

Senate Bill No. 52--Committee on Commerce and Labor

CHAPTER.....

AN ACT relating to advanced practitioners of nursing; authorizing an advanced practitioner of nursing to prescribe controlled substances under certain circumstances; 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. NRS 632.237 is hereby amended to read as follows:

632.237 1. The board may grant a certificate of recognition as an advanced practitioner of nursing to a registered nurse who has completed an educational program designed to prepare a registered nurse to:

(a) Perform designated acts of medical diagnosis;
(b) Prescribe therapeutic or corrective measures; and
(c) Prescribe *controlled substances*, poisons, dangerous drugs and devices,
and who meets the other requirements established by the board for such certification.

2. An advanced practitioner of nursing may:

(a) Engage in selected medical diagnosis and treatment; and
(b) If authorized pursuant to NRS 639.2351, prescribe *controlled substances*, poisons, dangerous drugs and devices,
pursuant to a protocol approved by a collaborating physician. A protocol must not include and an advanced practitioner of nursing shall not engage in any diagnosis, treatment or other conduct which the advanced practitioner of nursing is not qualified to perform.

3. The board shall adopt regulations:

(a) Specifying the training, education and experience necessary for certification as an advanced practitioner of nursing.
(b) Delineating the authorized scope of practice of an advanced practitioner of nursing.
(c) Establishing the procedure for application for certification as an advanced practitioner of nursing.

Sec. 2. NRS 639.0125 is hereby amended to read as follows:

639.0125 "Practitioner" means:

1. A physician, dentist, veterinarian or podiatric physician who holds a ~~valid~~ license to practice his profession in this state;

2. A hospital, pharmacy or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer drugs in the course of professional practice or research in this state;

3. An advanced practitioner of nursing who has been authorized to prescribe *controlled substances*, poisons, dangerous drugs and devices; or

4. A physician's assistant who:

(a) Holds a license issued by the board of medical examiners or certificate issued by the state board of osteopathic medicine; and

(b) Is authorized by the board to possess, administer, prescribe or dispense controlled substances, poisons, dangerous drugs or devices under the supervision of a physician or osteopathic physician as required by chapter 630 or 633 of NRS.

Sec. 3. NRS 639.2351 is hereby amended to read as follows:

639.2351 1. An advanced practitioner of nursing may prescribe, in accordance with NRS 454.695 ~~§~~ *and 632.237, controlled substances,* poisons, dangerous drugs and devices if he:

(a) Is authorized to do so by the state board of nursing in a certificate issued by that board; and

(b) Applies for and obtains a certificate of registration from the state board of pharmacy and pays the fee set by a regulation adopted by the board.

2. The state board of pharmacy shall consider each application from an advanced practitioner of nursing separately, and may:

(a) Issue a certificate of registration; or

(b) Refuse to issue a certificate of registration, regardless of the provisions of the certificate issued by the state board of nursing.

Sec. 4. NRS 453.038 is hereby amended to read as follows:

453.038 "Chart order" means an order entered on the chart of a patient:

1. In a hospital, facility for intermediate care or facility for skilled nursing which is licensed as such by the health division of the department; or

2. Under emergency treatment in a hospital by a physician, *advanced practitioner of nursing*, dentist or podiatric physician, or on the written or oral order of a physician, physician's assistant, *advanced practitioner of nursing*, dentist or podiatric physician authorizing the administration of a drug to the patient.

Sec. 5. NRS 453.091 is hereby amended to read as follows:

453.091 1. "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

2. "Manufacture" does not include the preparation or compounding of a substance by a person for his own use or the preparation, compounding, packaging or labeling of a substance by a physician, physician's assistant, dentist, podiatric physician, *advanced practitioner of nursing* or veterinarian:

(a) As an incident to his administering or dispensing of a substance in the course of his professional practice; or

(b) By his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

Sec. 6. NRS 453.126 is hereby amended to read as follows:

453.126 "Practitioner" means:

1. A physician, dentist, veterinarian or podiatric physician who holds a license to practice his profession in this state and is registered pursuant to this chapter.

2. An advanced practitioner of nursing who holds a certificate from the state board of nursing and a certificate from the state board of pharmacy authorizing him to *dispense or to prescribe and* dispense controlled substances.

3. A scientific investigator or a pharmacy, hospital or other institution licensed, registered or otherwise authorized in this state to distribute, dispense, conduct research with respect to, to administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

4. A euthanasia technician who is licensed by the Nevada state board of veterinary medical examiners and registered pursuant to this chapter, while he possesses or administers sodium pentobarbital pursuant to his license and registration.

5. A physician's assistant who:

(a) Holds a license from the board of medical examiners or a certificate from the state board of osteopathic medicine; and

(b) Is authorized by the board to possess, administer, prescribe or dispense controlled substances under the supervision of a physician or osteopathic physician as required by chapter 630 or 633 of NRS.

6. An optometrist who is certified by the Nevada state board of optometry to prescribe and administer therapeutic pharmaceutical agents pursuant to NRS 636.288, when he prescribes or administers therapeutic pharmaceutical agents within the scope of his certification.

Sec. 7. NRS 453.128 is hereby amended to read as follows:

453.128 1. "Prescription" means:

(a) An order given individually for the person for whom prescribed, directly from a physician, physician's assistant, dentist, podiatric physician, optometrist, *advanced practitioner of nursing* or veterinarian, or his agent, to a pharmacist or indirectly by means of an order signed by the practitioner or an electronic transmission from the practitioner to a pharmacist; or

(b) A chart order written for an inpatient specifying drugs which he is to take home upon his discharge.

2. The term does not include a chart order written for an inpatient for use while he is an inpatient.

Sec. 8. NRS 453.226 is hereby amended to read as follows:

453.226 1. Every practitioner or other person who dispenses any controlled substance within this state or who proposes to engage in the dispensing of any controlled substance within this state shall obtain biennially a registration issued by the board in accordance with its regulations.

2. A person registered by the board in accordance with the provisions of NRS 453.011 to 453.552, inclusive, to dispense or conduct research with controlled substances may possess, dispense or conduct research with those substances to the extent authorized by the registration and in conformity with the other provisions of those sections.

3. The following persons are not required to register and may lawfully possess and distribute controlled substances pursuant to the provisions of NRS 453.011 to 453.552, inclusive:

(a) An agent or employee of a registered dispenser of a controlled substance if he is acting in the usual course of his business or employment;

(b) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(c) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a physician, physician's assistant, dentist, *advanced practitioner of nursing*, podiatric physician or veterinarian or in lawful possession of a schedule V substance; or

(d) A physician who:

(1) Holds a locum tenens license issued by the board of medical examiners or a temporary license issued by the state board of osteopathic medicine; and

(2) Is registered with the Drug Enforcement Administration at a location outside this state.

4. The board may waive the requirement for registration of certain dispensers if it finds it consistent with the public health and safety.

5. A separate registration is required at each principal place of business or professional practice where the applicant dispenses controlled substances.

6. The board may inspect the establishment of a registrant or applicant for registration in accordance with the board's regulations.

Sec. 9. NRS 453.336 is hereby amended to read as follows:

453.336 1. A person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a prescription or order of a physician, physician's assistant, dentist, podiatric physician, optometrist, *advanced practitioner of nursing* or veterinarian while acting in the course of his professional practice, or except as otherwise authorized by the provisions of NRS 453.011 to 453.552, inclusive.

2. Except as otherwise provided in subsections 3, 4 and 5 and in NRS 453.3363, and unless a greater penalty is provided in NRS 212.160, 453.3385, 453.339 or 453.3395, a person who violates this section shall be punished:

(a) For the first or second offense, if the controlled substance is listed in schedule I, II, III or IV, for a category E felony as provided in NRS 193.130.

(b) For a third or subsequent offense, if the controlled substance is listed in schedule I, II, III or IV, or if the offender has previously been convicted two or more times in the aggregate of any violation of the law of the United States or of any state, territory or district relating to a controlled substance, for a category D felony as provided in NRS 193.130, and may be further punished by a fine of not more than \$20,000.

(c) For the first offense, if the controlled substance is listed in schedule V, for a category E felony as provided in NRS 193.130.

(d) For a second or subsequent offense, if the controlled substance is listed in schedule V, for a category D felony as provided in NRS 193.130.

3. Unless a greater penalty is provided in NRS 212.160, 453.337 or 453.3385, a person who is convicted of the possession of flunitrazepam or gamma-hydroxybutyrate, or any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor, 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 1 year and a maximum term of not more than 6 years.

4. Unless a greater penalty is provided in NRS 212.160, a person who is less than 21 years of age and is convicted of the possession of less than 1 ounce of marijuana:

(a) For the first and second offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

(b) For a third or subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130, and may be further punished by a fine of not more than \$20,000.

5. Before sentencing under the provisions of subsection 4 for a first offense, the court shall require the parole and probation officer to submit a presentencing report on the person convicted in accordance with the provisions of NRS 176A.200. After the report is received but before sentence is pronounced the court shall:

(a) Interview the person convicted and make a determination as to the possibility of his rehabilitation; and

(b) Conduct a hearing at which evidence may be presented as to the possibility of rehabilitation and any other relevant information.

6. As used in this section, “controlled substance” includes flunitrazepam, gamma-hydroxybutyrate and each substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor.

Sec. 10. NRS 453.371 is hereby amended to read as follows:

453.371 As used in NRS 453.371 to 453.552, inclusive:

1. *“Advanced practitioner of nursing” means a person who holds a certificate of recognition granted pursuant to NRS 632.237 and is registered with the board.*

2. “Medical intern” means a medical graduate acting as an assistant in a hospital for the purpose of clinical training.

~~{2. “Physician,” “physician’s assistant,”}~~

3. *“Pharmacist” means a person who holds a certificate of registration issued pursuant to NRS 639.127 and is registered with the board.*

4. *“Physician,” “dentist,” “podiatric physician,”* ~~“veterinarian,” “pharmacist”~~ *“veterinarian”* and “euthanasia technician” mean persons authorized by a ~~valid~~ license to practice their respective professions in this state who are registered with the board.

5. *“Physician’s assistant” means a person who is registered with the board and:*

(a) Holds a license issued pursuant to NRS 630.273; or

(b) Holds a certificate issued pursuant to NRS 633.451.

Sec. 11. NRS 453.377 is hereby amended to read as follows:

453.377 A controlled substance may be dispensed by:

1. A registered pharmacist upon a legal prescription from a practitioner or to a pharmacy in a correctional institution upon the written order of the prescribing practitioner in charge.

2. A pharmacy in a correctional institution, in case of emergency, upon a written order signed by the chief medical officer.

3. A practitioner.

4. A registered nurse, when the state, county, city or district health officer has declared a state of emergency.

5. A medical intern in the course of his internship.

6. ~~[An advanced practitioner of nursing who holds a certificate from the state board of nursing and a certificate from the state board of pharmacy permitting him to dispense controlled substances.~~

~~—7.4~~ A pharmacy in an institution of the department of prisons to a person designated by the director of the department of prisons to administer a lethal injection to a person who has been sentenced to death.

~~18.1~~ 7. A registered pharmacist from an institutional pharmacy, pursuant to regulations adopted by the board.

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's 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's assistant, dentist, *advanced practitioner of nursing*, podiatric physician or veterinarian.

5. Any person who has obtained from a physician, physician's 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's 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. 13. NRS 453.391 is hereby amended to read as follows:

453.391 A person shall not:

1. Unlawfully take, obtain or attempt to take or obtain a controlled substance or a prescription for a controlled substance from a manufacturer, wholesaler, pharmacist, physician, physician's assistant, dentist, *advanced practitioner of nursing*, veterinarian or any other person authorized to administer, dispense or possess controlled substances.

2. While undergoing treatment and being supplied with any controlled substance or a prescription for any controlled substance from one practitioner, knowingly obtain any controlled substance or a prescription for a controlled substance from another practitioner without disclosing this fact to the second practitioner.