SENATE BILL NO. 397–SENATORS WIENER, MATHEWS, NEAL, RAWSON, CARE, MCGINNESS, PORTER AND SHAFFER

MARCH 19, 2001

Referred to Committee on Human Resources and Facilities

SUMMARY—Prohibits certain acts related to drugs and Internet pharmacies. (BDR 40-102)

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

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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 drugs; prohibiting certain acts related to drugs and Internet pharmacies; prohibiting practitioners and other persons from prescribing prescription drugs under certain circumstances; providing the attorney general with jurisdiction to prosecute certain acts related to drugs and Internet pharmacies; revising various provisions related to controlled substances and other substances and drugs; requiring the state board of pharmacy to adopt certain regulations related to Internet pharmacies; providing penalties; 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 453 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Dangerous drug" has the meaning ascribed to it in NRS 454.201.***

Sec. 4. ***1. "Illegal Internet pharmacy" means a person located within or outside this state who is not licensed and certified by the board pursuant to chapter 639 of NRS to engage in the practice of pharmacy via the Internet and who knowingly:***

(a) Uses or attempts to use the Internet, in whole or in part, to communicate with or obtain information from another person; and

(b) Uses or attempts to use such communication or information, in whole or in part, to:

(1) Fill or refill a prescription for a prescription drug for the other person; or

(2) Deliver or cause, allow or aid in the delivery of a controlled substance, imitation controlled substance, counterfeit substance or prescription drug to the other person.

2. The term does not include a person who is authorized by the provisions of NRS 453.011 to 453.552, inclusive, and sections 2 to 12, inclusive, of this act to dispense or distribute, unless the person is acting outside of that authorization.

Sec. 5. *"Imitation controlled substance" has the meaning ascribed to it in NRS 453.332.*

Sec. 6. *1. "Internet" means:*

(a) The computer network commonly known as the Internet and any other computer network that is similar to or is a predecessor or successor of the Internet; and

(b) Any identifiable site on the Internet or such other computer network.

2. The term includes, without limitation:

(a) A website or other similar site on the World Wide Web;

(b) A site that is identifiable through a Uniform Resource Location;

(c) A site on a computer network that is owned, operated, administered or controlled by a provider of Internet service;

(d) An electronic bulletin board;

(e) A list server;

(f) A newsgroup; or

(g) A chat room.

Sec. 7. *"Prescription drug" means:*

1. A controlled substance or dangerous drug that may be dispensed to an ultimate user only pursuant to a lawful prescription; and

2. Any other substance or drug substituted for such a controlled substance or dangerous drug.

Sec. 8. *For the purposes of sections 2 to 12, inclusive, of this act, a person has "reasonable cause to believe" if, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, a reasonable person would believe, under those facts and circumstances, that an act, transaction, event, situation or condition exists, is occurring or has occurred.*

Sec. 9. *The provisions of sections 2 to 12, inclusive, of this act do not apply to a person who is:*

1. A common or contract carrier or warehouseman, or an employee thereof, unless the person is acting outside of the usual course of his business or employment and knows or has reasonable cause to believe that the act or transaction is unlawful.

2. The intended recipient of a substance or drug, unless the intended recipient knows or has reasonable cause to believe that the act or transaction is unlawful.

Sec. 10. *1. A person who is located within this state and who owns, operates, controls, profits from or is employed or paid by an illegal Internet pharmacy shall not:*

(a) Fill or refill a prescription for a prescription drug for another person located within or outside this state; or

(b) Deliver or cause, allow or aid in the delivery of a controlled substance, imitation controlled substance, counterfeit substance or prescription drug to another person located within or outside this state.

2. A person who is located outside this state, who owns, operates, controls, profits from or is employed or paid by an illegal Internet pharmacy and who knows or has reasonable cause to believe that another person is located within this state shall not:

(a) Fill or refill a prescription for a prescription drug for the other person; or

(b) Deliver or cause, allow or aid in the delivery of a controlled substance, imitation controlled substance, counterfeit substance or prescription drug to the other person.

3. A person shall not knowingly aid another person in any act or transaction that violates the provisions of this section.

4. Except as otherwise provided in subsection 5, a person who violates the provisions of this section is guilty of a category C felony and shall be punished as provided in NRS 193.130.

5. A person who violates the provisions of this section is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than $100,000, if the substance or drug involved:

(a) Is classified in schedule I; or

(b) Proximately causes substantial bodily harm to or the death of the intended recipient of the substance or drug or any other person.

6. The court shall not grant probation to or suspend the sentence of a person punished pursuant to subsection 5.

7. A person may be prosecuted, convicted and punished for a violation of this section whether or not the person is prosecuted, convicted or punished for a violation of any other statute based upon the same act or transaction.

Sec. 11. *1. A practitioner who is located within this state shall not prescribe a prescription drug for another person located within or outside this state if:*

(a) The practitioner has not physically examined the other person within the 6 months immediately preceding the date on which the prescription is issued; and

(b) The practitioner knows or has reasonable cause to believe that an illegal Internet pharmacy will fill the prescription or otherwise use the prescription to deliver or cause, allow or aid in the delivery of the prescription drug to the other person.

2. A practitioner who is located outside this state and who knows or has reasonable cause to believe that another person is located within this state shall not prescribe a prescription drug for the other person if:

(a) The practitioner has not physically examined the other person within the 6 months immediately preceding the date on which the prescription is issued; and

(b) The practitioner knows or has reasonable cause to believe that an illegal Internet pharmacy will fill the prescription or otherwise use the prescription to deliver or cause, allow or aid in the delivery of the prescription drug to the other person.

3. A person who is located outside this state, who is licensed by another jurisdiction to prescribe prescription drugs and who knows or has reasonable cause to believe that another person is located within this state shall not prescribe a prescription drug for the other person if:

(a) The person has not physically examined the other person within the 6 months immediately preceding the date on which the prescription is issued; and

(b) The person knows or has reasonable cause to believe that an illegal Internet pharmacy will fill the prescription or otherwise use the prescription to deliver or cause, allow or aid in the delivery of the prescription drug to the other person.

4. A person shall not knowingly aid another person in any act or transaction that violates the provisions of this section.

5. Except as otherwise provided in subsection 6, a practitioner or any other person who violates the provisions of this section is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. A practitioner or any other person who violates the provisions of this section is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than $100,000, if the substance or drug involved:

(a) Is classified in schedule I; or

(b) Proximately causes substantial bodily harm to or the death of the intended recipient of the substance or drug or any other person.

7. The court shall not grant probation to or suspend the sentence of a practitioner or any other person punished pursuant to subsection 6.

8. A practitioner or any other person may be prosecuted, convicted and punished for a violation of this section whether or not the practitioner or person is prosecuted, convicted or punished for violating any other specific statute based upon the same act or transaction.

Sec. 12. *1. The attorney general has concurrent jurisdiction with the district attorneys of this state for the enforcement of the provisions of sections 2 to 12, inclusive, of this act.*

2. The attorney general may investigate and prosecute a practitioner or any other person who violates the provisions of:

(a) Sections 2 to 12, inclusive, of this act; and

(b) Any other statute if the violation is committed by the practitioner or person in the course of committing a violation described in paragraph (a).

3. When acting pursuant to this section, the attorney general may commence his investigation and file a criminal action without leave of court, and the attorney general has exclusive charge of the conduct of the prosecution.

Sec. 13. NRS 453.146 is hereby amended to read as follows:

453.146 1. The board shall administer the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** and may add substances to or delete or reschedule all substances enumerated in schedules I, II, III, IV and V by regulation.

2. In making a determination regarding a substance, the board shall consider the following:

(a) The actual or relative potential for abuse;

(b) The scientific evidence of its pharmacological effect, if known;

(c) The state of current scientific knowledge regarding the substance;

(d) The history and current pattern of abuse;

(e) The scope, duration and significance of abuse;

(f) The risk to the public health;

(g) The potential of the substance to produce psychic or physiological dependence liability; and

(h) Whether the substance is an immediate precursor of a controlled substance.

3. The board may consider findings of the federal Food and Drug Administration or the Drug Enforcement Administration as prima facie evidence relating to one or more of the determinative factors.

4. After considering the factors enumerated in subsection 2 **,** the board shall make findings with respect thereto and adopt a regulation controlling the substance if it finds the substance has a potential for abuse.

5. The board shall designate as a controlled substance a steroid or other product which is used to enhance athletic performance, muscle mass, strength or weight without medical necessity. The board may not designate as a controlled substance an anabolic steroid which is:

(a) Expressly intended to be administered through an implant to cattle, poultry or other animals; and

(b) Approved by the Food and Drug Administration for such use.

Sec. 14. NRS 453.211 is hereby amended to read as follows:

453.211 1. The board shall:

(a) Review the schedules annually and maintain a list of current schedules.

(b) Upon the revision of a schedule, cause a copy of the revised schedule to be sent to each district attorney, public defender and judge in the State of Nevada.

(c) Make copies of the list of current schedules available to members of the public upon request. The board may charge a reasonable fee for providing the copies.

2. Failure to publish revised schedules is not a defense in any administrative or judicial proceeding under NRS 453.011 to 453.552, inclusive ~~[.]~~ ***, and sections 2 to 12, inclusive, of this act.***

Sec. 15. NRS 453.2182 is hereby amended to read as follows:

453.2182 If a substance is designated, rescheduled or deleted as a controlled substance pursuant to federal law, the board shall similarly treat the substance pursuant to the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** after the expiration of 60 days from publication in the Federal Register of a final order

designating a substance as a controlled substance or rescheduling or deleting a substance or from the date of issuance of an order of temporary scheduling under Section 508 of the federal Dangerous Drug Diversion Control Act of 1984 ***,*** ~~[(]~~ 21 U.S.C. § 811(h) ***,*** ~~[),]~~ unless within the 60-day period, the board or an interested party objects to the treatment of the substance. If no objection is made, the board shall adopt, without making the determinations or findings required by ***subsections 1 to 4, inclusive, of NRS 453.146 or*** NRS 453.166, 453.176, 453.186, 453.196 ~~[, 453.206 or subsections 1 to 4, inclusive, of NRS 453.146,]~~ ***or 453.206,*** a final regulation treating the substance. If an objection is made, the board shall make a determination with respect to the treatment of the substance as provided by subsections 1 to 4, inclusive, of NRS 453.146. Upon receipt of an objection to the treatment by the board, the board shall publish notice of the receipt of the objection, and action by the board is stayed until the board adopts a regulation as provided by subsection 4 of NRS 453.146.

Sec. 16. NRS 453.219 is hereby amended to read as follows:

453.219 A controlled substance analog, to the extent intended for human consumption, must be treated, for the purposes of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** as a substance included in schedule I. Within 30 days after the initiation of prosecution with respect to a controlled substance analog by indictment or information, the district attorney shall notify the board of information relevant to scheduling by extraordinary regulation as provided for in NRS 453.2184. If the board finally determines, that the controlled substance analog should not be scheduled, no prosecution relating to that substance as a controlled substance analog may be commenced or continued.

Sec. 17. NRS 453.233 is hereby amended to read as follows:

453.233 Upon the conviction of any person required to be registered under the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** of violation of any federal or state law relating to any controlled substance, the prosecuting attorney shall cause copies of the judgment of conviction to be sent to the board and to any other licensing agency by whom the convicted person has been licensed or registered under the laws of the State of Nevada to engage in the practice of his business or profession.

Sec. 18. NRS 453.246 is hereby amended to read as follows:

453.246 Persons registered to dispense controlled substances pursuant to the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** shall keep records and maintain inventories in conformance with the recordkeeping and inventory requirements of state and federal law and with any additional regulations the board issues.

Sec. 19. NRS 453.271 is hereby amended to read as follows:

453.271 Any officer or employee of the division designated by his appointing authority may:

1. Carry firearms in the performance of his official duties;
2. Execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas and summonses issued under the authority of this state;

3. Make arrests without warrant for any offense under the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** committed in his presence, or if he has probable cause to believe that the person to be arrested has committed or is committing a violation of such sections which may constitute a felony;

4. Make seizures of property pursuant to the provisions of NRS 453.011 to 453.552, inclusive ~~[;]~~ ***, and sections 2 to 12, inclusive, of this act;*** or

5. Perform other law enforcement duties as the division designates.

Sec. 20. NRS 453.276 is hereby amended to read as follows:

453.276 The board ***or the attorney general*** may bring an action to enjoin any act which would be in violation of the provisions of this chapter. Such an action must be commenced in the district court for the county in which the act is to occur and must be in conformity with Rule 65 of the Nevada Rules of Civil Procedure, except that the board ***or the attorney general*** is not required to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable damage or loss. The action must be brought in the name of the State of Nevada.

Sec. 21. NRS 453.281 is hereby amended to read as follows:

453.281 1. It is not necessary for the state to negate any exemption or exception in the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** in any complaint, information, indictment or other pleading or in any trial, hearing or other proceeding under such sections. The burden of proof of any exemption or exception is upon the person claiming it.

2. In the absence of proof that a person is ***the*** duly authorized holder of an appropriate registration or order form issued under the provisions of NRS 453.011 to 453.552, inclusive, ~~[he]~~ ***and sections 2 to 12, inclusive, of this act:***

(a) The person is presumed not to be the holder of the registration or form ~~[.]~~ ***; and***

(b) The burden of proof is upon ~~[him]~~ ***the person*** to rebut the presumption.

3. No liability is imposed by the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** upon any authorized state, county or municipal officer engaged in the lawful performance of his duties.

Sec. 22. NRS 453.286 is hereby amended to read as follows:

453.286 All final determinations, findings and conclusions of the board or division under the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** are final and conclusive decisions of the matters involved. Any person aggrieved by the decision is entitled to judicial review of the decision in the manner provided by chapter 233B of NRS. Findings of fact by the board or division, if supported by substantial evidence, are conclusive.

Sec. 23. NRS 453.301 is hereby amended to read as follows:

453.301 The following are subject to forfeiture pursuant to NRS 179.1156 to 179.119, inclusive:

1. All controlled substances which have been manufactured, distributed, dispensed or acquired in violation of the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** or a law of any other jurisdiction which prohibits the same or similar conduct.

2. All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing or exporting any controlled substance in violation of the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** or a law of any other jurisdiction which prohibits the same or similar conduct.

3. All property which is used, or intended for use, as a container for property described in subsections 1 and 2.

4. All books, records and research products and materials, including formulas, microfilm, tapes and data, which are used, or intended for use, in violation of the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** or a law of any other jurisdiction which prohibits the same or similar conduct.

5. All conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, concealment, manufacture or protection, for the purpose of sale, possession for sale or receipt of property described in subsection 1 or 2.

6. All drug paraphernalia as defined by NRS 453.554 which are used in violation of NRS 453.560, 453.562 or 453.566 or a law of any other jurisdiction which prohibits the same or similar conduct, or of an injunction issued pursuant to NRS 453.558.

7. All imitation controlled substances which have been manufactured, distributed or dispensed in violation of the provisions of NRS 453.332 ***or sections 2 to 12, inclusive, of this act*** or a law of any other jurisdiction which prohibits the same or similar conduct.

8. All real property and mobile homes used or intended to be used by any owner or tenant of the property or mobile home to facilitate a violation of the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act,*** except NRS 453.336, or used or intended to be used to facilitate a violation of a law of any other jurisdiction which prohibits the same or similar conduct as prohibited in NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act,*** except NRS 453.336. As used in this subsection, "tenant" means any person entitled, under a written or oral rental agreement, to occupy real property or a mobile home to the exclusion of others.

9. Everything of value furnished or intended to be furnished in exchange for a controlled substance in violation of the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** or a law of any other jurisdiction which prohibits the same or similar conduct, all proceeds traceable to such an exchange, and all other property used or intended to be used to facilitate a violation of the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act,*** except NRS 453.336, or used or intended to be used to facilitate a

violation of a law of any other jurisdiction which prohibits the same or similar conduct as prohibited in NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act,*** except NRS 453.336. If an amount of cash which exceeds $300 is found in the possession of a person who is arrested for a violation of NRS 453.337 or 453.338, then there is a rebuttable presumption that the cash is traceable to an exchange for a controlled substance and is subject to forfeiture pursuant to this subsection.

10. All firearms, as defined by NRS 202.253, which are in the actual or constructive possession of a person who possesses or is consuming, manufacturing, transporting, selling or under the influence of any controlled substance in violation of the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** or a law of any other jurisdiction which prohibits the same or similar conduct.

11. All computer hardware, equipment, accessories, software and programs that are in the actual or constructive possession of a person who owns, operates, controls, profits from or is employed or paid by an illegal Internet pharmacy and who violates the provisions of sections 2 to 12, inclusive, of this act or a law of any other jurisdiction which prohibits the same or similar conduct.

Sec. 24. NRS 453.305 is hereby amended to read as follows:

453.305 1. Whenever a person is arrested for violating any of the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act,*** except NRS 453.336, and real property or a mobile home occupied by him as a tenant has been used to facilitate the violation, the prosecuting attorney responsible for the case shall cause to be delivered to the owner of the property or mobile home a written notice of the arrest.

2. Whenever a person is convicted of violating any of the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act,*** except NRS 453.336, and real property or a mobile home occupied by him as a tenant has been used to facilitate the violation, the prosecuting attorney responsible for the case shall cause to be delivered to the owner of the property or mobile home a written notice of the conviction.

3. The notices required by this section must:

(a) Be written in language which is easily understood;

(b) Be sent by certified or registered mail, return receipt requested, to the owner at his last known address;

(c) Be sent within 15 days after the arrest occurs or judgment of conviction is entered against the tenant, as the case may be;

(d) Identify the tenant involved and the offense for which he has been arrested or convicted; and

(e) Advise the owner that:

(1) The property or mobile home is subject to forfeiture pursuant to NRS ~~[453.301 and]~~ 179.1156 to 179.119, inclusive, ***and 453.301*** unless the tenant, if convicted, is evicted;

(2) Any similar violation by the same tenant in the future may also result in the forfeiture of the property unless the tenant has been evicted;

(3) In any proceeding for forfeiture based upon such a violation he will, by reason of the notice, be deemed to have known of and consented to the unlawful use of the property or mobile home; and

(4) The provisions of NRS 40.2514 and 40.254 authorize the supplemental remedy of summary eviction to facilitate his recovery of the property or mobile home upon such a violation and provide for the recovery of any reasonable attorney's fees he incurs in doing so.

4. Nothing in this section shall be deemed to preclude the commencement of a proceeding for forfeiture or the forfeiture of the property or mobile home, whether or not the notices required by this section are given as required, if the proceeding and forfeiture are otherwise authorized pursuant to NRS ~~[453.301 and]~~ 179.1156 to 179.119, inclusive ~~[.]~~ ***, and 453.301.***

5. As used in this section, "tenant" means any person entitled under a written or oral rental agreement to occupy real property or a mobile home to the exclusion of others.

Sec. 25. NRS 453.311 is hereby amended to read as follows:

453.311 1. Controlled substances listed in schedule I:

(a) That are possessed, transferred, sold or offered for sale in violation of the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** are contraband and shall be seized and summarily forfeited to the state.

(b) Which are seized or come into the possession of the state, the owners of which are unknown, are contraband and shall be summarily forfeited to the state.

2. Species of plants from which controlled substances in schedules I and II may be derived which have been planted or cultivated in violation of the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the state.

3. The failure, upon demand by the division or other law enforcement agency, or the authorized agent of either, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

Sec. 26. NRS 453.326 is hereby amended to read as follows:

453.326 1. It is unlawful for a person:

(a) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under the provisions of NRS 453.011 to 453.552, inclusive ~~[;]~~ ***, and sections 2 to 12, inclusive, of this act;***

(b) To refuse an entry into any premises for any inspection authorized by the provisions of NRS 453.011 to 453.552, inclusive ~~[;]~~ ***, and sections 2 to 12, inclusive, of this act;*** or

(c) Knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft or other structure or place which is resorted to by persons using controlled substances in violation of the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** for the purpose of using these substances, or which is used for keeping or selling them in violation of those sections.

2. A person who violates this section is guilty of a category C felony and shall be punished as provided in NRS 193.130.

Sec. 27. NRS 453.3363 is hereby amended to read as follows:

453.3363 1. If a person who has not previously been convicted of any offense pursuant to NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** or pursuant to any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant or hallucinogenic substances tenders a plea of guilty, guilty but mentally ill, nolo contendere or similar plea to a charge pursuant to NRS 453.336, 453.411 or 454.351, or is found guilty of one of those charges, the court, without entering a judgment of conviction and with the consent of the accused, may suspend further proceedings and place him on probation upon terms and conditions that must include attendance and successful completion of an educational program or, in the case of a person dependent upon drugs, of a program of treatment and rehabilitation pursuant to NRS 453.580.

2. Upon violation of a term or condition, the court may enter a judgment of conviction and proceed as provided in the section pursuant to which the accused was charged. Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, upon violation of a term or condition, the court may order the person to the custody of the department of prisons.

3. Upon fulfillment of the terms and conditions, the court shall discharge the accused and dismiss the proceedings against him. A nonpublic record of the dismissal must be transmitted to and retained by the division of parole and probation of the department of motor vehicles and public safety solely for the use of the courts in determining whether, in later proceedings, the person qualifies under this section.

4. Except as otherwise provided in subsection 5, discharge and dismissal under this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the person discharged, in the contemplation of the law, to the status occupied before the arrest, indictment or information. He may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, indictment, information or trial in response to an inquiry made of him for any purpose. Discharge and dismissal under this section may occur only once with respect to any person.

5. A professional licensing board may consider a proceeding under this section in determining suitability for a license or liability to discipline for misconduct. Such a board is entitled for those purposes to a truthful answer from the applicant or licensee concerning any such proceeding with respect to him.

Sec. 28. NRS 453.346 is hereby amended to read as follows:

453.346 1. If a violation of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** is a violation of a federal law or the law of another state, a conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

2. The provisions of subsection 1 ~~[shall not apply to]~~ ***do not*** prohibit any licensing board within this state from proceeding administratively to suspend or revoke any certificate, license or permit held by any person who has been convicted of a violation of any federal or state controlled substance law.

Sec. 29. NRS 453.381 is hereby amended to read as follows:

453.381 1. In addition to the limitations imposed by NRS 453.256 ~~[,]~~ ***and sections 2 to 12, inclusive, of this act,*** a physician, physician assistant, dentist or podiatric physician may prescribe or administer controlled substances only for a legitimate medical purpose and in the usual course of his professional practice, and he shall not prescribe, administer or dispense a controlled substance listed in schedule II for himself, his spouse or his children except in cases of emergency.

2. A veterinarian, in the course of his professional practice only, and not for use by a human being, may prescribe, possess and administer controlled substances, and he may cause them to be administered by a veterinary technician under his direction and supervision.

3. A euthanasia technician, within the scope of his license, and not for use by a human being, may possess and administer sodium pentobarbital.

4. A pharmacist shall not fill an order which purports to be a prescription if he has reason to believe that it was not issued in the usual course of the professional practice of a physician, physician assistant, dentist, podiatric physician or veterinarian.

5. Any person who has obtained from a physician, physician assistant, dentist, podiatric physician or veterinarian any controlled substance for administration to a patient during the absence of the physician, physician assistant, dentist, podiatric physician or veterinarian shall return to him any unused portion of the substance when it is no longer required by the patient.

6. A manufacturer, wholesale supplier or other person legally able to furnish or sell any controlled substance listed in schedule II shall not provide samples of such a controlled substance to registrants.

7. A salesman of any manufacturer or wholesaler of pharmaceuticals shall not possess, transport or furnish any controlled substance listed in schedule II.

8. A person shall not dispense a controlled substance in violation of a regulation adopted by the board.

Sec. 30. NRS 453.541 is hereby amended to read as follows:

453.541 The criminal sanction provided in NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** does not apply to that plant of the genus Lophophora commonly known as peyote when such drug is used as the sacrament in religious rites of any bona fide religious organization.

Sec. 31. NRS 453.551 is hereby amended to read as follows:

453.551 All agents or inspectors of the board or division, peace officers, ***and the attorney general,*** district attorneys and their deputies while investigating violations of the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** in performance of their official duties, and any person working under their immediate direction, supervision or instruction are immune from prosecution under the provisions of such sections for acts which would otherwise be unlawful under such provisions but which are reasonably necessary in the performance of their official duties.

Sec. 32. NRS 453.552 is hereby amended to read as follows:

453.552 1. Any penalty imposed for violation of NRS 453.011 to 453.551, inclusive, ***and sections 2 to 12, inclusive, of this act*** is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.

2. Any violation of the provisions of NRS 453.011 to 453.551, inclusive, ***and sections 2 to 12, inclusive, of this act,*** where no other penalty is specifically provided, is a misdemeanor.

Sec. 33. NRS 453.553 is hereby amended to read as follows:

453.553 1. In addition to any criminal penalty imposed for a violation of the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act,*** any person who unlawfully sells, manufactures, delivers or brings into this state, possesses for sale or participates in any way in a sale of a controlled substance listed in schedule I, II or III ***or who engages in any act or transaction in violation of the provisions of sections 2 to 12, inclusive, of this act*** is subject to a civil penalty for each violation. This penalty must be recovered in a civil action, brought in the name of the State of Nevada by the attorney general or by any district attorney in a court of competent jurisdiction.

2. As used in this section and NRS 453.5531, 453.5532 and 453.5533:

(a) "Each violation" includes a continuous or repetitive violation arising out of the same act.

(b) "Sell" includes exchange, barter, solicitation or receipt of an order, transfer to another for sale or resale and any other transfer for any consideration or a promise obtained directly or indirectly.

(c) "Substitute" means a substance which:

(1) Was manufactured by a person who at the time was not currently registered with the Secretary of Health and Human Services; and

(2) Is an imitation of or intended for use as a substitute for a substance listed in schedule I, II or III.

Sec. 34. NRS 453.5531 is hereby amended to read as follows:

453.5531 1. The State of Nevada is entitled **,** in a civil action brought pursuant to NRS 453.553 involving marijuana, to a civil penalty in an amount:

(a) Not to exceed $350,000, if the quantity involved is 100 pounds or more, but less than 2,000 pounds.

(b) Not to exceed $700,000, if the quantity involved is 2,000 pounds or more, but less than 10,000 pounds.

(c) Not to exceed $1,000,000, if the quantity involved is 10,000 pounds or more.

2. The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving a controlled substance, except marijuana, which is listed in schedule I or a substitute therefor, to a civil penalty in an amount:

(a) Not to exceed $350,000, if the quantity involved is 4 grams or more, but less than 14 grams.

(b) Not to exceed $700,000, if the quantity involved is 14 grams or more, but less than 28 grams.

(c) Not to exceed $1,000,000, if the quantity involved is 28 grams or more.

3. The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving a controlled substance which is listed in schedule II or III or a substitute therefor, to a civil penalty in an amount:

(a) Not to exceed $350,000, if the quantity involved is 28 grams or more, but less than 200 grams.

(b) Not to exceed $700,000, if the quantity involved is 200 grams or more, but less than 400 grams.

(c) Not to exceed $1,000,000, if the quantity involved is 400 grams or more.

4. Unless a greater civil penalty is authorized by another provision of this section, the State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving any act or transaction in violation of the provisions of sections 2 to 12, inclusive, of this act, to a civil penalty in an amount not to exceed $350,000.

Sec. 35. NRS 453.5533 is hereby amended to read as follows:

453.5533 1. A civil action brought pursuant to NRS 453.553 must be brought within 3 years after the conduct in violation of the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** occurs.

2. Such a civil action is not barred by a prior acquittal of the defendant in a criminal action arising out of the same ***act,*** transaction or occurrence. A final judgment or decree rendered in favor of the state in any criminal proceeding arising out of the same ***act,*** transaction or occurrence estops the defendant in a subsequent civil action from denying the essential allegations of the criminal offense.

Sec. 36. NRS 453.570 is hereby amended to read as follows:

453.570 The amount of a controlled substance needed to sustain a conviction of a person for an offense prohibited by the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** is that amount necessary for identification as a controlled substance by a witness qualified to make such identification.

Sec. 37. NRS 453.575 is hereby amended to read as follows:

453.575 1. If a defendant pleads guilty or guilty but mentally ill to, or is found guilty of, any violation of this chapter and an analysis of a controlled substance ***or other substance or drug*** was performed in relation to his case, the ~~[justice or judge]~~ ***court*** shall include in the sentence an order that the defendant pay the sum of $60 as a fee for the analysis of the controlled substance ~~[.]~~ ***or other substance or drug.***

2. Except as otherwise provided in this subsection, any money collected for such an analysis must not be deducted from, and is in addition to, any fine otherwise imposed by the ~~[justice or judge]~~ ***court*** and must be:

(a) Collected from the defendant before or at the same time that the fine is collected.

(b) Stated separately in the judgment of the court or on the court's docket.

3. The money collected pursuant to subsection 1 in any district, municipal or justice's court must be paid by the clerk of the court to the county or city treasurer, as appropriate, on or before the fifth day of each month for the preceding month.

4. The board of county commissioners of each county shall by ordinance create in the county treasury a fund to be designated as the fund for forensic services. The governing body of each city shall create in the city treasury a fund to be designated as the fund for forensic services. Upon receipt, the county or city treasurer, as appropriate, shall deposit any fee for the analyses of controlled substances ***or other substances or drugs*** in the fund. The money from such deposits must be accounted for separately within the fund.

5. Except as otherwise provided in subsection 6, each month the treasurer shall, from the money credited to the fund pursuant to subsection 3, pay any amount owed for forensic services and deposit any remaining money in the county or city general fund, as appropriate.

6. In counties which do not receive forensic services under a contract with the state, the money deposited in the fund for forensic services pursuant to subsection 4 must be expended, except as otherwise provided in this subsection:

(a) To pay for the analyses of controlled substances ***or other substances or drugs*** performed in connection with criminal investigations within the county;

(b) To purchase and maintain equipment to conduct these analyses; and

(c) For the training and continuing education of the employees who conduct these analyses.

Money from the fund must not be expended to cover the costs of analyses conducted by, equipment used by or training for employees of an analytical laboratory not registered with the Drug Enforcement Administration of the United States Department of Justice.

Sec. 38. NRS 40.2514 is hereby amended to read as follows:

40.2514 A tenant of real property or a mobile home for a term less than life is guilty of an unlawful detainer when he:

1. Assigns or sublets the leased premises contrary to the covenants of the lease;

2. Commits or permits waste thereon;

3. Sets up or carries on therein or thereon any unlawful business;

4. Suffers, permits or maintains on or about the premises any nuisance; or

5. Violates any of the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act,*** except NRS 453.336, therein or thereon,

and remains in possession after service upon him of 3 days' notice to quit.

Sec. 39. NRS 40.254 is hereby amended to read as follows:

40.254 Except as otherwise provided by specific statute, in addition to the remedy provided in NRS 40.251 and in NRS 40.290 to 40.420, inclusive, when the tenant of a dwelling unit which is subject to the provisions of chapter 118A of NRS, part of a low-rent housing program operated by a public housing authority, a mobile home or a recreational vehicle is guilty of an unlawful detainer, the landlord is entitled to the summary procedures provided in NRS 40.253 except that:

1. Written notice to surrender the premises must:

(a) Be given to the tenant in accordance with the provisions of NRS 40.280;

(b) Advise the tenant of the court that has jurisdiction over the matter; and

(c) Advise the tenant of his right to contest the notice by filing within 5 days an affidavit with the court that has jurisdiction over the matter that he is not guilty of an unlawful detainer.

2. The affidavit of the landlord or his agent submitted to the justice's court or the district court must contain:

(a) The date when the tenancy commenced, the term of the tenancy, and, if any, a copy of the rental agreement.

(b) The date when the tenancy or rental agreement allegedly terminated.

(c) The date when the tenant became subject to the provisions of NRS 40.251 to 40.2516, inclusive, together with any supporting facts.

(d) The date when the written notice was given, a copy of the notice and a statement that notice was served in accordance with NRS 40.280.

(e) A statement that the claim for relief was authorized by law.

3. If the tenant is found guilty of unlawful detainer as a result of his violation of any of the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act,*** except NRS 453.336, the landlord is entitled to be awarded any reasonable attorney's fees incurred by the landlord or his agent as a result of a hearing, if any, held pursuant to subsection 6 of NRS 40.253 wherein the tenant contested the eviction.

Sec. 40. NRS 179.1164 is hereby amended to read as follows:

179.1164 1. Except as otherwise provided in subsection 2, the following property is subject to seizure and forfeiture in a proceeding for forfeiture:

(a) Any proceeds attributable to the commission or attempted commission of any felony.

(b) Any property or proceeds otherwise subject to forfeiture pursuant to NRS 179.121, 200.760, 202.257, 453.301 or 501.3857.

2. Property may not, to the extent of the interest of any claimant, be declared forfeited by reason of an act or omission shown to have been committed or omitted without the knowledge, consent or willful blindness of the claimant.

3. Unless the owner of real property or a mobile home:

(a) Has given the tenant notice to surrender the premises pursuant to NRS 40.254 within 90 days after the owner receives notice of a conviction pursuant to subsection 2 of NRS 453.305; or

(b) Shows the court that he had good cause not to evict the tenant summarily pursuant to NRS 40.254,

the owner of real property or a mobile home used or intended for use by a tenant to facilitate any violation of the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act,*** except NRS 453.336, is disputably presumed to have known of and consented to that use if the notices required by NRS 453.305 have been given in connection with another such violation relating to the property or mobile home. The holder of a lien or encumbrance on the property or mobile home is disputably presumed to have acquired his interest in the property for fair value and without knowledge or consent to such use, regardless of when the act giving rise to the forfeiture occurred.

Sec. 41. Chapter 639 of NRS is hereby amended by adding thereto the provisions set forth as sections 42 and 43 of this act.

Sec. 42. ***1. "Internet pharmacy" means a person located within or outside this state who knowingly:***

(a) Uses or attempts to use the Internet, in whole or in part, to communicate with or obtain information from another person; and

(b) Uses or attempts to use such communication or information, in whole or in part, to fill or refill a prescription or otherwise engage in the practice of pharmacy.

2. As used in this section, "Internet" has the meaning ascribed to it in section 6 of this act.

Sec. 43. ***1. In addition to the requirements set forth in this chapter and any other specific statute, an Internet pharmacy located:***

(a) Within this state, shall not fill or refill a prescription or otherwise engage in the practice of pharmacy for a person located within or outside this state unless the Internet pharmacy is certified by the board.

(b) Outside this state, shall not fill or refill a prescription or otherwise engage in the practice of pharmacy for a person located within this state unless the Internet pharmacy is certified by the board.

2. The board shall adopt regulations prescribing standards for certifying an Internet pharmacy. The standards adopted by the board may be based upon standards adopted by the National Association of Boards of Pharmacy or some other association or organization that provides standards for certifying an Internet pharmacy.

3. The board shall post on a website or other Internet site that is operated or administered by or on behalf of the board:

(a) A list of Internet pharmacies certified by the board; and

(b) Any other information relating to Internet pharmacies that the board deems relevant.

Sec. 44. NRS 639.001 is hereby amended to read as follows:

639.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 639.0015 to 639.016, inclusive, ***and section 42 of this act*** have the meanings ascribed to them in those sections.

Sec. 45. NRS 639.012 is hereby amended to read as follows:

639.012 1. "Pharmacy" means every store or shop licensed by the board where drugs, controlled substances, poisons, medicines or chemicals are stored or possessed, or dispensed or sold at retail, or displayed for sale at retail, or where prescriptions are compounded or dispensed.

2. "Pharmacy" includes:

(a) Pharmacies owned or operated by the State of Nevada and political subdivisions and municipal corporations therein.

(b) Institutional pharmacies.

(c) Pharmacies in correctional institutions.

(d) Nuclear pharmacies.

(e) Internet pharmacies.

Sec. 46. NRS 639.070 is hereby amended to read as follows:

639.070 1. The board may:

(a) Adopt such regulations, not inconsistent with the laws of this state, as are necessary for the protection of the public, appertaining to the practice of pharmacy and the lawful performance of its duties.

(b) Adopt regulations requiring that prices charged by retail pharmacies for drugs and medicines which are obtained by prescription be posted in the pharmacies and be given on the telephone to persons requesting such information.

(c) Adopt regulations, not inconsistent with the laws of this state, authorizing the secretary to issue certificates, licenses and permits required by ***this chapter and*** chapters 453 and 454 of NRS **.** ~~[and this chapter.]~~

(d) Adopt regulations governing the dispensing of poisons, drugs, chemicals and medicines.

(e) Regulate the practice of pharmacy.

(f) Regulate the sale and dispensing of poisons, drugs, chemicals and medicines.

(g) Regulate the means of recordkeeping and storage, handling, sanitation and security of drugs, poisons, medicines, chemicals and devices, including, but not limited to, requirements relating to:

(1) Pharmacies, institutional pharmacies and pharmacies in correctional institutions;

(2) Drugs stored in hospitals; and

(3) Drugs stored for the purpose of wholesale distribution.

(h) Examine and register, upon application, pharmacists and other persons who dispense or distribute medications whom it deems qualified.

(i) Charge and collect necessary and reasonable fees for its services, other than those specifically set forth in this chapter.

(j) Maintain offices in as many localities in the state as it finds necessary to carry out the provisions of this chapter.

(k) Employ an attorney, inspectors, investigators and other professional consultants and clerical personnel necessary to the discharge of its duties.

(l) Enforce the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to 12, inclusive, of this act*** and enforce the provisions of ***this chapter and*** chapter 454 of NRS **.** ~~[and this chapter.]~~

(m) Adopt regulations concerning the information required to be submitted in connection with an application for any license, certificate or permit required by this chapter or chapter 453 or 454 of NRS.

(n) Adopt regulations concerning the education, experience and background of a person who is employed by the holder of a license or permit issued pursuant to this chapter and who has access to drugs and devices.

(o) Adopt regulations concerning the use of computerized mechanical equipment for the filling of prescriptions.

(p) Participate in and expend money for programs that enhance the practice of pharmacy.

2. This section does not authorize the board to prohibit open-market competition in the advertising and sale of prescription drugs and pharmaceutical services.

Sec. 47. NRS 639.2328 is hereby amended to read as follows:

639.2328 1. Every pharmacy located outside Nevada that provides mail order service to or solicits or advertises for orders for drugs available with a prescription from a resident of Nevada must be licensed by the board.

2. To be licensed or to renew a license, a pharmacy located outside Nevada must:

(a) Be licensed by the state in which its dispensing facilities are located.

(b) Comply with all applicable federal laws, regulations and standards.

(c) Submit an application in the form furnished by the board.

(d) Provide the following information to the board:

(1) The name and address of the owner;

(2) The location of the pharmacy;

(3) The name of the pharmacist who is the managing pharmacist; and

(4) Any other information the board deems necessary.

(e) Pay the fee required by regulation of the board.

(f) Submit evidence satisfactory to the board that the facility, records and operation of the pharmacy comply with the laws and regulations of the state in which the pharmacy is located.

(g) Submit certification satisfactory to the board that the pharmacy complies with all lawful requests and directions from the regulatory board or licensing authority of the state in which the pharmacy is located relating to the shipment, mailing or delivery of drugs.

(h) Be certified by the board pursuant to section 43 of this act if the pharmacy operates an Internet pharmacy.

3. In addition to the requirements of subsection 2, the board may require that the pharmacy located outside of Nevada be inspected by the board.

Sec. 48. NRS 639.235 is hereby amended to read as follows:

639.235 1. No person other than a practitioner holding a license to practice his profession in this state may prescribe or write a prescription, except that a prescription written by a person not licensed to practice in this state but authorized by the laws of another state to prescribe shall be deemed to be a legal prescription ~~[.]~~ ***unless the person prescribed or wrote***

the prescription in violation of the provisions of sections 2 to 12, inclusive, of this act.

2. If a prescription ***that*** is prescribed by a person who is not licensed to practice in this state ***,*** but is authorized by the laws of another state to prescribe, calls for a controlled substance listed in:

(a) Schedule II, the registered pharmacist who is to fill the prescription shall establish and document that the prescription is authentic and that a bona fide relationship between the patient and the person prescribing the controlled substance did exist when the prescription was written.

(b) Schedule III or IV, the registered pharmacist who is to fill the prescription shall establish, in his professional judgment, that the prescription is authentic and that a bona fide relationship between the patient and the person prescribing the controlled substance did exist when the prescription was written. This paragraph does not require the registered pharmacist to inquire into such a relationship upon the receipt of each such prescription.

Sec. 49. Section 12 of Senate Bill No. 52 of this session is hereby amended to read as follows:

Sec. 12. NRS 453.381 is hereby amended to read as follows:

453.381 1. In addition to the limitations imposed by NRS 453.256 and sections 2 to 12, inclusive, of ***Senate Bill No. 397 of*** this ~~[act,]~~ ***session,*** a physician, physician assistant, dentist ***, advanced practitioner of nursing*** or podiatric physician may prescribe or administer controlled substances only for a legitimate medical purpose and in the usual course of his professional practice, and he shall not prescribe, administer or dispense a controlled substance listed in schedule II for himself, his spouse or his children except in cases of emergency.

2. A veterinarian, in the course of his professional practice only, and not for use by a human being, may prescribe, possess and administer controlled substances, and he may cause them to be administered by a veterinary technician under his direction and supervision.

3. A euthanasia technician, within the scope of his license, and not for use by a human being, may possess and administer sodium pentobarbital.

4. A pharmacist shall not fill an order which purports to be a prescription if he has reason to believe that it was not issued in the usual course of the professional practice of a physician, physician assistant, dentist, ***advanced practitioner of nursing,*** podiatric physician or veterinarian.

5. Any person who has obtained from a physician, physician assistant, dentist, ***advanced practitioner of nursing,*** podiatric physician or veterinarian any controlled substance for administration to a patient during the absence of the physician, physician assistant, dentist, ***advanced practitioner of nursing,*** podiatric physician or veterinarian shall return to him any unused portion of the substance when it is no longer required by the patient.

6. A manufacturer, wholesale supplier or other person legally able to furnish or sell any controlled substance listed in schedule II shall not provide samples of such a controlled substance to registrants.

7. A salesman of any manufacturer or wholesaler of pharmaceuticals shall not possess, transport or furnish any controlled substance listed in schedule II.

8. A person shall not dispense a controlled substance in violation of a regulation adopted by the board.

Sec. 50. Section 89 of Senate Bill No. 91 of this session is hereby repealed.

Sec. 51. The amendatory provisions of this act do not apply to offenses committed before July 1, 2001.

Sec. 52. 1. This section and sections 1 to 28, inclusive, and 30 to 51, inclusive, of this act become effective on July 1, 2001.

2. Section 29 of this act becomes effective at 12:01 a.m. on July 1, 2001.

TEXT OF REPEALED SECTION

Section 89 of Senate Bill No. 91 of this session:

Sec. 89. Section 12 of Senate Bill No. 52 of this session is hereby amended to read as follows:

Sec. 12. NRS 453.381 is hereby amended to read as follows:

453.381 1. In addition to the limitations imposed by NRS 453.256, a physician, physician assistant, dentist ***, advanced practitioner of nursing*** or podiatric physician may prescribe or administer controlled substances only for a legitimate medical purpose and in the usual course of his professional practice, and he shall not prescribe, administer or dispense a controlled substance listed in schedule II for himself, his spouse or his children except in cases of emergency.

2. A veterinarian, in the course of his professional practice only, and not for use by a human being, may prescribe, possess and administer controlled substances, and he may cause them to be administered by a veterinary technician under his direction and supervision.

3. A euthanasia technician, within the scope of his license, and not for use by a human being, may possess and administer sodium pentobarbital.

4. A pharmacist shall not fill an order which purports to be a prescription if he has reason to believe that it was not issued in the usual course of the professional practice of a physician, physician assistant, dentist, ***advanced practitioner of nursing,*** podiatric physician or veterinarian.

5. Any person who has obtained from a physician, physician assistant, dentist, ***advanced practitioner of nursing,*** podiatric

physician or veterinarian any controlled substance for administration to a patient during the absence of the physician, physician assistant, dentist, ***advanced practitioner of nursing,*** podiatric physician or veterinarian shall return to him any unused portion of the substance when it is no longer required by the patient.

6. A manufacturer, wholesale supplier or other person legally able to furnish or sell any controlled substance listed in schedule II shall not provide samples of such a controlled substance to registrants.

7. A salesman of any manufacturer or wholesaler of pharmaceuticals shall not possess, transport or furnish any controlled substance listed in schedule II.

8. A person shall not dispense a controlled substance in violation of a regulation adopted by the board.