seventy-third Session
March 15, 2005**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:00 a.m. on Tuesday, March 15, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Randolph J. Townsend, Chair
Senator Warren B. Hardy II, Vice Chair
Senator Sandra Tiffany
Senator Joe Heck
Senator Michael Schneider
Senator Maggie Carlton
Senator John Lee

GUEST LEGISLATORS PRESENT:

Senator Bernice Mathews, Washoe County Senatorial District No. 1

STAFF MEMBERS PRESENT:

Kevin Powers, Committee Counsel
Jeanine Wittenberg, Committee Secretary
Scott Young, Committee Policy Analyst
Jane Tetherton, Committee Secretary

OTHERS PRESENT:

Pamela Hogan, P.T., O.C.S., F.S.O.M., State Board of Physical Therapy
Examiners
Chad A. Bible, M.S.P.T., G.C.S., State Board of Physical Therapy Examiners
Robert E. Miller, Jr., President, Chief Executive Officer, Caladon Health
Solutions
Keith W. Macdonald, Executive Secretary, State Board of Pharmacy

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Liz MacMenamin, Retail Association of Nevada

CHAIR TOWNSEND:

We have before us Bill Draft Request (BDR) 58-364.

BILL DRAFT REQUEST 58-364: Makes various changes relating to energy.
(Later introduced as [Senate Bill 188](#).)

SENATOR HARDY MOVED TO INTRODUCE BDR 58-364.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS TIFFANY, SCHNEIDER AND LEE
WERE ABSENT FOR THE VOTE.)

* * * * *

The hearing is now open for discussion of Senate Bill (S.B.) 152.

SENATE BILL 152: Revises provisions relating to physical therapists.
(BDR 54-471)

SENATOR BERNICE MATHEWS (Washoe County Senatorial District No. 1):
I am asking for support of S.B. 152. Senator Carlton and I have discussed this
bill and there are areas of the bill language that need to be addressed.

PAMELA HOGAN (P.T., O.C.S., F.S.O.M. (State Board of Physical Therapy
Examiners) :

We support S.B. 152 and are requesting an amendment ([Exhibit C](#)) be added to
this bill as follows: "shall be deemed a graduate of physical therapy."

SENATOR SCHNEIDER:

There is also a provision of this bill amending the *Nevada Revised Statute*
(NRS) 640.150 that establishes a fee of not more than \$150 for the
State Board of Physical Therapy Examiners to consider approval of a course of
study or training. Does the fee still apply if someone takes a training course
outside of Nevada?

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Ms. HOGAN:

Yes, it pertains to any educational course. The course is submitted for review to our education committee. There are six members as paid employees currently on that committee.

SENATOR SCHNEIDER:

Can the fee be reduced?

Ms. HOGAN:

The providers of the educational training usually request the course through the education committee, not the student.

SENATOR MATHEWS:

If you are asking if the Board has reciprocity with out-of-state trainers, I do not know. The fee charged by the Board is for courses within the State.

SENATOR HARDY:

The fee is what the Board would charge someone to provide an educational course, is that correct? Can a physical therapist (PT) take an educational course out of state?

Ms. HOGAN:

Yes, but normally a PT will request the provider of the course to submit a request to the Board for consideration.

SENATOR HARDY:

Can the PT pay for the out-of-state course and then get reimbursement from the Board?

SENATOR MATHEWS:

Nurses have reciprocity with other states for continuing education. A PT using an out-of-state educational provider should be aware that courses are not immediately approved by the Board in Nevada. The out-of-state course has to be approved before it is taken.

CHAD A. BIBLE (M.S.P.T., G.C.S., State Board of Physical Therapy Examiners):

A PT can access our Web site to verify which courses are available and what courses apply to their occupation.

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SENATOR CARLTON:

Page 3 of S.B. 152, section 1, subsection 5, paragraph (d), reads as follows:
"Require an applicant or licensee to appear before the Board to ascertain his fitness or qualifications" What does that mean?

Ms. HOGAN:

There have been problems where an applicant marked on their application that they have never been arrested. Once the Board receives the background check and finds out they have been arrested, the applicant is then required to appear before the Board and explain why they were dishonest when filling out the application.

SENATOR CARLTON:

I am concerned with the proposal to license someone before the background check is complete.

Ms. HOGAN:

The only people who get a temporary license without a background check are in situations that arise from a medical emergency or a graduate of a physical therapy program. If a graduate does not take the exam or fails the exam, their license is revoked.

SENATOR CARLTON:

The concern here is letting someone practice physical therapy and then if they do not pass the test, the license is taken away.

SENATOR MATHEWS:

This is not an unusual practice for boards to follow. The State Board of Nursing issues a temporary license, and a nurse works under supervision until the license has been approved.

SENATOR TIFFANY:

Section 3, subsection 3, paragraph (d) reads as follows:

The person complies with any other requirements of the Board. An exemption pursuant to this subsection continues until the date of the examination if the person does not take the examination or until the date on which the Board notifies the person of the results of the examination.

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Does that mean the Physical Therapy Board has the authority to make the decision as to how a license is obtained?

Ms. HOGAN:

Yes. The Board also does fingerprinting as part of the background check.

SENATOR MATHEWS:

I just want to clarify that lines 1, 2 and 3 of section 3, subsection 2 are under the current law.

SENATOR CARLTON:

Ms. Hogan, did you state that the background check on fingerprints come back before the license is issued?

Ms. HOGAN:

Yes.

SENATOR CARLTON:

How long does that process take?

SENATOR MATHEWS:

It depends on which agency is processing the fingerprints. Some agencies have a backlog.

SENATOR CARLTON:

I was not aware that different agencies could handle the process.

SENATOR HECK:

In section 3, subsection 1 of S.B. 152, it explains that a temporary license is issued in a medical emergency. Is that the only time a temporary license is issued?

Ms. HOGAN:

No, a graduate of a physical therapy program can also be issued a temporary license.

SENATOR HECK:

Does the current law allow a license to be given to a graduate of physical therapy, or is that what your PT Board is proposing?

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Ms. HOGAN:

Current law does allow it, but the language has been added for clarification.

SENATOR HECK:

How many times is a license issued for a medical emergency in the State?

Ms. HOGAN:

In the two and a half years that I have been on the PT Board, it has never happened.

SENATOR HECK:

Does the PT Board have any data on the number of licenses issued for a medical emergency? I am trying to figure out what type of medical emergency would occur where a PT would need to be brought to this State and given a temporary license to attend to a patient. As I understand the bill, it would amend NRS 640.120 so that a graduate of physical therapy could come to this State and be allowed to practice, prior to taking an exam or given a license.

Ms. HOGAN:

Yes, under the supervision of a licensed physical therapist.

SENATOR HECK:

I do not see that language, "under supervision of a licensed physical therapist", in S.B. 152, section 3, subsection 3. I see similar language under section 3, subsection 2, which states: "a student of physical therapy" My concern is that the language may need to be added to the bill.

SENATOR MATHEWS:

I agree, it does need to be added to the bill.

Ms. HOGAN:

I agree.

CHAIR TOWNSEND:

What is in this bill to protect the public's interest?

Ms. HOGAN:

Our proposal is meant to clarify the existing law for both the public and the licensees.

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CHAIR TOWNSEND:

The proposal is similar to a policy change as opposed to a clarification. In answer to Senator Heck's question regarding an out-of-state PT, the only time that would probably happen is when either an entertainer or athlete brings their own PT to this state.

SENATOR HECK:

I do not see the PT Board's authority in the current bill that grants a temporary license to a new graduate of physical therapy.

CHAIR TOWNSEND:

Senate Bill 152 will go immediately to subcommittee for further discussion.

This meeting is now open for discussion of S.B. 142.

[SENATE BILL 142](#): Provides for appointment of additional member to State Board of Pharmacy. (BDR 54-623)

SENATOR SCHNEIDER:

I introduced S.B. 142 on a request from Mr. Miller of Caladon Health Solutions. The proposal provides for the appointment of one additional member to the State Board of Pharmacy.

ROBERT E. MILLER, JR. (President, Chief Executive Officer, Caladon Health Solutions);

I believe a board should be representative of the businesses they regulate. There are currently no members on the pharmacy Board who represent wholesalers or manufacturers. There has been difficulty in the past in getting proper representation from the Board and that is why this proposal is before the Committee today.

SENATOR CARLTON:

Usually memberships are discussed through the Office of the Governor first. Have you discussed this with them?

MR. MILLER:

No, I have not.

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SENATOR CARLTON:

If a new member was added to the Board, the total number of members would be eight. Was any consideration given to the possibility of a problem with split votes?

MR. MILLER:

Our type of industry is small in comparison to the pharmacy industry and that is the reason why the proposal is for only one additional member.

SENATOR CARLTON:

In this bill, did you consider the specific qualifications required for a Board member?

MR. MILLER:

Yes, I did.

SENATOR CARLTON:

How many members of your profession would be available to sit on this Board?

MR. MILLER:

There are 38 licensed wholesalers in the State as well as numerous out-of-state licensed wholesalers, including several manufacturers.

SENATOR HARDY:

Are there any other boards that have a vendor as a member? If not, maybe the Committee should take that into consideration.

MR. MILLER:

This proposal would give our industry a voice in the regulatory process.

SENATOR HECK:

On the issue of the even number of members that Senator Carlton brought up, could a current pharmacy-member position be converted to a position for a manufacturer or wholesaler? In that instance, there would be no net increase in the number of members on the Board.

CHAIR TOWNSEND:

The subcommittee will have to decide the issue of an even vote. Mr. Macdonald, what is the total number of licensed manufactures or

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wholesalers in this State that have the requirements for appointment as a member of the Board?

KEITH W. MACDONALD (Executive Secretary, State Board of Pharmacy):
There are 452 out-of-state licensed drug wholesalers and 35 of those have distribution points in this State, but the distribution sites are not their headquarters.

The language of this amendment suggests there will be eight members that would be qualified. Four members sell X-ray film, related chemicals and veterinary products ([Exhibit D](#)), which leaves a total of four members that sell pharmaceuticals.

LIZ MACMENAMIN (Retail Association of Nevada):
We have worked with the Board and to add a specific industry to it would negate what has been accomplished so far. No other state has added a specific vendor to their Boards.

CHAIR TOWNSEND:
Are there any other questions on S.B. 142? The hearing is now closed.

We will now open the discussions on S.B. 163. If at all possible, the Committee would like to have exhibits available the day before a hearing on bills relating to boards so we can fully review them.

SENATE BILL 163: Makes changes relating to certain regulatory bodies which administer occupational licensing. (BDR 54-22)

SENATOR MAGGIE CARLTON (Clark County Senatorial District No. 2):
I work with several boards and would like to give a brief overview of issues that pertain to boards in S.B. 163.

The Opening Meeting Law is one issue that some of the boards are not complying with and there may need to be some clarification. Existing law contains provisions that were added to comply with the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWOR). It is a child-support provision to make sure the occupational licensing board conforms to the requirements. If the federal Act ceases to exist, Kevin Powers, from the Legislative Counsel Bureau's Legal Division, has made a provision that

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will apply in the State of Nevada for an additional two years, to allow an opportunity for discussion.

Another issue in this bill relates to social security numbers. A clarification to this bill will make it easier to track people with child-support issues.

The background check and the time frames in which they are completed are also issues. For the record, I will read from the digest of S.B. 163, lines 19-24:

This bill prohibits a regulatory body which is required to conduct a background investigation from issuing, renewing or reinstating a license if the applicant has not passed the required background investigation. This bill also prohibits a regulatory body from issuing, renewing or reinstating a license if the applicant has not complied with any other licensing requirements. These prohibitions do not apply if a specific statute provides otherwise.

Our responsibility to the citizens of this State is to make sure a background check is available to the board for review before a license is issued.

The Welfare Division also has concerns regarding the federal PRWOR Act as it relates to child support issues. I would like Mr. Powers to clarify exactly what the Committee is trying to accomplish and that the Committee is not trying to jeopardize any funding. I am available to explain or clarify this bill.

KEVIN POWERS (Committee Counsel):

The sections Senator Carlton referred to with regard to the Welfare Division are sections 201-206, pages 138-142 of this bill. The bill does not intend to change existing law with regard to the provisions administered by the Welfare Division. ... The bill enacts a second set of statutes that only become effective if the federal law is appealed. There will be an existing set of statutes in NRS and this bill will create a second set of statutes that are conditionally effective on the date of the repeal of the federal law. This will not affect the current statutory authority of the Welfare Division and should not threaten any federal funding.

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SENATOR CARLTON:

Are there any further questions or clarifications that need to be addressed regarding this bill?

CHAIR TOWNSEND:

It is the intention of the Chair, since there are two other bills, S.B. 142 and S.B. 152 set for subcommittee, that S.B. 163 be included in the subcommittee meeting. If there are no further questions, the meeting is adjourned at 9 a.m.

RESPECTFULLY SUBMITTED:

Jane Tetherton,
Committee Secretary

APPROVED BY:

Senator Randolph J. Townsend, Chair

DATE: _____