

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

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

The subcommittee of the Senate Committee on Commerce and Labor was called to order by Chair Maggie Carlton at 9:10 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 Maggie Carlton, Chair  
Senator Sandra Tiffany  
Senator Joe Heck

**GUEST LEGISLATORS PRESENT:**

Senator Bernice Mathews, Washoe County Senatorial District No. 1

**STAFF MEMBERS PRESENT:**

Kelly Gregory, Committee Policy Analyst  
Kevin Powers, Committee Counsel  
Donna Winter, Committee Secretary  
Scott Young, Committee Policy Analyst  
Jeanine Wittenberg, Committee Secretary

**OTHERS PRESENT:**

James F. Nadeau, Nevada Association of Realtors  
Fred L. Hillerby, State Board of Nursing  
Fred Olmstead, State Board of Nursing  
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

CHAIR CARLTON:

We will open the hearing on Senate Bill (S.B.) 163.

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

KEVIN POWERS (Committee Counsel):

I'll begin with focusing on provisions that amend chapter 425 of *Nevada Revised Statutes* (NRS), and those provisions are in sections 201 and 206. Because this bill intends to extend the period of the statutes if the federal law is repealed, this bill establishes a second set of statutes for NRS 425 that will only become effective on the repeal of the federal law. If this bill is enacted, all of the existing statutes in chapter 425 of NRS will remain the same on the date of enactment of this bill, and they'll continue that way until the date of the repeal of the federal law. On the date of the repeal of the federal law, the second set of statutes will take hold. The provisions in the existing law dealing with recreational licenses will fall out. From the date of repeal of the federal law till two years later, the statutes in chapter 425 of NRS will only deal with occupational and professional licenses. The reason that is being done, as Senator Carlton mentioned, is so that if the federal law is repealed, the authority to take the child support statement and to withhold or suspend licenses based on the failure to pay child support will continue in state law for at least two years after the date of the repeal of the federal law, thereby giving the policy makers of the Legislature an opportunity to review the issue at the next Legislative Session. Just for the record, so it's specified, on page 157 of the bill, section 234, the effective date clause, on line 23, states, "Sections ... 201 to 206, inclusive, of this act: Become effective on the date on which the provisions of 42 U.S.C. § 666 ... are repealed by the Congress of the United States." That triggers the effective date for the chapter 425 statute. So until the federal act is repealed, and it may never be repealed, these provisions would not take effect.

Having explained that, let's move to sections 5 through 200 of the bill. With the understanding that the purpose is to extend the provisions dealing with the child-support statement with regard to Title 54 occupations for 2 years after the date of the repeal of the federal law, sections 5 through 200, which amend each of the chapters in Title 54 of NRS, are intended to carry out that intent. In

addition, and this is a very technical thing, sections 5 through 200 attempt to make technical revisions so that those chapters are cleaned up in a very technical way. To explain it, I want to explain what happened in 1997. When the child-support provisions were added in 1997, they became conditional, and they were effective until the date of the repeal of the federal law. By doing that, that created two sets of statutes in each of the board chapters. One had the child-support provision, and then the second statute became effective on the date of the repeal of the federal law, and that didn't have the child-support provisions. As a drafting matter, we call those parallel sections, but essentially they're multiple versions of the same statute where a piece drops out on a specific effective date. It has become cumbersome in drafting bills and in codifying NRS to deal with those multiple versions of the statute. For example, the bill with the physical therapists that we dealt with earlier this morning ... had sections with multiple versions of the same statute. Section 3 had the one version of the statute and section 4 had the other version of the statute minus the child-support provisions. The intent of the Legislative Counsel Bureau ... is to technically revise all the board chapters in Title 54 of NRS to eliminate as many of those multiple versions of the same statute as possible. It's a purely technical revision. Essentially what we do is take the social security requirement and the child-support statement requirement and put it into a single section in each chapter of Title 54 of NRS. As far as all of the other statutes of the boards in each of those chapters, we won't have to have multiple versions anymore. However, the requirements will still remain the same. Every applicant will have to have their social security number as required by federal law, and every applicant for not only issuance but also renewal will have to complete the child-support statement in accordance with federal law. This bill does not change any of that. All it does is try to clean up each of those board chapters so that there's as few parallel sections in those chapters as possible. I'll gladly clarify any of that for any member of the Committee or anyone else who wants to discuss that.

CHAIR CARLTON:

I will make this same statement on the floor of the Senate when the bill is presented to allay any concerns about the intent of the sections on child

Subcommittee of the Senate Committee on Commerce and Labor  
March 15, 2005  
Page 4

support. It was my attempt at a safety-net provision in case the federal law is repealed.

JAMES F. NADEAU (Nevada Association of Realtors):

Our concern is with section 4 of the bill. If a broker or licensee has an existing license, they may not have gone through a background check when they were first licensed. Undergoing a background check upon renewal of a license would compromise their ability to conduct business.

CHAIR CARLTON:

These prohibitions do not apply if a specific statute provides otherwise. If we have not mandated in statute that you do fingerprints, I do not believe that upon renewal we would be imposing any new restrictions on a licensee. This would only apply to the boards that have said applicants "shall provide fingerprints," not "may." It was not my intention to create another standard.

MR. POWERS:

Just to follow up, Senator Carlton, I agree with everything you said and the gentlemen who appear before the subcommittee. Essentially what this section says with regard to renewals is that the board cannot renew the license unless the applicant meets all of the requirements for renewal. In other words, it states what the law should be as applied by the boards is that they only renew the license if the applicant meets the current requirements for renewal. That doesn't change those requirements; it doesn't add any additional requirements. It just means the board cannot renew it unless those requirements are met.

MR. NADEAU:

That addresses my concerns.

FRED L. HILLERBY (State Board of Nursing):

The State Board of Nursing has no problem with S.B. 163 the way it is written. However, our reading suggests it will not do what it was intended to do because of the provision in section 4 that states, "Except as otherwise provided by a specific statute..." In NRS 632.300, the Board is specifically given the authority to issue temporary licenses. This statute has been in place since 1955. We can present evidence that the Board does this in such a way as to

protect the public. The use of temporary licenses lets nurses practice during the four months needed to complete a background check.

FRED OLMSTEAD (State Board of Nursing):

I am the legal counsel for the State Board of Nursing. According to NRS 239B.010, those doing criminal background checks must go through the Central Repository for Nevada Records of Criminal History. We have experienced four-month delays because of this requirement, to the point that the temporary license expires and we still have not received the criminal history from that agency. We met with people from that agency to discuss ways to speed up the process.

CHAIR CARLTON:

I have serious concerns about letting someone practice in this State when we really do not know who that person is. My intention in this bill was to require a full background check before issuing an initial license. It is good to have a fast turnaround time and get people working quickly. However, if we do not know how qualified the person is and whether they have a criminal record in another state, we are not doing the right thing for the citizens of this State. When someone has a license, it means the State is standing behind them. When I am told a person's license is revoked if they do not pass the test, it means they have been practicing without having passed the test. That bothers me. I welcome your suggestions as to ways to accomplish this.

MR. HILLERBY:

We appreciate your concerns for the safety of the public. The Board takes its obligation to protect the public seriously. Part of protecting the public is giving them access to health care. Nevada has the worst nurse-to-population ratio in the United States. Doing away with temporary licenses will cause a 4-month delay in the entry of 2,500 nurses a year to the workforce.

CHAIR CARLTON:

Access to health care is important, but there must be a balance. During the interim, I was told by an official at a local hospital that he did not know whether it was worse to have no nurse or an unqualified nurse. This attitude is disturbing.

Subcommittee of the Senate Committee on Commerce and Labor  
March 15, 2005  
Page 6

MR. HILLERBY:

We agree with you and do not share the opinion of the gentleman you quoted. We do not license unqualified nurses. Our record with temporary licenses shows the Board has done a good job in protecting the public interest in all respects.

SENATOR TIFFANY:

Am I correct in thinking if you already have statutory authority to issue temporary licenses, this bill will not change that?

MR. POWERS:

That is correct. If the Board has the existing specific statutory authority to issue a temporary license, this bill does not change that. That's for the language except as otherwise provided by specific statute. What this bill will do is address situations—and I don't want to pick on the Board of Physical Therapy Examiners because they were here already—but there was a situation in which the Board apparently had been issuing temporary licenses even though they don't have specific statutory authority. This would make clear that unless they had specific statutory authority, they could not issue a temporary license. But it would not change existing statutory authority.

SENATOR TIFFANY:

I would like to see data on how many boards have this statutory authority at present. I do not agree with an across-the-board elimination of provisional licenses.

CHAIR CARLTON:

We have a basic philosophical parting of the ways on this issue. My intention was to have this requirement apply to the State Board of Nursing as well. This would seem to defeat one of the goals I had for this bill. Is that correct?

MR. POWERS:

"If one of your goals was to eliminate all existing provisions dealing with temporary licenses, this bill does not do that as presently written."

CHAIR CARLTON:

In that case, there is no reason to continue discussion on this bill. I will go back and rethink the bill. I would like to make sure when we hand a license to

Subcommittee of the Senate Committee on Commerce and Labor  
March 15, 2005  
Page 7

someone, we know who they are. I will close the hearing on S.B. 163 and open the hearing on S.B. 152.

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

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

We have an amendment to offer ([Exhibit C](#)).

In section 3, subsection 3, paragraph (a), we would like to change the phrase to "completed and approved application." This would mean the background check has been completed and the application has been approved.

In section 3, subsection 3, we would like to change the wording to, "A person who meets the qualifications set forth in NRS 640.080, except subsection 3 thereof, shall be deemed a graduate of physical therapy ... " We would be happy to include "board-approved" if it is desired.

We would like to add paragraph (e) to subsection 3 of section 3 to require graduates of physical therapy to work under the supervision of a licensed physical therapist.

SENATOR HECK:

This addresses the concerns I had about supervision. However, the addition of the phrase in subsection 3 seems redundant. If a person "meets the qualifications set forth in NRS 640.080," he or she is already a graduate. What is gained by adding the phrase "shall be deemed a graduate"?

Ms. HOGAN:

The intent was to add a designation of "Graduate of Physical Therapy" to differentiate those who are waiting to receive their license as physical therapists from physical therapy technicians or assistants. This is done to avoid conflict with *Nevada Administrative Code* 640.595.

SENATOR HECK:

If you are creating a new designation, this must be included in the definitions.

Subcommittee of the Senate Committee on Commerce and Labor  
March 15, 2005  
Page 8

CHAIR CARLTON:

I am not sure this is necessary in this case. We will have the Legal Division look at it. Your approach is good overall.

Ms. HOGAN:

We would like to strike the phrase "using a form provided by the board" in sections 4, 5, 8, and 9. We will handle this issue in regulation.

We would like to keep subsection 4 of section 5 as is.

CHAIR CARLTON:

Is the cap of \$150 on this fee acceptable? We do not want you to have to come back in two years to get an increase.

Ms. HOGAN:

We have not discussed the starting fee. I recall that we established \$150 as the upper limit.

SENATOR HECK:

Does the Board have a blanket approval for courses offered by specific providers? For example, do courses offered by the American Physical Therapy Association (APTA) need to be approved by the State as well?

Ms. HOGAN:

The Board and the Continuing Education Committee considered blanket approval for APTA-sponsored courses. However, some of their courses do not meet our requirements, such as those dealing with animal physical therapy. We also do not give clinical continuing education units (CEUs) for courses that are administrative in nature.

SENATOR BERNICE MATHEWS (Washoe County Senatorial District No. 1):

This is the practice of the State Board of Nursing as well as many other state boards. The national groups submit their courses to us for approval for CEUs.

CHAIR CARLTON:

The cost is fairly standard. In the past, the Board has absorbed the cost of evaluating courses; however, the number of requests for approval has increased to the point they must either charge for approval or raise fees to licensees.



Subcommittee of the Senate Committee on Commerce and Labor  
March 15, 2005  
Page 9

SENATOR HECK:

I have no problem with the fee. My concern is the duplication of effort of requiring state approval of courses recognized by a national body. In the medical field, courses offered by the American Medical Association are not submitted to the states for approval. Why was the wording of section 2 changed to remove the reference to APTA?

MS. HOGAN:

The APTA is no longer the accrediting agency for the school. The wording is intended to apply to accreditation by the appropriate agency, regardless of the name of that agency.

CHAIR CARLTON:

We will add standard boilerplate language about successor agencies.

MS. HOGAN:

Regarding temporary licenses, NRS 640.140 gives the Board authority to recognize licenses from other states or territories provided the licensure is substantially equal to our current requirements.

SENATOR HECK:

In that case, you are granting a full license. I want to know how many medical emergency temporary licenses had been granted in Nevada.

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

The Board's executive secretary informs me there has never been a medical emergency temporary license.

CHAIR CARLTON:

That language probably comes from the original boilerplate design of the statute.

I will close the hearing on S.B. 152. We will not hear testimony on S.B. 142 at this time.

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

Subcommittee of the Senate Committee on Commerce and Labor  
March 15, 2005  
Page 10

CHAIR CARLTON:

If there are no further remarks, the meeting is adjourned at 10:04 a.m.

RESPECTFULLY SUBMITTED:

---

Lynn Hendricks,  
Committee Secretary

APPROVED BY:

---

Senator Maggie Carlton, Chair

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