

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

**Seventy-third Session
March 25, 2005**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:01 a.m. on Friday, March 25, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 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 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

STAFF MEMBERS PRESENT:

Shirley Parks, Committee Secretary
Kevin Powers, Committee Counsel
Scott Young, Committee Policy Analyst
Donna Winter, Committee Secretary

OTHERS PRESENT:

James T. Russell, Nevada State Board of Accountancy
Harry O. Parsons, CPA, President, Nevada State Board of Accountancy
Pamela Scott, Howard Hughes Corporation
Fred L. Hillerby, Nevada State Board of Pharmacy
Liz MacMenamin, Retail Association of Nevada; Chain Drug Council
Keith Lee, Board of Medical Examiners

CHAIR TOWNSEND:

I will open the meeting with Bill Draft Request (BDR) 10-1115.

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BILL DRAFT REQUEST 10-1115: Prohibits use of delegates or representatives to exercise voting rights of units' owners in certain common-interest communities. (Later introduced as [Senate Bill 359](#).)

SENATOR HARDY MOVED TO INTRODUCE BDR 10-1115.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR SCHNEIDER WAS ABSENT FOR THE VOTE.)

CHAIR TOWNSEND:

I will open the hearing on Senate Bill (S.B.) 257.

SENATE BILL 257: Makes various changes relating to regulation of certified public accountants. (BDR 54-360)

JAMES T. RUSSELL (Nevada State Board of Accountancy):

Present with me today is Vicki A. Windfeldt, Executive Director and Harry O. Parsons, President, Nevada State Board of Accountancy. Section 1 of the bill requires a certified public accountant (CPA) who performs audits to retain documentation in respect to those audits for seven years. It is a high standard but in light of Enron Corporation and Arthur Andersen's problems and the documentation that disappeared in those audits, section 1 of S.B. 257 is there to protect the public. Language is also adopted in line with the Uniform Accountancy Act (UAA) and primarily follows that language. Section 2 of the bill eliminates reference to *Nevada Revised Statute* (NRS) 628.210 which is an old grandfather provision that allowed public accountants (PA) to become licensed and is no longer necessary under the law.

CHAIR TOWNSEND:

Section 2 of the bill is formerly known as the Keith Ashworth Memorial Statute Exception. I mention his name because we lost the former speaker of the Assembly and former Senator and he was the last person to qualify under this section.

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MR. RUSSELL:

There is only one public accountant left licensed in the State of Nevada. The old grandfather provision allowed him to be licensed.

Section 3 of S.B. 257 eliminates the requirement that the Board publish and send out a list of all CPAs and Board members to each licensee. A small amendment ([Exhibit C](#)) that Senator Carlton suggested would have the Board maintain on its Web site a listing of all licensed CPAs and the names of the members of the Board.

Section 4 of the bill clarifies the experience requirement for a certificate of certified public accountant. Direct supervision of a CPA in public practice is required.

Sections 5, 6 and 7 of the bill bring the Board's statutes in line with the new CPA examination that was adopted by the State. It requires a computerized examination and allows the Board to be in compliance with state requirements on how candidates take the exam.

Section 8 of the bill clarifies where experience can be obtained for a certificate of CPA.

Section 9 of the bill reiterates the CPA license requirements and eliminates the reference to NRS 628.210.

Sections 10 and 11 of the bill are the enforcement provisions with respect to violations of NRS 628.450 to 628.550 or section 1 of this act. Section 1 deals with the retention of records.

SENATOR LEE:

How did you decide on the seven-year period for retaining documents? In regard to section 1, subsection 5 of the bill, if a practitioner has a policy and puts it in writing, does he give a copy to the Board or to the people he is auditing?

MR. RUSSELL:

The seven-year-retention period in section 1, subsection 1 of the bill was established based on the UAA because the State of Nevada had no requirements. The policy is there in case a problem arises in regard to any of the audit and retention requirements as a condition to do the audit.

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SENATOR TIFFANY:

Have there been any problems regarding the attestation documentation statewide or nationwide? How long do you have to keep those documents?

MR. RUSSELL:

There have been problems nationwide. For example, documents were being destroyed in regard to the audits taking place in the Arthur Andersen matter. I have not heard of any problems in Nevada. Attestation documents must be kept for seven years under this bill.

SENATOR TIFFANY:

It is preventative. Is the national association encouraging the seven-year retention of documentation nationwide?

MR. RUSSELL:

It is in the language of the UAA and most states are adopting the seven-year-retention period. However, there are some states that have adopted only five-year retentions. Nevada is adopting the seven years so we can be in line with a separate organization that was created out of the Enron situation, the Public Company Accounting Oversight Board.

SENATOR TIFFANY:

In the statute, it states the Board will decide what other information is necessary to put on the Web site about a licensed CPA. What is required other than the name to be on the Web site?

MR. RUSSELL:

We are not required to put anything else on the Web site. However, we do put all disciplinary matters that have occurred, history in regard to actions taken with a licensee and Board member's names and licensed CPAs.

SENATOR TIFFANY:

What I was specifically interested in was if you have contact information on the Board members and the certified CPAs, how long they have been in the State and how long they have been certified.

MR. RUSSELL:

Yes, all that information is available on the Web site.

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SENATOR LEE:

In section 1, subsection 2 of the bill, what is a "live permit"?

MR. RUSSELL:

A "live permit" is terminology used under our statute meaning a current permit. A permit that is currently active.

CHAIR TOWNSEND:

How long have you been practicing, Mr. Parsons?

HARRY O. PARSONS, CPA (President, Nevada State Board of Accountancy):
I have been practicing for 29 years.

CHAIR TOWNSEND:

I will close the hearing on S.B. 257.

SENATOR CARLTON MOVED TO AMEND AND DO PASS S.B. 257.

SENATOR LEE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR TOWNSEND:

I will open the hearing on S.B. 153.

SENATE BILL 153: Prohibits community manager who imposes fine against certain persons from soliciting or accepting any percentage of fine or any fee for collecting fine. (BDR 10-830)

SENATOR HARDY:

Some work will be needed on the mock-up proposed amendment ([Exhibit D](#)) due to the number of people who have come forward with concerns that can be easily addressed in this bill. I appreciate Scott Young and Kelly Gregory, Committee Policy Analysts, who came up with [Exhibit D](#) which more accurately represents what we want to accomplish. Currently, the bill as drafted prohibits a community manager who imposes a fine against a unit's owner from receiving a fee for the collection of that fine. The problem is, community managers do not

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impose fines, the boards do. Section 1, subsection 1 of [Exhibit D](#) is intended to reflect that. In section 1, subsection 1, paragraph (a), we need to add "and or fees" after "the number or amount of fines." The office of the Ombudsman for Owners in Common-Interest Communities and others I have spoken with feel individuals who collect the fines should be licensed debt collectors. This language needs to be made more specific in the bill.

Other concerns need to be addressed and added to the language of the bill. The bids in these contracts should state exactly what services would be rendered. The bill needs to clear up the ambiguity in the contracts between homeowner associations and the property management companies. The money that is collected for noncompliance with regulations must be accounted for separately from the revenue collected for late fees, delinquent assessments and collection charges as it is in NRS 116.

I will have a policy discussion with the subcommittee about the Ombudsman's Office being notified whenever a lien for unpaid assessment is filed against an owner.

CHAIR TOWNSEND:

I thought when a lien was filed, we required a notice of that lien be given to the Ombudsman's Office.

SENATOR SCHNEIDER:

It was not when the lien was filed but the Ombudsman's Office had to be notified before a filing of foreclosure. The Ombudsman's Office should have knowledge of every foreclosure and approve the foreclosures in associations.

SENATOR HARDY:

I will try to get additional information on whether it is working or not and if we need additional language added to the bill. I have spoken with Senator Carlton, the chair of the subcommittee, and in a very short time we can put the language together and have a final document for this Committee to consider. Ms. Scott sent me an amendment to the bill but I lost it. Does the language proposed by staff in [Exhibit D](#) address your concerns and your issues?

PAMELA SCOTT (Howard Hughes Corporation):

I have read [Exhibit D](#). I want to make sure there is no confusion concerning the normal management fee that these management companies charge for their

services. It should not be interpreted later that they cannot do that. Sometimes, we pass legislation with the best of intentions and are amazed on how it gets interpreted over the next two years. The subcommittee can certainly debate that and I would like to go on record as requesting notification when that subcommittee meets.

SENATOR HARDY:

What you just spoke to is clearly not the intent. Community managers have to have the ability to do their job. My concern is some of these community managers have set themselves up as debt-collection entities and they are not licensed to do that.

SENATOR SCHNEIDER:

Karen Brigg needs to be present when we have further discussion on this bill.

SENATOR HARDY:

I would not endeavor to do this without Senator Schneider's input and expertise. I will yield to his expertise in terms of who we should specifically invite to participate. I would like to flesh out all these issues in a regular subcommittee meeting and try to provide some language that will get to the problem without causing additional problems. I will work with the staff to get these other concepts that I brought up into a draft form. We would then have something to distribute at the subcommittee as a starting point of discussion.

CHAIR TOWNSEND:

A time will be set for Senator Schneider's subcommittee on S.B. 153. I will close the hearing on S.B. 153.

I will open the hearing on S.B. 231.

SENATE BILL 231: Revises provisions governing authority of certain physicians to possess, prescribe, administer and dispense controlled substances, dangerous drugs and other drugs. (BDR 40-783)

SENATOR SCHNEIDER:

This bill was introduced in the 72nd Legislative Session but it got out of hand on the floor. I am bringing it back this Session. The Legal Division was not able to find the amended version so we rewrote a proposed amendment ([Exhibit E](#)). The purpose of S.B. 231 is to create a pilot project in the State of Nevada,

preferably in Las Vegas because of the population base there. The pilot project would be a hospital where doctors and pharmaceutical companies could work on experimental drugs and other therapies. I know Senator Tiffany's life was saved by experimental drugs and if her situation had occurred in Las Vegas, she may not have lived. I think Las Vegas needs this type of facility. The bill could be looked at as an economic-development bill also. I have traveled with my family to San Francisco and Los Angeles for extended medical stays at hospitals. It is almost impossible to find inexpensive rooms near the hospital. Las Vegas offers so much more for a family if they have to bring one of their members to a hospital for treatment. They can find a room for as little as \$29 during the week and dinner is served 24 hours a day in Las Vegas. The city is a lot more user-friendly than the other cities. It is time we step up with a big research center. My concept is still the same. We should push the limits of science and encourage the good research doctors and the pharmaceutical companies to come in and experiment with their drugs. There is no reason why people in the United States should have to go to Europe or Mexico to get experimental treatment. The proposed amendment in [Exhibit E](#) limits it to one facility. Senator Heck can help us on this.

SENATOR CARLTON:

I had some concern with the original bill regarding oversight of doctors and prescriptions. After seeing the amendment, I appreciate what Senator Schneider is trying to do. Anytime we can get more health care for people it is a good thing, but I think we have to be careful how we go about doing this. The boutique hospital bill, A.B. No. 333 of the 72nd Session, caused concern as it had no emergency rooms associated with the facility.

SENATOR SCHNEIDER:

There would be no need for emergency rooms with this facility. The people who would come here would be terminally ill.

The doctors would push the federal guidelines in prescribing drugs. We should be working on encouraging doctors to come up with some cocktail of drugs that could cure cancer or Alzheimer's disease.

SENATOR CARLTON:

I have one other concern. In the amendment in [Exhibit E](#) under section 2, how are we going to protect the public? Who would be the oversight person?

SENATOR SCHNEIDER:

These people are going to be working with drugs that probably are not approved and giving doses that push the limit of the guidelines other doctors are under. As a pilot-project facility, they would not be under those guidelines and there would be a limited number of doctors working at the hospital. This facility's guidelines would not apply to people who work at other local hospitals.

SENATOR CARLTON:

We would need to know who is licensed for the facility. I would need to feel comfortable that someone was watching and that treatment was not getting too experimental. There has to be discipline involved.

SENATOR SCHNEIDER:

I would think the facility would become very experimental. That would be my goal.

SENATOR TIFFANY:

I would like to set the record straight. The drug that saved my life was Food and Drug Administration (FDA) approved. The drug was only on the market for three to four months and that is why there was not a high level of recognition. I have a problem with opening up the barn door here for experimental drugs without a legitimate purpose. Where are the guidelines for legitimate purpose? Who would have the authority to review the physicians who would be administering those drugs?

SENATOR SCHNEIDER:

We can talk about this more. The problem with medicine today is politicians try to regulate too much. The individuals receiving the treatment have to acknowledge that they know what they are getting into.

SENATOR TIFFANY:

I am not talking about the individuals receiving the drugs. I am talking about the doctors who administer the drugs. Who is going to do their peer review for legitimate medical purpose?

SENATOR SCHNEIDER:

It would probably be whoever runs the clinic. The clinic may be associated with the University of California, Los Angeles or another university medical center. I am open to suggestions.

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SENATOR TOWNSEND:

Senator Heck can give an insight on how drugs are tested and ultimately approved.

SENATOR HECK:

Senator Schneider, in the initial bill, it was drugs that were FDA-approved. Now, I heard you say that these drugs may not be approved. Is it approved drugs and we are using them for non-approved purposes, like an off-label usage? Is that the intent? Is this for drugs that have received no FDA approval?

SENATOR SCHNEIDER:

This is for drugs that are not approved.

SENATOR HECK:

It is a lengthy process to get a drug from research and development to actually on the shelf. This includes multiple phases of trials with both mice and humans. They then need to figure out the dose, the route and conclude whether the drug really works. This is analogous to what we are working on in S.B. 29 which expands clinical trials for cancer patients for the cancer institute. It is important that we participate, and have the opportunity for our citizens to participate, in the research and development of new drugs and new therapies. This needs to be tightly controlled and regulated and done in an academic medical center and not in a freestanding facility where physicians come together and provide novel therapies, especially if we are going to say the drugs and therapies are not FDA-approved. Part of the process has to be trying to get to FDA approval and as the drug moves through each phase of its clinical development it gets FDA approval to move to the next phase. There are potential concerns if the FDA is not involved in this process and we allow physicians to make something up that they think may help a patient and they are doing it with no oversight.

[SENATE BILL 29](#): Requires policies of health insurance to provide coverage for certain treatments for cancer. (BDR 57-265)

SENATOR SCHNEIDER:

I would be open to discuss all of your concerns. We can encourage Mayor Oscar Goodman, Las Vegas, to bring in a world-class facility, make it a pilot project and help kick it off. Las Vegas could be a mecca where all the drug companies would become involved and put some money into this facility. It

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would attract the finest doctors in the world and be the next step in economic development.

SENATOR HECK:

I would be happy to work with you on this bill. The cancer institute is the next step but I do agree we need a comprehensive multidisciplinary, major academic medical center in Las Vegas. That way we would get the best and brightest doctors and our citizens would not have to go out of state for treatment.

The drug companies, for their first in-human test, usually go to medical schools and give the students stipends for participating.

SENATOR SCHNEIDER:

Once again, this bill is not to allow doctors to prescribe heroin out of the trunks of their cars. It allows them, if they come up with a cocktail of drugs that cures cancer, to be able to prescribe that drug to a patient in the clinic. I am trying to lift the lid so we can be more progressive. Medical treatment is a business and the more progressive you are in business, the better people you attract.

SENATOR HARDY:

Does anyone else want to testify on S.B. 231?

FRED. L. HILLERBY (Nevada State Board of Pharmacy):

In looking at this conceptually, we are eager to sit down with whomever in this Committee will be getting the words on paper to make this bill statutorily compliant.

LIZ MACMENAMIN (Retail Association of Nevada; Chain Drug Council):

I spoke with Senator Schneider yesterday about this bill and understand and support his concept and what he wants to accomplish. However, we have some concerns and would like to work with the subcommittee to try to present language that is workable.

SENATOR SCHNEIDER:

My concept is not a situation in which a doctor writes a prescription for a patient and the patient goes to the pharmacist and gets his prescription. In my opinion, we are talking about drugs that probably no pharmacist in the State has seen.

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MS. MACMENAMIN:

For the record, there would be pharmacists, for example nuclear, that would be working in these types of settings.

KEITH LEE (Board of Medical Examiners):

We have expressed our concerns with the bill as originally written to Senator Schneider and he is aware of them. It is an admirable goal that Senator Schneider is seeking. We are prepared to work with the subcommittee to get something workable which sets the goals Senator Schneider is trying to achieve while still protecting the general public.

CHAIR TOWNSEND:

This is a chance for the subcommittee to really get their teeth into something that is so important to the State. It will require open minds and people who are willing to try to find common ground instead of arguing over issues on which they do not agree. The appropriate regulatory mechanism put in place by the subcommittee can meet the goals set by Senator Schneider and have a positive influence in the public mind.

SENATOR SCHNEIDER:

Once again, my main goal for S.B. 231 is to establish a medical facility in Las Vegas that patients will come to instead of going out of state to seek experimental treatment. Senator Heck has indicated to me that doing something major like this for medicine is his goal also.

CHAIR TOWNSEND:

I will close the hearing on S.B. 231 and open the hearing on Assembly Bill (A.B.) 135.

ASSEMBLY BILL 135: Increases maximum annual amounts that may be assessed against certain insurers for purposes relating to investigation of insurance fraud. (BDR 57-1071)

SENATOR LEE MOVED TO DO PASS A.B. 135.

SENATOR HARDY SECONDED THE MOTION.

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THE MOTION CARRIED UNANIMOUSLY.

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CHAIR TOWNSEND:
I open the discussion on A.B. 137.

ASSEMBLY BILL 137: Revises provisions governing insurance payments in settlement of certain third-party liability claims. (BDR 57-503)

The insurance industry and trial bar realized they had a problem with this bill. I am holding the bill until they get back to us.

The meeting of the Senate Committee on Commerce and Labor is officially adjourned at 8:57 a.m.

RESPECTFULLY SUBMITTED:

Donna Winter,
Committee Secretary

APPROVED BY:

Senator Randolph J. Townsend, Chair

DATE: _____