

Present: Wilson, Homer, Swallow, Frazzini, Hafen, Brookman, Espinosa, May and Foote.

Absent: None

Chairman Wilson introduced the following: David R. Brandsness, Las Vegas, Nevada Hospital Association; William Locke, Reno, Nevada State Board of Pharmacy; W. L. Merithew, Reno, Nevada State Board of Pharmacy; Lon Truell, Reno, Nevada State Board of Pharmacy; William R. King, M. D. Nevada State Medical Association; John W. Brophy, M. D. Nevada State Medical Association; Jack C. Buchholz, D. C.; E. M. Scrivner, D. C.; Dr. J. Montgomery, President, Chiro. Bd. Examiners;; Dr. R. W. Warburton, Reno, Nevada Secretary, State Board of Chiropractic Examiners; Nelson B. Neff: Nevada State Medical Association, Reno.

Dr. Homer commented briefly on the purposes of AB 77, which prohibits administration and prescription of drugs by chiropractors. He said that chiropractors have always paid attention to the "intent" of the law. He said that in 1967 the laws had changed regarding administration of dangerous prescriptions of narcotic drugs. (NRS 454.0) Regarding Page 2, Line 9 (g) "Administering, dispensing or prescribing any (narcotic) drug" -- Dr. Homer suggested changing to delete the word "narcotic" and change it "administer, dispense or prescribe any drug". He suggested that where this amendment refers to chiropractic physicians, this be deleted because he said, "chiropractors are not in the business to write prescriptions or prescribe drugs." He said, "the chiropractic profession", referring to the State Board of Chiropractors, "want to clean their own house and put themselves in the proper scope of practice".

Chairman Wilson then asked if the proponents of AB 77 could be heard first, and introduced William R. King, M.D., Physician and Surgeon, Carson City, for Nevada State Medical Association. Dr. King stated the Medical Association is definitely against prescribing of drugs by chiropractors, and said they have been asked to do something about this. They feel this is a problem of the chiropractors first. The Nevada Medical Association, he said, agrees with this bill in proposing to stop the prescribing of drugs by the chiropractors.

Mr. May stated that he was sure Dr. King had looked this bill over and understood it. May stated it was not only a hold to chiropractors' dispensing drugs, but, (referring to Page 1 of AB 77, Lines 15 to 17), would prevent chiropractors from piercing or severing body tissues.

Dr. Homer said Mr. McDonald deleted "in such diagnosis" and referred to the back page of the Bill, Page 4, lines 8 and 9 where he said it was back in as Line 8, "A chiropractor shall not pierce or sever any body tissue, except to draw blood for diagnostic purposes".

Mr. Bill Locke, Board of Pharmacy, said they wanted the last part of that sentence taken out.

John Montgomery, President, State Board of Chiropractic Examiners, said he had practiced in the State since 1954. He said he had never spoken before a group like this before. He said he thought it was quite unusual for a group to come asking to limit their scope. He said they feel the law is so broad it is a monster. "If this Act is approved, this would automatically throw chiropractors under certain medical practice acts". He said that, as he sees it, it would allow them to write narcotic prescriptions. He said those who are honest in their profession have to admit others are doing things that are unethical and illegal. He said, "Our law states that if you practice anything other than chiropractics, you must get a license".

Dr. Montgomery said further that Dr. Warburton had received at least 100 letters regarding chiropractors that are practicing medicine without a license. These are rebels and trouble makers. The Board members would like to encourage the Attorney General to charge these people with illegal practice, and were told to wait for the Legislature. He proposes to do something, if possible, for the chiropractors as well as the people of the State of Nevada who have a right to this. He said these men have lied, and printed material that is not true. He referred briefly to a piece of printed material put out that purported to have discovered scientific chiropractic medicines. He said there is no program in the country set up for chiropractic medicine. "This is a rebel organization", he said. He said he had material from 2 leading colleges opposing this type of advertising, and that they (the colleges) are so alarmed they (the State Board of Chiropractors) are having trouble keeping the colleges out of the issue. He said this was one isolated rebel group in the U.S. He asked if (the committee) wanted chiropractors practicing medicine, and said that as President of the State Board, he supervises and gives examinations. He said this sort of thing if not practiced at college.

Mr. Espinoza asked Dr. Montgomery what he would do if a patient came to him for treatment and was in pain. He asked if after examination, would he not believe he should be able to prescribe some kind of drug, not necessarily narcotic, to limit the pain? Dr. Montgomery answered, "My personal attitude is that the word "chiropractic" comes from the Greek word meaning "use of hands", and no place did the Greeks have a word for "use the hands to use the needle". I handle chiropractic cases as such. Otherwise, I refer it to a Medical Doctor."

Mr. Swallow asked Dr. Montgomery if in the basic schooling, they taught pharmacology and toxicology and the use of drugs? Dr. Montgomery answered yes, but mainly for treatment of sciatica. Basically, we are not taught "Materia Medica" the basic science of medics, other than that we do study the basic sciences. This is a State law. We have no choice.

Mrs. Brookman asked Dr. Montgomery if he felt that it is wrong for a chiropractor to prescribe diet and health foods. Dr. Montgomery stated that he did not. He said that Charles Pratt, General Counsel for National Vitamin Distributors Association stated that:

"If vitamins are sold as food, then they may be sold by anyone, without regard to the provisions of the Federal, Food, Drug and Cosmetic Act. If, however, vitamins are sold as drugs or medicines, making therapeutic claim for them, then such products become drugs under the legal definition of the laws and must be sold pursuant to the provisions of the federal and state food and drug laws and the licensing laws governing the profession of the doctor. (see attached)

None of the products in the nutritional field are included in or subject to control by the Durham-Humphrey Amendment (Drug) to the Federal Food, Drug and Cosmetic Act, because that Amendment relates solely to drugs as defined, and not to nutritional supplements or dietary food supplements or food products for special dietary uses".

Mr. Espinoza asked a two-part question:

1. What, aside from the basic sciences are requirements for becoming a chiropractor, and,
2. What is your educational background?

Dr. Montgomery answered:

1. 4,000 hours are required in an authorized chiropractic college, which would be equivalent to 2 years of college, and
2. He stated his first 4,000 hours were at Rose College of Chiropractic, and since then he has had approximately 38 to 40 post graduate courses in cardiology, physiology, obstetrics, gynecology, toxicology and ophthalmology.

Dr. Warburton, Reno, Nevada, then introduced himself. He said that for the past 27 years, starting in 1942, he has been a member of the State Board of Chiropractic Examiners, and secretary for 20 years. He said it has been the duty of the secretary and the 5-man board to be constantly on the alert that their men are practicing in a chiropractic field. He said two years ago he received a complaint that a man was specializing in reducing. He said "you can't just lock him up". He had received 1,000 antiphetamine tablets. "They are nothing to fool with", Dr. Warburton said, "but do have a definite place in medicine. This man admitted his secretary was overweight, but that he had

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not ordered 1,000 of the antiphetamine tablets, but they sent 1,000. The man was immediately placed on probation".

"In chiropractic, we govern certain subjects as far as they pertain to chiropractics. No one starting next year can apply for a license without having 4,000 hours of basic sciences. Our men sit right along with the Medical Doctors and take the same examination insofar as the basic sciences. They are the same pharmacology and toxicology courses that the medical doctors have, but we have no means of obtaining clinical experience in trying out these drugs. I have a stack of prescriptions written by a southern group (and apologized to the assemblymen from the south). Our men have been a little careful. They telephone these prescriptions in and they don't sign their names."

He went on to say that a good chiropractor can do more than a Medical Doctor can do. He said they are constantly trying to raise the standards of chiropractors, and assured the committee members that it is the constant aim of the chiropractors to protect the public.

Mr. Espinoza asked Dr. Warburton again, "how many hours, without interruption (of college training) does it take to become a licensed chiropractor?"

Dr. Warburton only stated that 4,000 hours is a lot of hours, and that you must have one full year in a chiropractic college. He said they do have the privilege of sending patients to medical laboratories where they will take a simple blood test and urine analysis, by request. However, he stated, there is so much we can do without stepping out of the field of chiropractics."

Mr. Espinoza said he had not intended to take the case, and again asked how many years of required study did he have to become a chiropractor, and Dr. Warburton answered, "four years".

Chairman Wilson: "You stated that you had been Secretary for 20 years. What is being done in your profession to upgrade it?"

Dr. Warburton: "Whether you are a physician, optician, dentist, etc., you cannot force a man to go back to school. I try to take one course a year in the field of chiropractic and sciatic pain. The basis of chiropractic has not changed since 1942. However, they have found new research in certain areas".

Mr. Swallow: "The fields Mr. Wilson referred to were in the field of medicine and knowledge of drugs".

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Dr. Warburton: "In 1942, in Nevada, I don't think the law required the basic sciences for a degree in chiropractic."
"To improve the quality of the chiropractor, this has been added since that time".

Espinoza: "I just want to know how long it takes----"

Dr. Warburton: "You must remember that 30 years ago, you only went to school for 18 months and learned just to adjust the spine. The curriculum has been increased, but the subject has not been increased.

Dr. Homer: "We must attend a 2-day educational seminar each year, and I do not believe there is a chiropractor in the State that does not attend other academic seminars each year".

Espinoza: "Do you have people in practice today that qualified 30 years ago, when only 18 months were needed?"

Assent by both Dr. Homer and Dr. Warburton.

Dr. Warburton: "May I add, that at that time, they could only practice on adjustment of the spinal column, and physiotherapy treatment was added after an adjustment had been made",
"and at that time, only 2 men had been trained in physio-therapy."

Dr. Warburton went on to say that the State law says that the Board must consist of 5 members, 2 who must be trained in physio-therapy. He said they have men in practice who have nothing in their offices in the way of equipment but a towel in hand. Further, he said, "we are possibly talking about men today who are writing prescriptions; who were taught to do nothing more than to adjust the spine".

Dr. Montgomery: Re upgrading of the profession. He stated great strides had been made both in America and in Europe and made reference to Polley Clinic in Oklahoma City, Oklahoma, that has even been checked out by the F.B.I., particularly in the field of cardiology, which chiropractors are now studying at that clinic and practicing.

Dr. Jack C. Buchholz, D. C., then introduced himself, as President of the State Association. Said his association is 100% back of this bill, because they feel it is needed in the interest of public health. He said that if he had a patient in his office not responding, he would send him to an orthopedist or M.D. as needed. "I believe every chiropractor who is ethical practices in this manner". Regarding drugs and prescriptions, "if you gave people who are not trained an inch, they would take a mile. The 'sleeper' that got into the Pharmaceutical Act" is a shame, and hurt many people. "I ask you, as members of this committee, to support this bill, because I believe it is right and in the interest of public health".

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Bill Lock, representing the pharmacists said he had turned many prescriptions over to the Board for everything that should not have been written.

Brookman: "Would this be the definition of malpractice? Unprofessional conduct? Are they the same?"

Dr. Warburton: "We know chiropractors and we know medical doctors that do it (practice unprofessionally), but of course, that is out of our field. We know doctors who are giving silicone breast shots and who do abortions, and you as red blooded citizens will shudder at the thought".

Swallow: "Malpractice would be issuing of prescriptions. Misconduct would be professional misconduct.

Nelson B. Neff, Nevada State Medical Association, then introduced himself. He stated that regarding raising of fees, the Nevada State Medical Association suggested from \$50 to \$75 and in cases of reciprocity - from \$75 to \$100.

Dr. Homer stated that he graduated in 1944 and had taken a 3-year course. "That 3-year course would take more hours than to graduate from the University of Nevada".

Chairman Wilson then thanked the guests and invited them to return if they thought of anything more they would like to say to the committee. He stated that he had received many telegrams regarding AB 77, and other members of the committee commented they too had received many telegrams. He said he therefore felt it would be unfair to make a decision at this date, and asked for a motion to hold this Bill over for further study.

Hafen made the motion to hold AB 77 over for further study. Frazzini then said she would like to suggest that one more time is plenty on this. She said she would strongly recommend the committee get the word around, and one more meeting only be held. Seconded by Hafen. Unanimously carried.

Chairman Wilson announced the next meeting of this committee would be held at 2:30 P.M. on Tuesday, February 4. He said at that time, a date would be selected for one more hearing on AB 77.

Senator Lamb was introduced. He announced that he would have a Health & Welfare committee visiting State Institutions from the Senate, and they would be traveling to certain Nevada Institutions; namely Spring Mountain Youth Camp, to decide what should be done about this particular facility. He said they had been asked to select a committee to go from the Assembly Health & Welfare Committee.

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Miss Foote said she thought these junkets were a misuse of the taxpayer's money, and that she thought 8 x 10 glossy prints would tell enough.

Brookman said she did not concur, and that no matter how many pictures you see, you have to see the people.

Swallow said he would like to go and would pay his own expenses. He said he had been on the committee traveling to the Caliente Girls School and talked with the girls personally in the dining hall. He said it would have been impossible to rehearse these girls ahead of time, and that the attitude at the center had greatly improved over past visits. He said they kept the Superintendent going for 2 hours. He said he thought the committee was very satisfied and highly pleased.

Hafen said he would like to accompany the committee on this trip, officially or unofficially and at his own expense or otherwise, and that he knew the Spring Mountain terrain very well.

Frazzini said she had been on the Caliente trip and she found that talking to the Superintendent does not bring out anything and that personal discussions with the girls gleaned more information.

Dr. Homer said he thought the committee should go and look for a new site. Mrs. Brookman concurred and said if they were going to look for a new site, she too would like to accompany them.

Chairman Wilson took the names of the committee members volunteering to go on the trip and said the date and time for the trip would be announced soon.

The meeting was adjourned at 4:15 P.M.

No State Court Has Prohibited The Proper Use of Dietary Food Supplements

The legal and proper use by a doctor engaged in the healing arts of vitamins, minerals, concentrated foods and foods for special dietary uses has never been restricted by a court which had before it a brief prepared by the Washington Counsel of the National Vitamin Distributors Association.

Legal and Professional Rights of Licensed Chiropractors and Others Licensed in the Healing Arts Professions to Use Vitamins, Minerals, Concentrated Foods, and Other Dietary Food Supplements.

It has come to the attention of your Washington counsel and officials of the National Vitamin Distributors Association that the health or other officials of several states are investigating the practice of chiropractors and others licensed in the healing arts field to determine whether such doctors are using in their practice products such as vitamins, minerals, concentrated foods and foods for special dietary uses.

The officials frequently file legal charges that such doctors who use such dietary food supplements to balance their patients' diet are practicing medicine without a license.

To charge chiropractors and other doctors licensed to practice in the field of healing arts, with the illegal practice of medicine is not right and proper within the meaning of the Federal Food, Drug and Cosmetic Act or the State Uniform Food and Drug laws; provided the doctor does not make any therapeutic claim that the product will cure, mitigate, prevent or diagnose any disease.

How To Sell Vitamins Legally

If vitamins are sold as food, then they may be sold by anyone, without regard to the provisions of the Federal, Food, Drug and Cosmetic Act. If, however, vitamins are sold as drugs or medicines, making therapeutic claims for them, then such products become drugs under the legal definition of the laws and must be sold pursuant to the provisions of the federal and state food and drug laws and the licensing laws governing the profession of the doctor.

None of the products in the nutritional field are included in or subject to control by the Durham-Humphrey Amendment (Drug) to the Federal Food, Drug and Cosmetic Act, because that amendment relates solely to drugs as defined, and not to nutritional supplements or dietary food supplements or food products for special dietary uses.

Legal Claims That Can Be Made For Fundamental Nutritional Supplementation

Several members of the National Vitamin Distributors Association have asked me in effect, "What can I say or claim legally for the use of nutritional supplementation in connection with the sale and distribution of my dietary food supplements?"

According to the Federal Food and Drug Law and federal and state court decisions, the following claims can be made legally in connection with the sale and distribution of food for special dietary uses such as products for fundamental nutritional supplementation which are essential in normal nutrition.

The term "Special Dietary Uses," as applied to food for man, means particular (as distinguished from general) uses of food, as follows:

1. Uses for supplying particular dietary needs which exist by reason of physical, physiological, pathological or other conditions, including but not limited to the

conditions of disease, convalescence, pregnancy, lactation, allergic hypersensitivity to food, underweight, and overweight;

2. Uses for supplying particular dietary needs which exist by reason of age, including but not limited to the ages of infancy, and overweight;
3. Uses for supplementing or fortifying the ordinary or usual diet with any vitamin, mineral, or other dietary property. Any such particular use of a food as a special dietary use, regardless of whether such food also purports to be or is represented for general use.

Vitamins and minerals that are essential in normal nutrition and necessary for proper body function are regarded as foods when they are offered for oral use in recommended intakes that are consistent with body needs for normal growth and maintenance. The use of the vitamin and/or mineral product is to supply the need that exists by reason of a dietary deficiency which causes dietary deficiency diseases. Such diseases do not exist if the person is using a balanced nutritional diet.

Information necessary in order to inform the purchaser of the value of the nutritional supplementation includes a statement of the dietary properties upon which its value for such use is based.

No therapeutic claim should be made that the nutritional product will cure, prevent, diagnose, or mitigate a disease. To claim the product will supply particular dietary needs which exist by reason of one of the conditions outlined above does not constitute making an illegal therapeutic claim for a nutritional product.

NVDA's Influence And Prestige In Washington Recognized By United States Department of Health, Education and Welfare - Federal Food and Drug Administration

This past week the officials and your Washington Counsel, at the invitation of the President's Cabinet Officer, The Secretary of Health, Education and Welfare, attended a conference to advise and discuss with the Secretary and the U.S. Commissioner of Foods and Drugs, problems relating to the protection and guidance of manufacturers and distributors of foods for special dietary uses. The discussions involved also problems of enforcement of the laws fairly and equitably. The National Vitamin Distributors Association was the only national association present representing the interests of those engaged in selling and distributing vitamins, minerals, concentrated foods and foods for special dietary uses, as distinguished from the use of drugs, medicines and pharmaceuticals. Your Washington counsel was invited to express his view upon behalf of the members of the National Vitamin Distributors Association. No punches were pulled in presenting our problems. The Secretary was most cordial and helpful and he really welcomed suggestions.

Unfair Competition Results From False Claims Made For Vitamins and Minerals

An increase in medical quackery has been evidenced by false and misleading claims for a great variety of vitamins, minerals and other food supplements. These products do have definitely a recognized place in modern nutrition and health care, including preventative procedure to maintain good health, their representation as panaceas by unscrupulous promoters has misled people who have serious medical problems to rely on products which do not actually help them. Such claims hurt the sales of honest manufacturers and distributors of such products.

Special Vitamins and Minerals Serve Useful Purpose

Special vitamin and mineral products may of course, serve a useful purpose when for some special reason, the diet requires this kind of supplement. Certainly these products in ordinary doses are not harmful in themselves, said the U.S. Secretary of Health, Education and Welfare, in a publication.

Results are Tragic When Facts are Distorted

The results can be tragic when unknowing and unscrupulous promoters distort the facts and claim benefits for their dietary food supplements far beyond the actual results - when they claim benefits against a wide variety of diseases and symptoms which may not in fact be caused by a dietary deficiency at all. The danger in the use of false and misleading claims is that people who have serious medical problems are misled by these false claims to rely on products which do not actually help them, and such people thus fail to get proper care until it is too late.

Ohio

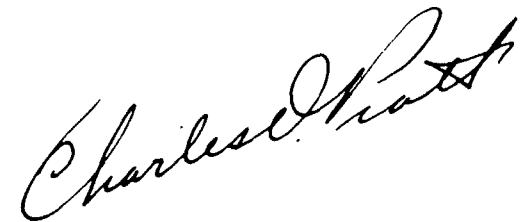
A member of NVDA has inquired of your Washington counsel, in effect, can a chiropractor in Ohio sell products which obviously are not dietary food supplements, if the products are sold without the doctor making any therapeutic claims, but merely saying the products would help to normalize the body chemistry so the doctor's treatments would be more effective. The answer is NO, if the labels on the products refer to diseases which would constitute the products under federal and state laws as "drugs" or medicines." A doctor who is not licensed to use drugs or medicines in his practice cannot with safety use such products nor can he make, in fact or by implication, therapeutic claims for products, even though they are food products. Only a dietary food supplement without therapeutic claims can be suggested by a chiropractor to normalize the patient's body.

Use Vitamins, Minerals, and Foods For Special Dietary Uses For Normalizing Body

Federal and State Laws do not prohibit the use by a chiropractor, of dietary food supplements to normalize the patient's body by overcoming the deficiency in intake of the vitamins or minerals for which given, provided no therapeutic claim is made or implied for the product.

State Legislative Program

NVDA will be available to assist doctors engaged in the healing arts professions in preparing laws and amendments to laws to broaden or protect their rights in their practices.



CHARLES O. PRATT
General Counsel

National Vitamin Distributors
Association