

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Seventh Session
March 4, 2013**

The Committee on Commerce and Labor was called to order by Chairman David P. Bobzien at 1:40 p.m. on Monday, March 4, 2013, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman David P. Bobzien, Chairman
Assemblywoman Irene Bustamante Adams
Assemblywoman Maggie Carlton
Assemblyman Skip Daly
Assemblywoman Olivia Diaz
Assemblyman John Ellison
Assemblyman Jason Frierson
Assemblyman Tom Grady
Assemblyman Ira Hansen
Assemblyman Crescent Hardy
Assemblyman James W. Healey
Assemblyman William C. Horne
Assemblyman Pete Livermore
Assemblyman James Ohrenschall

COMMITTEE MEMBERS ABSENT:

Assemblywoman Marilyn K. Kirkpatrick, Vice Chairwoman (excused)



GUEST LEGISLATORS PRESENT:

Assemblywoman Ellen B. Spiegel, Clark County Assembly District No. 20

STAFF MEMBERS PRESENT:

Kelly Richard, Committee Policy Analyst
Leslie Danihel, Committee Manager
Earlene Miller, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Terry Care, representing State Board of Professional Engineers and Land Surveyors
Randall M. Long, Chairman, State Board of Professional Engineers and Land Surveyors
Glen C. Armstrong, President-elect, Nevada Association of Land Surveyors
Geoffrey Lawrence, Deputy Policy Director, Nevada Policy Research Institute
Mindy Baker, Manager, State Governmental Relations, Walgreens
Barry Gold, representing AARP Nevada
Liz MacMenamin, Vice President, Government Affairs, Retail Association of Nevada
Lawrence P. Matheis, Executive Director, Nevada State Medical Association
Rusty McAllister, representing Professional Fire Fighters of Nevada

Chairman Bobzien:

We have one BDR introduction to make.

BDR 54-978—Revises provisions governing appraisers of real estate. (Later introduced as [Assembly Bill 204](#).)

ASSEMBLYMAN FRIERSON MOVED TO INTRODUCE BDR 54-978.

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CARLTON, HORNE, AND KIRKPATRICK WERE ABSENT FOR THE VOTE.)

I will open the hearing on [Assembly Bill 94](#).

Assembly Bill 94: Revises provisions relating to the examinations for licensure as a professional engineer or professional land surveyor. (BDR 54-618)

Assemblywoman Ellen B. Spiegel, Clark County Assembly District No. 20:

Assembly Bill 94 relates to the examinations that professional engineers and land surveyors must take to obtain licensure. Under current law, they need to sit for an eight-hour examination. It does not matter how long it takes for them to complete the examination; they have to be present for eight hours. There is a move to have the examination changed from a paper examination to a computer-based examination. When that occurs, as soon as the test takers have achieved a passing score, they will be notified that they have passed. If it takes them less than eight hours, under current law they will need to sit in the chair for the duration. This bill removes the eight-hour requirement. It does not change the examination or its content.

Chairman Bobzien:

Are there any questions?

Assemblyman Ohrenschall:

It reminds me of when I took the bar exam and my tablemate left early which scared me. I am not sure we want to change this. Do you think this will affect how professional engineers and surveyors in Nevada are viewed by other jurisdictions, or will they be the same caliber?

Assemblywoman Spiegel:

Former Senator Care has been working with the engineers and land surveyors. I took a computer test to be a licensed life insurance agent in 1984, and as soon as I passed, spent the remainder of the time annoying the guy sitting next to me. There are different ways to look at these situations.

Terry Care, representing State Board of Professional Engineers and Land Surveyors:

The examination is the same nationwide. The examination is administered by the National Council of Examiners for Engineering and Surveying. Everyone will take the same examination.

Chairman Bobzien:

Are there any questions?

Assemblyman Ellison:

This is a great bill. If you can complete the examination early, you should be able to do so. Are there two parts to the examination? Is there a practical part that has to be done in the field?

Terry Care:

We are governed by *Nevada Revised Statutes* (NRS) Chapter 625. We are talking about the examination on the fundamentals. It is an eight-hour examination that currently has 180 multiple-choice questions with a pass-fail rate of about 50 percent.

Assemblywoman Diaz:

Why are the eight hours required in the statute?

Terry Care:

I could only speculate. The Board has existed since 1919.

Assemblywoman Diaz:

What is the average length of time to complete the examination?

Terry Care:

They have to sit there for eight hours. I do not know if there is any way to compute the average time needed to complete it. The estimate is that when the new system goes into effect, it will take about six hours or less to achieve a passing score. If it is impossible for a person to continue and pass the examination, the computer will inform him as well. All states hope to implement this program.

Assemblyman Daly:

Is there a time limit on how long the individual can take? Would it be better to say not more than eight hours?

Terry Care:

As literally read, that is a good point, but I do not have an answer. It has never been an issue.

Assemblyman Daly:

The way you propose to change it would give the person an unlimited amount of time to complete the examination.

Randall M. Long, Chairman, State Board of Professional Engineers and Land Surveyors:

We are estimating a six-hour seat time for the examination, but as I understand it, there will be not more than eight hours allowed. When I took my professional engineer examination, there were 200 applicants in a large room and it would have been disruptive to leave early. With computer-based testing, a person will be in a cubicle, and he will be allowed to leave when he is done. There will still be an eight-hour maximum.

Chairman Bobzien:

I think it is the intention of this Committee to have a common approach for all of the licensing entities. Do we have other licensure tests that require the eight hours?

Assemblywoman Spiegel:

I do not know the answer to your question, but I will ask the Research Division. I am willing to address Assemblyman Daly's concern to amend the bill to say either "not to exceed eight hours" or "no more than eight hours."

Chairman Bobzien:

Please ask Research the question, to determine if there is some common approach to this. I believe less is probably more here. Let us see if there is a consistent way this is addressed and how Assemblyman Daly views this after he sees that information. Are there any other questions for our panel? [There were none.] Are there others to testify in support of A.B. 94?

Glen C. Armstrong, President-elect, Nevada Association of Land Surveyors:

I am a licensed land surveyor in the state of Nevada. Our membership supports this change.

Geoffrey Lawrence, Deputy Policy Director, Nevada Policy Research Institute:

I think the proposal to remove the eight-hour time requirement is a good start in reducing the barriers to entrepreneurship and access to the job market that Nevada imposes on many people through the licensing process. The Institute for Justice in Washington, D.C., conducted a study last year that compared the states' occupational licensing laws and concluded that Nevada had some of the most onerous.

I would like to read a brief excerpt:

Nevada is among the top tier of [the] most broadly and onerously licensed states, ranking fourth. The state requires a license for 55 of the 102 occupations studied, more than all but five other states. Nevada is the most expensive state in which to work in a licensed lower- and moderate-income occupation, with average fees of \$505. It also requires an average of 601 days of education and experience and two exams, resulting in the third most burdensome licensing laws.

We think this is a good first step in changing that environment, and we are in support of this bill.

Chairman Bobzien:

Is there anyone else in support of A.B. 94? [There was no response.] Is there anyone in opposition to the bill? [There was no response.] Is there anyone to testify from a neutral position? [There was no response.] I will close the hearing on A.B. 94.

I will open the hearing on Assembly Bill 95.

Assembly Bill 95: Revises provisions governing prescription labels. (BDR 54-648)

Assemblywoman Ellen B. Spiegel, Clark County Assembly District No. 20:

Assembly Bill 95 seeks to help consumers by making it easier for them to understand what medication they are receiving. When a doctor writes a prescription, he or she typically checks a box that says the pharmacist may substitute the brand-name drug with a generic equivalent. Under the current laws in the *Nevada Revised Statutes* (NRS), when a person gets a prescription filled, the pharmacy has the option of including the original brand name. There is no consistency. People who take a lot of medications, and people who help others take medications, often find the label does not match their list of medications. The person may put together his list of medications based on the prescriptions received from his or her doctor. What is on the generic prescription label may not match what is on the list. When I helped my grandmother with her medications, she did not know the difference between the name brand and the generic name.

This bill requires the pharmacy to include the name of the drug that was originally prescribed on the prescription label so the person or his caregiver will know what they are taking. I have two conceptual amendments.

The first proposed amendment (Exhibit C) specifies that it needs to say "substituted for." That has a lot of characters, so "generic for" could be used and would fit on the label better. The other proposed change is to give the consumer the opportunity to opt out of having the brand name put on the label. There is also a proposed amendment from the Retail Association of Nevada.

Chairman Bobzien:

Are there any questions for Assemblywoman Spiegel on the bill or the amendments?

Assemblyman Daly:

How would consumers opt out?

Assemblywoman Spiegel:

I think they would do it at the pharmacy.

Assemblyman Daly:

The entire industry is trying to get people to use generic drugs. People never know what the doctor is writing on the prescription. If the consumers say they have to have the brand-name drug, they will get charged more by their insurance. There may be unintended consequences.

Assemblywoman Spiegel:

There is always that possibility when you tell consumers what drug they are getting. They may have an opinion as to what the medication is. More disclosure and transparency is better for our consumers.

Mindy Baker, Manager, State Governmental Relations, Walgreens:

We get audited regularly by the state and the individual payers. They check the prescriptions. If a physician wrote "do not substitute" and we did, we would be in trouble with the State Board of Pharmacy and there would be criminal consequences. That should not happen, and there are mechanisms in place to keep it from happening. Walgreens is in support of the conceptual amendments and the bill. We are already doing this. We get nervous when the actual language is mandated and would recommend that the language be inserted to say "substituted for" or something to that effect. We have to make the wording fit on a label and make it uniform for our entire system.

Chairman Bobzien:

That would be an additional amendment.

Assemblywoman Spiegel:

My amendment was conceptual, and I am willing to work to include that. I will work with our legal analyst to finalize the amendment.

Chairman Bobzien:

Are there any questions?

Assemblyman Ohrenschall:

With the changes, will Nevada's law be typical of what you find in other jurisdictions?

Mindy Baker:

I do not know what we do in every state, but I can find out for you. I know what we do in our "Intercom Plus," the system that connects all of our more than 8,000 stores across the country; we do not update that on a regular basis.

If the law used a specific term, we would have to update our entire system, which would take us about 18 months, and we would have to change it for the entire country. If the terms were broader, we could implement it immediately.

Barry Gold, representing AARP Nevada:

Assembly Bill 95 will help people have more information to improve their health care outcomes. People do not know what their pills are when they look at the shape and color. They do not know from the technical terms what they are. From watching television, people know certain drugs by name and what they do. Having that information on the label will help the patient and his family. It is too common that when a family member is ill, other family members find a kitchen table covered with pill bottles, and they do not know why they are used. Having the information on the label is going to provide good information to improve health care outcomes.

If someone has a sensitive or delicate medical condition that they may not want known, the opt out would be good. The brand name could be potentially embarrassing.

On behalf of the 309,000 AARP members in Nevada, we support A.B. 95 and urge the Committee to pass it.

Chairman Bobzien:

Are there any questions?

Assemblywoman Carlton:

Why does the Retail Association of Nevada support this bill and have not supported other labeling bills?

Liz MacMenamin, Vice President, Government Affairs, Retail Association of Nevada:

Some of our members told us that patients request this labeling and they have started to do it. This is good patient care. We often have a problem with so much information on the label, and those mandates have been the issue in the past. Many of our members use different language, and we have opposed mandates for specific language.

Assemblywoman Diaz:

Is this going to be a standard for anybody who dispenses medication in the state of Nevada? Will the check box be included for the companies that fill prescriptions via mail?

Assemblywoman Spiegel:

I did not contemplate that question. I will talk to people about that issue and get back to you.

Assemblywoman Diaz:

It would be useful for me to know when there is a generic substituted for a brand name. I am sure many senior citizens get their prescriptions via mail too.

Chairman Bobzien:

That may be a question for the State Board of Pharmacy; have you talked to them?

Assemblywoman Spiegel:

I have not.

Chairman Bobzien:

We will move to the next amendment.

Liz MacMenamin:

We proposed another amendment to this bill ([Exhibit D](#)). There are some concerns about current Nevada law that allows a pharmacist to fill prescriptions for only a 30-day period without calling the physician. We propose a 90-day refill, which allows the pharmacist to use his professional judgment. One of the reasons is patient non-adherence, which drives up health care costs. We desire Nevada to join 20 other states that have this law and are allowing pharmacists to use their judgment when a patient requests a three-month supply of a maintenance drug prescribed for more than three months. The pharmacist has to call the doctor to dispense the three-month supply. It is a matter of work flow. We are asking that pharmacies be able to fill a 90-day prescription, as mail-order providers do.

Mindy Baker:

This is a simple amendment to the bill. If a person goes to Walgreens and needs more than a 30-day supply of a maintenance medication, the pharmacist has to call the prescriber to get permission. This will eliminate the need to call the doctor. If your insurance will only pay for 90 days through mail order, the pharmacist may have to charge for three copays. This is not a mandate on insurers. It is only a workflow issue and says the pharmacist does not need to make a phone call. We do not need this for controlled substances. Prescriptions on controlled substances are not often written with that many refills. Most states allow for us to do this, and many states allow for more than 90 days.

Assemblyman Ellison:

Do the insurance companies dictate that you can only get a 30-day supply at a time? I have been told that I can only get larger prescriptions through mail order.

Mindy Baker:

Your insurance is telling you that you have to get them by mail. You could probably get them in the pharmacy if you are willing to pay extra copays. This amendment would not change what your insurance company will pay. They may also say that you need to pay full retail price.

Assemblywoman Diaz:

If a plan does not allow a person to get a 90-day supply at the pharmacy, would he have to pay three times the amount of the copay?

Mindy Baker:

If that is how his plan is structured. This does not change anything with the current plan's payment structure. It only changes that the pharmacist does not have to contact the prescriber to dispense. If the insurance plan says the customer has to pay three copays or one copay, the full retail price or whatever they have decided, that is still in effect.

Assemblywoman Carlton:

We get discount coupons, and I am not sure we could still be able to use those for a larger supply. That may be a glitch.

Mindy Baker:

I would recommend everybody talk to their pharmacist, because they have ways to help consumers bring their prescription costs down. This amendment would not affect payment or billing.

Assemblyman Horne:

I am still concerned about the difficulty of the pharmacist making the phone call. Would we be causing a problem with medications that are changed periodically? What if the patient gets a large supply, the doctor changes the prescription, and the patient has 60 days of the medication that he paid for and cannot return?

Mindy Baker:

You are making an assumption that they have not been on the medication for a long period of time. Most physicians are not going to prescribe 12 refills on medication that you have not been on and have an established pattern. There have been many studies on 90-day prescriptions, and I would be happy to share those with the Committee. There is always a concern about waste. The

studies determined there is not a significant concern. Ninety-day prescriptions improve adherence, and there is less of a problem with waste. It is something about which we talk and are concerned. We have agreed, and would agree, to a patient being on the medication for 30 days before he is eligible to get a 90-day supply. We have agreed to that in other places. The patient would have to have an established pattern on a medication before he can start to get multiple refills. That is in the language we presented.

Chairman Bobzien:

Are there any other questions for the panelists? [There were none.] Are there others in support of A.B. 95?

Lawrence P. Matheis, Executive Director, Nevada State Medical Association:

We support the bill. It is another in a series of bills that try to ensure that senior citizens in particular, or people with chronic conditions who have multiple prescriptions, are able to know what the prescriptions are. These bills have been presented to the Legislature for at least four or five sessions. Each is progressively "moving the ball down the field." This would be helpful in identifying the brand-name drug when a generic has been substituted. The confusion about the purpose of a drug, when you get to the average of four to seven prescriptions that are often needed once a chronic disease begins, is a principal cause of hospital readmission. It is the confusion about the drugs and not quite knowing which one should be taken at what time.

Cumulatively, these efforts should help us get control over time, as will electronic prescribing, which eliminates the error at the front end of the prescription. With electronic records, we are more able to share information about prescriptions early so the treating physician is aware of other prescriptions. That will be helpful. The conceptual amendment seems acceptable to us. The second proposed amendment is a separate subject, but we do not have any problems with it. Doctors have long been frustrated by the 30-day limit, and that amendment would resolve it. Not including controlled substances is appropriate. We are supportive of the concept and the bill.

Chairman Bobzien:

Are there any questions for Mr. Matheis? [There were none.]

Rusty McAllister, representing Professional Fire Fighters of Nevada:

We are in support of the bill presented by Assemblywoman Spiegel. For those of us providing emergency medical services, it is very beneficial to have a recognizable name of a prescription on a bottle. When we respond in a senior citizens part of Las Vegas, there may be 15 to 20 prescriptions in the home that

I do not recognize. Some pharmacies are putting the brand name that was substituted for with a generic drug on the bottle, and that is very helpful.

As the Chairman of the Las Vegas Firefighter Health and Welfare Trust, a self-insured health insurance plan for about 2,500 people, we have concerns about the amendment proposed by the Retail Association of Nevada (RAN). We encourage our members to do mail-order prescriptions through our prescription benefit manager, Express Scripts. We have a contract to get those prescriptions at a discounted rate if a 90-day supply is purchased at one time. If a pharmacy fills a prescription for 90 days and the member pays the three copays, they do not charge our trust fund the same price that our prescription benefit manager does. Our member may agree to pay the three copays for convenience. The problem is that instead of getting a bill for 90 days for \$30, the trust may get a bill for 90 days for \$300. If the pharmacy encourages the member to get 90-day prescriptions from them, that is more expensive for the trust. Anything that is an increase cost to our health insurance trust fund is a bad thing. We are barely keeping our head above water, and we cannot support anything that increases our costs.

Chairman Bobzien:

We are sorry to inform the Retail Association of Nevada that we were informed by legal counsel that the amendment is not germane to the original bill and it is not something we can consider with this legislation. Is there anyone else to testify in favor of A. B. 95? [There was no response.] Is there anyone wishing to speak in opposition to A.B. 95? [There was no response.] Is there anyone to testify from a neutral position? [There was no response.] I will close the hearing on A.B. 95. Is there any public comment? [There was none.] Are there any matters to come before the Committee? [There were none.]

The meeting is adjourned [at 2:34 p.m.].

RESPECTFULLY SUBMITTED:

Earlene Miller
Committee Secretary

APPROVED BY:

Assemblyman David P. Bobzien, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: March 4, 2013

Time of Meeting: 1:40 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 95	C	Assemblywoman Ellen Spiegel	Proposed Amendment
A.B. 95	D	Liz MacMenamin	Proposed Amendment