ASSEMBLY BILL NO. 415–ASSEMBLYMAN LEE

MARCH 16, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to pharmacy. (BDR 54-104)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets [~~omitted material~~] is material to be omitted.

AN ACT relating to pharmacy; requiring the state board of pharmacy to adopt regulations relating to the electronic transmission or transmission by a facsimile machine of certain prescriptions from a practitioner to a pharmacist for the dispensing of a drug; requiring an applicant for registration as an intern pharmacist to be enrolled in a college of pharmacy or department of pharmacy of a university approved by the board; prohibiting the board from issuing a private reprimand to the holder of a certificate, license or permit issued by the board; providing for the issuance of uniform identification cards and devices to process claims for prescription drugs or devices; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

A pharmacy or insurer may provide to a practitioner a computer or any other electronic device, including, without limitation, any software or equipment required for the computer or device if the computer or other electronic device is capable of transmitting data to any pharmacy in this state.

Sec. 2. NRS 639.0745 is hereby amended to read as follows:

639.0745 1. The board may adopt regulations concerning [~~:~~

~~(a) The~~] ***the*** transfer of information between pharmacies relating to prescriptions.

[~~(b)~~] ***2.*** The ***board shall adopt regulations concerning the*** electronic transmission and the transmission by a facsimile machine of a prescription from a practitioner to a pharmacist for the dispensing of a drug.

[~~2.~~] ***The regulations must establish procedures to:***

(a) Ensure the security and confidentiality of the data that is transmitted between:

(1) The practitioner and the pharmacy;

(2) The practitioner and an insurer of the person for whom the prescription is issued; and

(3) The pharmacy and an insurer of the person for whom the prescription is issued.

(b) Protect the identity of the practitioner to prevent misuse of the identity of the practitioner or other fraudulent conduct related to the electronic transmission of a prescription.

(c) Verify the authenticity of a signature that is produced:

(1) By the computer or other electronic device; or

(2) Manually by the practitioner.

(d) Establish requirements for electronic transmission of or transmission by facsimile machine of a prescription for a controlled substance listed in schedule II if federal law authorizes such a prescription to be transmitted in such a manner.

3. The board shall adopt regulations governing the exchange of information between pharmacists and practitioners relating to prescriptions filled by the pharmacists for persons who are suspected of:

(a) Misusing prescriptions to obtain excessive amounts of drugs.

(b) Failing to use a drug in conformity with the directions for its use or taking a drug in combination with other drugs in a manner that could result in injury to that person.

The pharmacists and practitioners shall maintain the confidentiality of the information exchanged pursuant to this subsection.

Sec. 3. NRS 639.137 is hereby amended to read as follows:

639.137 1. Any person who is not a registered pharmacist, but who is employed in this state for the purpose of fulfilling the requirements of paragraph (d) of subsection 1 of NRS 639.120 to become eligible for registration as a pharmacist, shall register with the board as an intern pharmacist. An applicant, to be eligible for registration as an intern pharmacist, must ~~[have completed a minimum of 1 year]~~ ***be enrolled*** in a college of pharmacy or a department of pharmacy of a university approved by the board or be a graduate of a foreign school and pass an examination for foreign graduates approved by the board. The application must be made on a form furnished by the board.

2. The secretary of the board, upon approval of the application, shall issue a certificate of registration authorizing the applicant to undergo practical pharmaceutical training under the direct and immediate supervision of a registered pharmacist. ***The period of validity of the certificate of registration, including any renewal, must not exceed 4 years after the date of issue.*** The certificate of registration authorizes the holder, if acting under the direct and immediate supervision of a registered pharmacist, to perform ~~[the]~~ ***:***

(a) The duties of a registered pharmacist ***as authorized by regulation of the board;*** and ~~[to perform other]~~

(b) Other activities as authorized by regulation of the board. ~~[The period of validity of the certificate of registration, including any renewal, must not exceed 4 years after the date of issue.]~~

3. The certificate of registration must be posted as required by NRS 639.150.

4. Any certificate of registration issued pursuant to the provisions of this section may be suspended, terminated or revoked by the board for:

(a) Any reason set forth in this chapter as grounds for the suspension or revocation of any certificate, license or permit; or

(b) The failure of the registered pharmacist whose name appears on the certificate of registration to provide adequate training and supervision for the intern pharmacist in compliance with regulations adopted by the board.

Sec. 4. NRS 639.2353 is hereby amended to read as follows:

639.2353 1. A prescription must be given:

(a) Directly from the practitioner to a pharmacist;

(b) Indirectly by means of an order signed by the practitioner;

(c) By an oral order transmitted by an agent of the practitioner; or

(d) ~~[By]~~ ***Except as otherwise provided in subsection 5, by*** electronic transmission or transmission by a facsimile machine***, including, without limitation, transmissions made from a facsimile machine to another facsimile machine, a computer equipped with a facsimile modem to a facsimile machine or a computer to another computer,*** pursuant to the regulations of the board.

2. A written prescription must contain:

(a) The name and signature of the practitioner, and his address if not immediately available to the pharmacist;

(b) The classification of his license;

(c) His registration number assigned by the Drug Enforcement Administration if the prescription is for a controlled substance;

(d) The name of the patient, and his address if not immediately available to the pharmacist;

(e) The name, strength and quantity of the drug or drugs prescribed;

(f) Directions for use; and

(g) The date of issue.

3. The directions for use must be specific in that they indicate the portion of the body to which the medication is to be applied or, if to be taken into the body by means other than orally, the orifice or canal of the body into which the medication is to be inserted or injected.

4. Each written prescription must be written in such a manner that any registered pharmacist would be able to dispense it. A prescription must be written in Latin or English and may include any character, figure, cipher or abbreviation which is generally used by pharmacists and practitioners in the writing of prescriptions.

5. A prescription for a controlled substance must not be given by electronic transmission or transmission by a facsimile machine unless authorized by federal law.

Sec. 5. NRS 639.255 is hereby amended to read as follows:

639.255 1. The holder of any certificate, license or permit issued by the board, whose default has been entered or who has been heard by the board and found guilty of the violations alleged in the accusation, may be disciplined by the board by one or more of the following methods:

(a) Suspending judgment;

(b) Placing the certificate, license or permit holder on probation;

(c) Suspending the right of a certificate holder to practice, or the right to use any license or permit, for a period not to exceed 1 year;

(d) Revoking the certificate, license or permit;

(e) Public ~~[or private]~~ reprimand;

(f) Imposition of a fine not to exceed $1,000 for each count of the accusation; or

(g) Requiring the certificate, license or permit holder to pay all costs incurred by the board relating to the discipline of the person.

2. Such action by the board is final, except that the propriety of such action is subject to review upon questions of law by a court of competent jurisdiction.

Sec. 6. NRS 453.385 is hereby amended to read as follows:

453.385 1. Each prescription for a controlled substance listed in schedule II must be written on a separate prescription blank or as an order on the chart of a patient. The chart of a patient may be used to order multiple prescriptions for that patient.

2. A prescription for a controlled substance must contain:

(a) The name of the practitioner, his signature if the prescription was not transmitted orally and his address if not immediately available to the pharmacist;

(b) The classification of his license;

(c) His registration number from the Drug Enforcement Administration if it is not immediately available to the pharmacist;

(d) The name of the patient, and his address if not immediately available to the pharmacist;

(e) The name, strength and quantity of the drug or drugs prescribed;

(f) Directions for use; and

(g) The date of issue.

3. A prescription for a controlled substance listed in:

(a) Schedule III, IV or V must be signed by the practitioner pursuant to the regulations of the board and may be preprinted or written by an agent of the practitioner, or may be transmitted electronically or by a facsimile machine from the practitioner to a pharmacy pursuant to the regulations of the board.

(b) Schedule II must be written and signed entirely by hand by the practitioner who issued it, except that:

(1) The addresses of the patient and the practitioner may be added by the pharmacist.

(2) The name of the practitioner, his address and the classification of his license must be preprinted on the prescription form.

(3) The registration number of the practitioner assigned by the Drug Enforcement Administration may be preprinted on the prescription form.

(4) The prescription may be transmitted by the practitioner or an agent of the practitioner to a pharmacy by a facsimile machine if the original written prescription is presented to the pharmacist for review before the dispensing of the controlled substance, except that:

(I) If the controlled substance is to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular,

subcutaneous or intraspinal infusion, the transmission from the facsimile machine shall be deemed to be the original written prescription.

(II) If the controlled substance is prescribed for a resident of a facility for long-term care, the transmission from the facsimile machine shall be deemed to be the original written prescription and must be maintained in accordance with 21 C.F.R. § 1304.04(h).

(5) If authorized by federal law, a prescription transmitted electronically is not required to be written and signed entirely by hand by the practitioner who issued the prescription.

4. Directions for use must be specific in that they must indicate the portion of the body to which the medication is to be applied, or, if to be taken into the body by means other than orally, the orifice or canal of the body into which the medication is to be inserted or injected.

Sec. 7. Chapter 679B of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a health care plan that provides coverage for prescription drugs or devices issues a single identification card or other device to an insured that contains information solely needed to process a claim for a prescription drug or device, the card or other device must conform to the requirements of the National Council for Prescription Drug Programs set forth in the NCPDP Pharmacy ID Card Implementation Guide that are consistent with applicable regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as they may be amended from time to time, or must contain at least the following elements:

(a) The name or logo of the administrator issuing the card or device.

(b) The insured's identification number, which must be displayed on the front side of the card or device.

(c) The name and address of the administrator to which prescription claims that are not processed electronically or correspondence should be sent.

(d) The telephone number that providers may call for assistance concerning pharmacy benefits.

(e) Complete information concerning routing of electronic transactions, including, without limitation, the international identification number and, if required by the administrator to process the claim, the processing control number and group number.

(f) Any other information required for proper administration of the claim.

The information on the card or device must be arranged in a manner that corresponds both in content and form to the content and form required by the plan to process the claim.

2. An identification card or other device issued to an insured pursuant to this section must be revised and reissued to the insured if the information contained on the card or device is rendered inaccurate by any change in:

(a) The coverage provided under the health care plan;

(b) The applicable requirements of the NCPDP Pharmacy ID Card Implementation Guide; or

(c) Any of the elements required to be included on the card or device pursuant to this section.

A new card or device must be issued upon enrollment and updated as required to comply with the provisions of this section. A card or device may be updated for not more than 1 year by issuing a sticker or other technology approved by the commissioner in lieu of replacing the card or device.

3. An identification card or other device that is issued or reissued to an insured pursuant to this section must:

(a) Contain information regarding coverage; and

(b) Conform to the requirements approved by the commissioner,

in effect at the time the card or device is issued or reissued.

4. The commissioner shall adopt such regulations as are necessary to carry out the provisions of this section.

5. As used in this section:

(a) "Administrator" has the meaning ascribed to it in NRS 683A.025, and includes a pharmacy benefits manager.

(b) "Health care plan" means a policy, contract, certificate or agreement offered by an insurer, health maintenance organization or prepaid limited health service organization to provide for, deliver payment for, arrange for the payment of, pay for or reimburse any of the costs of health care services. The term does not include:

(1) Coverage that is only for accident or disability income insurance, or any combination thereof.

(2) Credit insurance.

(3) Coverage that is only for a specified disease or illness.

(4) Dental or vision benefits that are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of a health care plan.

(5) Coverage issued as a supplement to liability insurance.

(6) Coverage for medical payments under a policy of automobile or homeowners' insurance.

(7) Coverage for benefits that are payable without regard to fault and that are statutorily required to be included in a policy of liability insurance or equivalent self-insurance.

(8) Hospital income or indemnity insurance.

Sec. 8. The provisions of section 7 of this act do not apply to the division of health care financing and policy of the department of human resources or a person providing prescription drug benefits in a health care program provided by contract with the division until the division becomes capable of producing a card or other device that meets the requirements of that section. The director of the department of human resources shall issue an order requiring compliance with section 7 of this act when the division produces such a card or device.

Sec. 9. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 6, inclusive, of this act, become effective on October 1, 2001.

3. Section 7 of this act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2003, for all other purposes.

4. Section 8 of this act becomes effective on January 1, 2003.