

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

**Seventy-Eighth Session
March 11, 2015**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair James A. Settelmeyer at 8:34 a.m. on Wednesday, March 11, 2015, in Room 2135 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 James A. Settelmeyer, Chair
Senator Patricia Farley, Vice Chair
Senator Joe P. Hardy
Senator Becky Harris
Senator Mark A. Manendo
Senator Kelvin Atkinson
Senator Pat Spearman

GUEST LEGISLATORS PRESENT:

Senator Ben Kieckhefer, Senatorial District No. 16

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Patricia Devereux, Committee Secretary

OTHERS PRESENT:

Jeanette Belz, Nevada Academy of Ophthalmology
Jennifer Stoll, Allergan, Inc.
Isaac Hearne, M.D., President, Nevada Academy of Ophthalmology
Stacy Woodbury, MPA, Executive Director, Nevada State Medical Association
Peter DeBry, M.D.
Dan Lyons, O.D., Nevada Optometric Association
Denise Selleck, Nevada Osteopathic Medical Association

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Aaron West, Builders Association of Western Nevada
Jay Parmer, Nevada Homebuilders Association, Inc.
Greg Peek, Nevada Homebuilders Association Inc.; Builders Association of
Northern Nevada
Ralph Shindler, Chief Executive Officer, Reno Iron Works
Jan Leggett, General Manager, Moana Nursery
Fred Reeder, President, Reno-Tahoe Construction

Chair Settlemeyer:

We will open the hearing on Senate Bill (S.B.) 217.

SENATE BILL 217: Revises provisions relating to policies of health insurance.
(BDR 57-836)

Senator Ben Kieckhefer (Senatorial District No. 16):

Simply put, S.B. 217 will prevent people from going blind. It prohibits certain public and private health insurance plans from denying coverage for eyedrops if multiple refills had been provided to the insured at one time or provided early. Currently, patients using medicated eyedrops face stringent restrictions on their prescriptions. This has had a devastating impact on glaucoma patients.

Glaucoma is associated with elevated pressure inside the eye, and drops are prescribed as the first choice of treatment before surgery. The drops are intended to control intraocular pressure to prevent further vision damage. Untreated or uncontrolled glaucoma may cause peripheral vision loss and lead to blindness. Glaucoma drops are dispensed via prescription, and many insurers have constructed their drug benefits to align with the frequency with which prescriptions can be filled. For example, with oral drugs, a 30-day supply is limited to the number of pills provided.

Eyedrops can cause unique issues for patients. It is difficult to put exactly one drop into your eye. Some drops land on your cheek, or you squeeze the bottle too hard and many drops come out. This often results in the prescription running out before 30 days. In turn, this may lead to a patient trying to stretch out the amount of drops or discontinuing their use until the next refill allowable under their insurance. This creates a gap in care, which can worsen the condition.

The bill will not affect insurance deductibles, co-payments or coinsurance authorized or required pursuant to the policy. It will also not be an insurance policy mandate. The prescription must already be covered by the insured's plan.

Section 13 of S.B. 217 authorizes a pharmacist to dispense multiple refills or provide early refills of eyedrops if the pharmacist believes the patient is experiencing or may experience inadvertent wastage due to the difficulty of applying the product. Jeanette Belz will present a proposed amendment ([Exhibit C](#)) to section 13. Our hope is to give Nevadans access to the drugs they need to prevent the tragedy of blindness.

Jeanette Belz (Nevada Academy of Ophthalmology):

The proposed amendment, [Exhibit C](#), to section 13 would allow for uninterrupted patient care. It would place responsibility on the prescribing practitioner, as opposed to the pharmacist, to authorize early refills of eyedrops. The prescribing practitioner would note on the prescription that early refills would be available. The amendment would also eliminate the automatic refills of a 90-day supply in section 13, subsection 1, paragraph (a). As drafted, the bill implies that someone filling the prescription was anticipating wastage. We removed that so the patient would only go back to the pharmacy when wastage had occurred.

The proposed amendment's intent is that the amount of eyedrops dispensed to patients would not exceed the amount in the original prescription. If your doctor said you could have 12 months' worth of drops, but you had wastage in the fifth month, you could not get 13, versus 12, months. When you ran out after 12 months, you would have to get a new prescription.

Jennifer Stoll (Allergan, Inc.):

You have my fact sheet on the necessity for S.B. 217 ([Exhibit D](#)). Allergan, Inc. brought forward the issues in the bill in collaboration with the optometrists and ophthalmologists of Nevada. Similar legislation is being heard throughout the Nation to improve patients' eye care health.

Insurers treat eyedrops like pills. Their system is about accounting for supplies by days. However, eyedrops are very complicated. If patients are on a mail order-mandated program, they must phone for refills, versus ordering them online because they cannot estimate the predicted days' use of the product.

The Medicare Part D prescription drug benefit has a guidance document for all Part D providers to allow for early refill of eyedrops because it is very difficult to estimate how often patients will need refills. Many seniors have trouble instilling drops due to shaking hands. This category of products should be treated differently than pills.

Senator Atkinson:

I support S.B. 217 with the proposed amendment.

Isaac Hearne, M.D. (President, Nevada Academy of Ophthalmology):

Eye doctors' primary concern is that patients are taken care of without problems with accessing glaucoma drops. Sometimes, patients get a false impression that just because they have been prescribed eyedrops they are in a safe place. We want to ensure that patients maintain close communications with physicians.

Stacy Woodbury, MPA (Executive Director, Nevada State Medical Association):

The Nevada State Medical Association supports the proposed amendment to S.B. 217. As the mother of twins, I know it is not just seniors who have problems instilling eyedrops. When pink eye went around our kindergarten class, trying to get a 6-year-old to hold his eye still for a medicinal drop was virtually impossible.

Peter DeBry, M.D.:

I am a Las Vegas glaucoma specialist. Other state legislatures have long been discussing the availability of eyedrops for patients. I see the problems addressed in S.B. 217 every day in clinical practice. I have patients who are 65, 85 or even 90 years old who must take eyedrops daily. They come into my office and have not instilled their drops for a week or two. The reasons are related to going to the pharmacy to get refills, but the pharmacist said, "I'm sorry. I can't give you more medications. Your health insurance won't pay for you to have more medicines." Patients are left with the options of paying a very high, out-of-pocket price for refills or not getting them at all. The bill is important to allow patients to get regular refills.

Dan Lyons, O.D. (Nevada Optometric Association):

The Nevada Optometric Association supports S.B. 217 and the proposed amendment.

Denise Selleck (Nevada Osteopathic Medical Association):

The Nevada Osteopathic Medical Association supports S.B. 217 and the proposed amendment.

Chair Settlemeyer:

We will close the hearing on S.B. 217 and open the hearing on S.B. 233.

SENATE BILL 233: Revises provisions relating to occupational safety. (BDR 53-990)

Aaron West (Builders Association of Western Nevada):

Senate Bill 233 will change the minimum frequency requirements for the federal Occupational Health and Safety Administration's (OSHA) 10- and 30-hour training courses (OSHA-10 and OSHA-30) from 5 to 10 years in Nevada. Although initially conceived as a voluntary program, seven states have made OSHA-10 and OSHA-30 mandatory for employees. The 10-hour program takes a minimum of 2 days to complete, and OSHA-30 a minimum of 4 days. Six of those states require the training only for public works projects. Nevada is the only state that requires it for all construction projects, public and private.

Nevada and just one other state require renewals of OSHA-10 and OSHA-30. We are the only state that mandates new hires complete the training within 15 days of hire by a contractor. Nevada's intent with training has always been to ensure job safety. While uniquely mandating an OSHA card for everyone on construction jobs has had many positive benefits, that has not been true for ongoing renewals. Once a worker receives basic safety training, continuing education does not further the goal of increased safety. Employers support the basic training and ensure that all workers have OSHA cards. However, we believe that time spent on mandated renewal training every 5 years would be better spent on specific on-the-job training relating to each discipline. Nevada has already gone miles beyond any other state in its worker safety training.

Senator Atkinson:

Do any other states require OSHA-10 and OSHA-30 renewals after 5 years?

Mr. West:

Connecticut is the only other state requiring renewals, but just for public works projects.

Senator Atkinson:

Can the renewals be accomplished online? I worked in a coroner's office for 7 years. I was my department's OSHA representative, so I had to make sure everyone did the safety training. For the coroner, it mainly involved how to handle chemicals, so it was quite simple. I could not understand why the OSHA examination included things pertaining to roofing, electrical work or laying conduit. I thought that was unnecessary.

Senator Harris:

S.B. 233's section 1, subsection 3, paragraph (a) seems just to clarify language. Continuing education in construction safety involves specific, on-the-job training, or workers can repeat OSHA-10 again. Paragraph (a) specifies that the card expires after 10 years, so could someone conceivably take the course within 10 days after being hired then take it again within their first year? Since we are talking about safety training, could you clarify that?

Mr. West:

No one wants to sit through the training then have to turn right around and do it again.

Senator Harris:

I understand that most people would not choose that option. However, I would like the *Nevada Revised Statutes* (NRS) reflect the intent that if someone chooses not to take the on-the-job safety training, they could do OSHA-10 after a year.

Mr. West:

The OSHA training requirement does not allow for any deviation for on-the-job training. Therefore, construction workers have to retake the course every 5 years.

Senator Hardy:

Does the bill attempt to supersede OSHA or meet the federal standard?

Mr. West:

The federal standard is voluntary. We are not superseding federal requirements.

Senator Hardy:

If the bill required the training every 10 years or at least 1 year after the initial training, knowing that job techniques or hazardous materials could change, would it behoove us to retain job-specific training?

Chair Settlemeyer:

Insurance companies and management develop job-specific training. Unfortunately, they do not meet requirements established by the Division of Industrial Relations pursuant to NRS 618.977. That creates the problem.

Jay Parmer (Nevada Homebuilders Association, Inc.):

The Nevada Homebuilders Association supports S.B. 233.

Greg Peek (Nevada Homebuilders Association, Inc.; Builders Association of Northern Nevada):

Safety is the utmost concern on every job site. The Nevada Homebuilders Association, Inc. and the Builders Association of Northern Nevada support the initial requirements of OSHA-10 and OSHA-30. While not always industry-specific, the courses serve a purpose. The refresher-course law is about 5 years old. I just sent my staff of about 20 people to a Saturday refresher course—for which I had to pay time-and-a-half, plus the cost of the course itself.

More importantly, the training is redundant. Between workers' compensation insurance and job-site safety education requirements, we have specific training in the homebuilding industry. With workers' compensation, we have modification (MOD) rating, which compares a company's annual losses in insurance claims against its policy premiums over a 3-year period. It is in our best financial interest to offer significant on-site training to decrease our MOD rating and, thus, our workers' compensation costs. The Committee should eliminate OSHA-10 and OSHA-30 refresher courses altogether.

Ralph Shindler (Chief Executive Officer, Reno Iron Works):

Reno Iron Works has served the northern Nevada community for more than 100 years. I serve on the Associated General Contractors of America safety committee and emergency services committee. I am the management representative for Nevada on the Joint Apprenticeship Training Council of the Iron Workers Union.

I support S.B. 233. It is our understanding that, in Nevada, the only acceptable recertification is to retake the OSHA-10 and OSHA-30 courses. Class outlines are very specific, addressing every trade or occupation in construction. Ironworker is one of the most dangerous occupations, yet just 2 out of 30 hours are devoted to our trade. The rest does not affect us. We have established internal training that should meet the continuing education provision for contractors; however, OSHA does not recognize it. Rather than spend another 15 hours retaking a 30-hour class on irrelevant things like trenching and scaffolding, I would rather have my people learn rooftop safety and control decking zones. The bill would allow us more time to do that, rather than sending them back to a class they do not need.

Senator Hardy:

Since safety is so critical, do we need to mandate the OSHA retraining at all, if it is so redundant and not applicable to all trades?

Mr. Peek:

That is the crux of the problem: the OSHA training is not specific to individual industries. It is a redundant, costly waste of time. We all offer training specific to our industries; whether it qualifies under OSHA's laws or satisfies the Commissioner of Insurance, I do not know. I only know it is in the best interest of the industries from which we have heard today to conduct internal training.

Senator Harris:

Can you describe the number of hours and types of classes that you provide for your workers, so we know how much job-specific safety training is provided?

Mr. Peek:

Are you talking about training in addition to OSHA-30?

Senator Harris:

No. How onerous is it to require employers to provide job-specific safety training? That seems to be a more productive use of everyone's time than repeated OSHA courses. How many employers within the construction industry provide their own training?

Mr. Peek:

We are homebuilders. The first thing we do with new hires is send them to an OSHA-10 course. As soon as they are on our property, if they are driving a

forklift, they go to a forklift class presented by us or an outside vendor. If they are doing scaffolding, we send them to a scaffolding class. For rooftops, we have a fall-protection program, and all workers wear harnesses. On top of those classes, we have weekly "tailgate meetings" to talk about safety and coordinating job duties. Our safety training is ongoing.

Mr. Shindler:

The ironworkers' apprenticeship training program includes 160 hours annually of classroom training, plus 700 hours on the job. Twenty-five percent of that time is devoted to safety. Every apprentice gets fork-, high- and scissor-lift safety training, plus rigging and electrical lockout/tagout training. Every time we start a project that is different from the last one, we have a job-specific safety meeting. We do bridge work, so we have a 2-hour class on water safety and retrieval from water. Workers need to be reminded about and trained in safety continuously. Doing it every 5 years does no good; 30 days after completing a class, you have forgotten most of what was in it.

Jan Leggett (General Manager, Moana Nursery):

Moana Nursery supports S.B. 233 with the caveat that the training renewals should be eliminated. Two weeks ago, more than 100 employees attended our annual safety meeting. It is very expensive for us to send people to renewal courses because we pay them for their class time and for the course itself. We also have weekly tailgate meetings that are site-specific for each crew, plus we provide regular site-specific topic information. We also have the Associated General Contractors occasionally inspect our sites. Safety is the number one aspect of our business.

Fred Reeder (President, Reno-Tahoe Construction):

Reno-Tahoe Construction is a general engineering contractor. We support S.B. 233, but share Mr. Leggett's caveat that the renewals be eliminated. We would prefer more of a contractor-controlled, site-specific, craft-specific training program. An inherent danger in my industry is trench shoring. We present an all-day class on it at least once a year for all of our employees. If you have ever been around a trench collapse and seen a dead man, it is very scary. Moana Nursery has a good safety record, and we are driven financially to maintain our MOD rating. Our general liability insurance goes up if we are an unsafe contractor.

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Chair Settlemeyer:

We will close the hearing on S.B. 233. Seeing no more business before the Senate Committee on Commerce, Labor and Energy, this meeting is adjourned at 9:08 a.m.

RESPECTFULLY SUBMITTED:

Patricia Devereux,
Committee Secretary

APPROVED BY:

Senator James A. Settlemeyer, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	4		Attendance Roster
S.B. 217	C	1	Jeanette Belz	Proposed Amendment
S.B. 233	D	1	Jennifer Stoll	Information Sheet