

HOUSE COMMERCE COMMITTEE

Minutes of Meeting
1998 First Extraordinary Session
March 30, 1998

I. CALL TO ORDER

Representative John Travis, Chairman of the House Commerce Committee, called the meeting to order at 9:15 a.m. in Committee Room 1 of the State Capitol in Baton Rouge, Louisiana.

II. ROLL CALL

MEMBERS PRESENT:

Representative John Travis,
Chairman
Representative Pete Schneider,
Vice Chairman
Representative Robert Barton
Representative Dan Flavin
Representative Mickey Frith
Representative Herman Hill
Representative Michael Michot
Representative Arthur Morrell
Representative Edwin Murray
Representative Gil Pinac
Representative Tank Powell
Representative Sharon Weston
Representative Diane Winston

MEMBERS ABSENT:

Representative Naomi Farve

III. STAFF MEMBERS PRESENT

Cindy Mancuso, Attorney
Billy Gothreaux, Research Analyst
Sandy Painting, Secretary

IV. DISCUSSION

House Bill No. 3 by Representative Bruneau

Representative Travis appeared before the committee on behalf of Representative Bruneau and due to his absence, made a motion to defer action and reschedule House Bill No. 3, which adds a member to the Louisiana State Board of Cosmetology to be appointed from the state at large. There was no objection to this motion and action was deferred on House Bill No. 3 by a vote of 9 yeas and 0 nays.

Those voting yea were Representatives Travis, Barton, Flavin, Frith, Hill, Michot, Murray, Pinac, and Powell.

House Bill No. 14 by Representative Durand

Representative Durand appeared before the committee to present House Bill No. 14, which exempts sworn police, fire, or other peace officers or emergency technicians from locksmith licensing requirements.

Mr. Margene McCoy, President, Professional Fire Fighters of Louisiana, 151 McCoy Rd., Ringgold, Louisiana 71068, (318) 894-7704, appeared before the committee in support of House Bill No. 14. He stated that in emergency situations such as a child being locked in a car, firefighters should be allowed to unlock cars and asked the committee for its support.

Mr. Buddy Hodgkins, Louisiana Sheriff's Association, 1175 Nicholson, Baton Rouge, Louisiana, (504) 343-8402, appeared before the committee in support of House Bill No. 14. He stated that in order to properly serve the people of our communities, the sheriffs should be allowed to unlock automobiles in certain cases and asked for the committee's support.

Mr. Mark Franko, President, Greater New Orleans Locksmiths' Association, 30 Cynthia St., Waggaman, Louisiana 70094, (504) 432-7079, appeared before the committee in opposition to House Bill No. 14. He stated that this legislation would allow the exempted officers or emergency technicians to have access to the locksmiths' code book which would allow them to open locked automobiles. He stated that his experience with allowing this access has caused many automobiles to be improperly opened with slim jims and has caused the doors to jam.

Mr. Lee Edwards, A Accurate Locksmiths, 6837 West Main, Houma, Louisiana 70360, (504) 851-5086, appeared before the committee in opposition to House Bill No. 14. He stated that more damage is done to automobiles by police officers using slim jims. He stated that fire deaths have been reported where vehicles were involved in accidents after police officers used slim jims causing the doors to not open from the inside. He asked the committee to vote against this legislation.

Mr. Alex Chapman, AAA Security, 26754 Highway 1032, Denham Springs, Louisiana, (504) 936-2157, appeared before the committee in opposition to House Bill No. 14. He reiterated the testimony of Mr. Franko and Mr. Edwards and asked the committee to vote against this legislation.

Representative Pinac asked about the charge to customers for unlocking a car.

Mr. Chapman stated that the charge was in the range from \$29 to \$50, depending on the situation.

Representative Hill stated that preventing law enforcement officers from being allowed to unlock

automobiles has caused a problem in his area due to the lack of locksmiths.

Representative Murray offered an amendment to House Bill No. 14 which specifies that an emergency technician is a "certified emergency medical technician". There was no objection and this amendment was adopted by a vote of 12 yeas and 0 nays. Those voting yeas were Representatives Travis, Schneider, Barton, Flavin, Frith, Hill, Michot, Murray, Pinac, Powell, Weston, and Winston.

Representative Durand stated that this legislation was just to put the law back like it was before the locksmith legislation was passed in 1997 and asked the committee for its support.

Representative Frith made a motion to report House Bill No. 14 with amendments. There was no objection and House Bill No. 14 was reported with amendments by a vote of 12 yeas and 0 nays. Those voting yeas were Representatives Travis, Schneider, Barton, Flavin, Frith, Hill, Michot, Murray, Pinac, Powell, Weston, and Winston.

House Bill No. 62 by Representative DeWitt

Representative DeWitt appeared before the committee to present House Bill No. 62, which allows for the dissolution by affidavit of certain limited liability companies. He stated that this legislation was just a housekeeping measure.

There was no further discussion on House Bill No. 62.

Representative Murray made a motion to report House Bill No. 62 favorably. There was no objection and House Bill No. 62 was reported favorably by a vote of 9 yeas and 0 nays. Those voting yeas were Representatives Travis, Schneider, Barton, Frith, Hill, Michot, Murray, Pinac, and Weston.

House Bill No. 9 by Representative DeWitt

Representative DeWitt appeared before the committee to present House Bill No. 9, which provides for a one-year extension in certain cases from the requirement that all high rise buildings be protected by a sprinkler system by January 1, 1999.

Mr. V. J. Bella, State Fire Marshal, 5150 Florida Blvd., Baton Rouge, Louisiana, (504) 925-4911, appeared before the committee for informational purposes only and asked the committee for its support.

Mr. Margene McCoy, Professional Fire Fighters of Louisiana, 151 McCoy Rd., Ringgold, Louisiana, (318) 894-7704, appeared before the committee in opposition to House Bill No. 9. He stated that his opposition was due to the safety problems caused by the lack of sprinkler systems.

Representative Murray made a motion to report House Bill No. 9 favorably. There was no objection

and House Bill No. 9 was reported favorably by a vote of 11 yeas and 0 nays. Those voting yeas were Representatives Travis, Schneider, Barton, Flavin, Frith, Hill, Michot, Murray, Pinac, Weston, and Winston.

House Bill No. 153 by Representative Donelon

Representative Donelon appeared before the committee to present House Bill No. 153, which prohibits certain clinical perfusionists, clinical perfusion companies, and health care providers from accepting or paying compensation based on efforts to sell equipment or supplies. He stated that this legislation would allow "turn key" contracts which are contracts between companies who employ the perfusionist and also supply the equipment to the hospitals for the perfusionist's use.

Representative Flavin stated that "turn key" contracts could cause problems in the hospital rooms where the proper equipment is not supplied and lives are in jeopardy.

Representative Donelon stated that he was not aware of any malpractice cases involving perfusionists.

Representative Winston stated that government did not need to be telling hospitals and doctors how to run their business.

Representative Murray asked why R.S. 51:916 was being repealed in this legislation.

Mr. Brace Godfrey, Jr., Perfusion Services, 451 Florida St., Baton Rouge, Louisiana 70801, (504) 336-5200, appeared before the committee in support of House Bill No. 153. He stated that the statute was being repealed in Title 51 and being put back in the law in Title 37.

Ms. Madeline Massengale, Baxter Corporation, 16818 Via del Campo Ct., San Diego, California 92127, (800) 348-4565, ext. 7178, appeared before the committee in support of House Bill No. 153. She displayed some equipment used by perfusionists.

Mr. Clark Cosse', Louisiana Hospital Association, 9521 Brookline Avenue, Baton Rouge, Louisiana, (504) 928-0026, appeared before the committee in support of House Bill No. 153. He stated that a majority of the medical personnel who are involved in open-heart surgery utilize the "turn-key" operation. He stated that these people do not want the legislature to mandate that they operate differently. He stated that they want the choice of either "turn-key" operation or hiring their own perfusionist and purchasing their own supplies independently. He stated that House Bill No. 153 will prevent a perfusionist from getting his pay based upon the sales of equipment or the use of equipment and only receive pay from the services provided as a perfusionist. He urged support of the legislation.

Mr. Dino Paternostro, Metropolitan Hospital Council of New Orleans, (no address provided), (504) 837-1171, appeared before the committee in support of House Bill No. 153. He reiterated the testimony of Mr. Cosse' and asked the committee for its support on House Bill No. 153.

Representative Winston stated that she did not want any obstacles in this legislation, such as business and ethics, that would prevent the best care for the patient.

Ms. Cindy Bishop, Select, P. O. Box 80053, Baton Rouge, Louisiana 70898, (504) 923-1599, appeared before the committee in opposition to House Bill No. 153. She stated that she was opposed to this legislation for two reasons, one because it is premature to take action on this legislation while a Supreme Court hearing is pending and because this legislation will probably not be enforced to the same extent it would have been had it been left under Title 51 which is the Unfair Trade Practices Act. She stated that Title 37 is the health practice standards. She stated that the legislation passed in 1997 was a straight-up prohibition, i.e., a perfusionist cannot sell the equipment and also operate the equipment. She stated that House Bill No. 153 repeals the legislation passed in 1997 and if passed, will make the Supreme Court hearing a moot point.

Mr. Michael Brandner, MBA Medical, Inc., P. O. Box 1986, Metairie, Louisiana 70004, (504) 837-1701, appeared before the committee in opposition of House Bill No. 153. He stated that Act 986 which was passed in 1997 was not about any one company but was about anti-trust, unfair trade, and the prevention of lock-outs. He stated that Act 986 separates the clinician from the sales person.

Representative Travis asked Mr. Brandner if Act 986 did away with free enterprise.

Mr. Brandner stated that, in his opinion, Act 986 did not do away with free enterprise.

Mr. Richard Carlson, Perfusionist, Select, 211 Rowland Rd., Monroe, Louisiana, (318) 343-2737, appeared before the committee in opposition to House Bill No. 153. He stated that it was important that perfusion service and the perfusion product should be separated to prohibit the possible misuse of perfusionists to basically gain market share. He stated that Act 986 specifically prohibits this from happening.

Mr. Scott Biessenberger, Clinical Perfusionist, Select, 105 Woodcrest Dr., Lafayette, Louisiana, (318) 984-9623, appeared before the committee for informational purposes only. He stated that he was opposed to House Bill No. 153 because it would prevent him from making decisions that may be best for the patient because he worked for another company. He stated that it was his responsibility to make decisions based on health care and what is best for the patient and not on what can save a few dollars.

Representative Travis asked the certified perfusionists if the current law should remain the same.

Mr. Brandner and Mr. Carlson both stated that the current law should remain the same.

Representative Murray asked what prompted this legislation.

Mr. Brandner stated that one large corporation has recently bought all of the 10 to 12 perfusion

companies across the state.

Representative Murray asked who certified perfusionists since they were not licensed and if they were required to have malpractice insurance.

Mr. Carlson stated that perfusionists were certified by the American Board of Cardiovascular Perfusionists. He stated that perfusionists are required to have malpractice insurance at a cost of approximately \$5,000 a year per person.

Ms. Cindy Mancuso, Attorney, House Commerce Committee, explained an amendment to House Bill No. 153 proposed by Representative Donelon. She stated that this amendment states that it shall be unlawful for a clinical perfusionist, employed by a contract clinical perfusion company to perform perfusion services, to accept compensation from the company directly related to the sale by the perfusionist of the perfusion supplies or equipment of the company to a health care provider for whom the company provides perfusion services, or directly related to the perfusionist's effort to sell such supplies or equipment to such health care provider. She also stated that it would also make it unlawful for the contract clinical perfusion company to pay any clinical perfusionist that it employs to perform perfusion services compensation directly related to the sale by the perfusionist. She stated that it also would make it unlawful for a clinical perfusionist, employed by any health care provider to perform perfusion services, to accept compensation from any company that sells clinical perfusion services, equipment, or supplies directly related to the sale by the perfusionist. She stated that this amendment would also make it unlawful for a health care provider to pay to any clinical perfusionist that it employs to perform perfusion services compensation directly related to the sale by the perfusionist of the perfusion supplies.

Representative Schneider made a motion to adopt the above set of amendments. There was no objection and these amendments were adopted by a vote of 13 yeas and 0 nays. Those voting yeas were Representatives Travis, Schneider, Barton, Flavin, Frith, Hill, Michot, Morrell, Murray, Pinac, Powell, Weston, and Winston.

Ms. Mancuso explained another amendment to House Bill No. 153 proposed by Representative Donelon. She stated that this amendment would state that any person who violates the provisions of R.S. 37:3703 shall be subject to the penalties enumerated in the Unfair Trade Practices and Consumer Protection Law.

Representative Schneider made a motion to adopt this amendment. There was no objection and this amendment was adopted by a vote of 13 yeas and 0 nays. Those voting yeas were Representatives Travis, Schneider, Barton, Flavin, Frith, Hill, Michot, Morrell, Murray, Pinac, Powell, Weston, and Winston.

Mr. John Richard Motley, Houma Heart Technologies, Inc., 300 Liberty St., Houma, Louisiana 70369, (504) 851-0254, appeared before the committee in support of House Bill No. 153 and shared

Representative Donelon's closing. He stated that the most important decision he makes is for the best care of the patient.

Mr. Paul Webb, Baxter Perfusionist Services, 1500 Broadway St., New Orleans, Louisiana 70118, (504) 865-7410, appeared before the committee in support of House Bill No. 153 and shared Representative Donelon's closing. He also stated that the patient's care was his utmost and foremost concern.

Representative Pinac made a motion to defer action on House Bill No. 153. There was no objection and action was deferred on House Bill No. 153 by a vote of 13 yeas and 0 nays. Those voting yeas were Representatives Travis, Schneider, Barton, Flavin, Frith, Hill, Michot, Morrell, Murray, Pinac, Powell, Weston, and Winston.

House Bill No. 58 by Representative J. R. Smith

Representative Travis appeared before the committee on behalf of Representative J. R. Smith to present House Bill No. 58 which provides relative to sales and leases of certain land by the State Licensing Board for Contractors.

Representative Travis stated that there was no opposition to House Bill No. 58.

There was no further discussion on House Bill No. 58.

Representative Powell made a motion to report House Bill No. 58 favorably. There was no objection and House Bill No. 58 was reported favorably by a vote of 13 yeas and 0 nays. Those voting yeas were Representatives, Travis, Schneider, Barton, Flavin, Frith, Hill, Michot, Morrell, Murray, Pinac, Powell, Weston, and Winston.

V. OTHER BUSINESS

The committee adopted the current existing committee rules for the 1998 Extraordinary Session and the 1998 Regular Session.

VI. ANNOUNCEMENTS

There were no announcements.

VII. ADJOURNMENT

There being no further business, the meeting was adjourned at 11:35 a.m.

Respectfully submitted,

John Travis, Chairman

Date Approved: _____