

(REPRINTED WITH ADOPTED AMENDMENTS)
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SENATE BILL NO. 544—COMMITTEE ON HUMAN
RESOURCES AND FACILITIES

(ON BEHALF OF PHARMACY BOARD)

MARCH 26, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions governing practice of pharmacy.
(BDR 40-400)

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 the practice of pharmacy; authorizing the state board of pharmacy to adopt requirements for the form, content and transmittal of prescriptions for controlled substances; clarifying the authority of the board to regulate pharmacies and wholesalers who offer services in this state via the Internet; revising the disciplinary action that may be taken by the board against the holder of a certificate, license or permit issued by the board; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 453.385 is hereby amended to read as follows:
2 453.385 1. Each prescription for a controlled substance ~~listed in~~
3 ~~schedule II must be written on a separate prescription blank or as an order~~
4 ~~on the chart of a patient. The chart of a patient may be used to order~~
5 ~~multiple prescriptions for that patient.~~
6 ~~2. A prescription for a controlled substance must contain:~~
7 ~~—(a) The name of the practitioner, his signature if the prescription was~~
8 ~~not transmitted orally and his address if not immediately available to the~~
9 ~~pharmacist;~~
10 ~~—(b) The classification of his license;~~
11 ~~—(c) His registration number from the Drug Enforcement Administration~~
12 ~~if it is not immediately available to the pharmacist;~~
13 ~~—(d) The name of the patient, and his address if not immediately~~
14 ~~available to the pharmacist;~~
15 ~~—(e) The name, strength and quantity of the drug or drugs prescribed;~~
16 ~~—(f) Directions for use; and~~



- 1 ~~—(g) The date of issue.~~
2 ~~—3. A prescription for a controlled substance listed in:~~
3 ~~—(a) Schedule III, IV or V must be signed by the practitioner pursuant to~~
4 ~~the regulations of the board and may be preprinted or written by an agent~~
5 ~~of the practitioner, or may be transmitted electronically or by a facsimile~~
6 ~~machine from the practitioner to a pharmacy pursuant to the regulations of~~
7 ~~the board.~~
8 ~~—(b) Schedule II must be written and signed entirely by hand by the~~
9 ~~practitioner who issued it, except that:~~
10 ~~—(1) The addresses of the patient and the practitioner may be added by~~
11 ~~the pharmacist.~~
12 ~~—(2) The name of the practitioner, his address and the classification of~~
13 ~~his license must be preprinted on the prescription form.~~
14 ~~—(3) The registration number of the practitioner assigned by the Drug~~
15 ~~Enforcement Administration may be preprinted on the prescription form.~~
16 ~~—(4) The prescription may be transmitted by the practitioner or an~~
17 ~~agent of the practitioner to a pharmacy by a facsimile machine if the~~
18 ~~original written prescription is presented to the pharmacist for review~~
19 ~~before the dispensing of the controlled substance, except that:~~
20 ~~—(I) If the controlled substance is to be compounded for the direct~~
21 ~~administration to a patient by parenteral, intravenous, intramuscular,~~
22 ~~subcutaneous or intraspinal infusion, the transmission from the facsimile~~
23 ~~machine shall be deemed to be the original written prescription.~~
24 ~~—(II) If the controlled substance is prescribed for a resident of a~~
25 ~~facility for long term care, the transmission from the facsimile machine~~
26 ~~shall be deemed to be the original written prescription and must be~~
27 ~~maintained in accordance with 21 C.F.R. § 1304.04(h).~~
28 ~~—4. Directions for use must be specific in that they must indicate the~~
29 ~~portion of the body to which the medication is to be applied, or, if to be~~
30 ~~taken into the body by means other than orally, the orifice or canal of the~~
31 ~~body into which the medication is to be inserted or injected.]~~ *must comply*
32 *with the regulations of the board adopted pursuant to subsection 2.*
33 *2. The board shall, by regulation, adopt requirements for:*
34 *(a) The form and content of a prescription for a controlled substance.*
35 *The requirements may vary depending upon the schedule of the*
36 *controlled substance.*
37 *(b) Transmitting a prescription for a controlled substance to a*
38 *pharmacy. The requirements may vary depending upon the schedule of*
39 *the controlled substance.*
40 *(c) The form and contents of an order for a controlled substance given*
41 *for a patient in a medical facility and the requirements for keeping*
42 *records of such orders.*
43 *3. The regulations adopted pursuant to subsection 2 must ensure*
44 *compliance with, but may be more stringent than required by, applicable*
45 *federal law governing controlled substances and the rules, regulations*
46 *and orders of any federal agency administering such law.*



1 **Sec. 2.** Chapter 639 of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 3 and 4 of this act.

3 **Sec. 3. 1.** *The board shall adopt such regulations as are necessary*
4 *for the safe and efficient operation of pharmacies and wholesalers that*
5 *offer their services to persons in this state via the Internet.*

6 **2.** *For the purposes of this section, "pharmacy" includes any person*
7 *who sells or offers to sell drugs to persons in this state via the Internet.*

8 **Sec. 4.** *For the purposes of NRS 639.2328 to 639.23286, inclusive, a*
9 *"pharmacy located outside Nevada that provides mail order service to a*
10 *resident of Nevada" includes any person who sells or offers to sell drugs*
11 *to persons in this state via the Internet.*

12 **Sec. 5.** NRS 639.0125 is hereby amended to read as follows:

13 639.0125 "Practitioner" means:

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

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

20 3. An advanced practitioner of nursing who has been authorized to
21 prescribe poisons, dangerous drugs and devices; ~~for~~

22 4. A physician's assistant who:

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

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

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

33 **Sec. 6.** NRS 639.230 is hereby amended to read as follows:

34 639.230 1. A pharmacy or a person operating as a pharmacy shall
35 not use the word "drug" or "drugs," "prescription" or "pharmacy," or
36 similar words or words of similar import, without first having secured a
37 license from the board.

38 2. Each license must be issued to a specific person and for a specific
39 location and is not transferable. The original license must ~~show the name~~
40 ~~of the owner and the name of the managing pharmacist and~~ be displayed
41 on the licensed premises as provided in NRS 639.150. ~~If the owner is a~~
42 ~~partnership or corporation, the names of the partners or officers must also~~
43 ~~be shown. Any change of partners or corporate officers must be~~
44 ~~immediately reported to the board.~~ The original license and the fee
45 required for reissuance of a license must be submitted to the board before
46 the reissuance of the license.

47 **3.** *If the owner of a pharmacy is a partnership or corporation, any*
48 *change of partners or corporate officers must be reported to the board at*
49 *such a time as is required by a regulation of the board.*



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1 4. In addition to the requirements for renewal set forth in NRS
2 639.180, every person holding a license to operate a pharmacy must satisfy
3 the board that the pharmacy is conducted according to law.

4 ~~4.4~~ 5. Any violation of any of the provisions of this chapter by a
5 managing pharmacist or by personnel of the pharmacy under the
6 supervision of the managing pharmacist is cause for the suspension or
7 revocation of the license of the pharmacy by the board.

8 **Sec. 7.** NRS 639.2328 is hereby amended to read as follows:

9 639.2328 1. Every pharmacy located outside Nevada that provides
10 mail order service to or solicits or advertises for orders for drugs available
11 with a prescription from a resident of Nevada must be licensed by the
12 board.

13 2. To be licensed or to renew a license, *such* a pharmacy ~~located~~
14 ~~outside Nevada~~ must:

15 (a) Be licensed *as a pharmacy, or the equivalent*, by the state *or*
16 *country* in which its dispensing facilities are located.

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

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

19 (d) Provide the following information to the board:

20 (1) The name and address of the owner;

21 (2) The location of the pharmacy;

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

23 (4) Any other information the board deems necessary.

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

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

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

32 3. In addition to the requirements of subsection 2, the board may
33 require ~~that the pharmacy located outside of Nevada~~ *such a pharmacy to*
34 be inspected by the board.

35 **Sec. 8.** NRS 639.23282 is hereby amended to read as follows:

36 639.23282 Before issuing a license to a pharmacy located outside ~~of~~
37 ~~Nevada to provide~~ *Nevada that provides* mail order service to ~~residents~~
38 *a resident* of Nevada, the board shall consider:

39 1. The qualifications and credentials of the applicant; and

40 2. Any suspension or revocation of a license or restriction on a license
41 held by the applicant.

42 **Sec. 9.** NRS 639.23284 is hereby amended to read as follows:

43 639.23284 Every pharmacy ~~that is~~ located outside Nevada ~~and~~ *that*
44 provides mail order service to a resident of Nevada:

45 1. Shall report to the board any change of information that appears on
46 its license and pay the fee required by regulation of the board.

47 2. Shall make available for inspection all pertinent records, reports,
48 documents or other material or information required by the board.

49 3. As required by the board, must be inspected by the board or:



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- 1 (a) The regulatory board or licensing authority of the state *or country* in
2 which the pharmacy is located; or
3 (b) The Drug Enforcement Administration.
4 4. As required by the board, shall provide the following information
5 concerning each prescription for a drug that is shipped, mailed or delivered
6 to a resident of Nevada:
7 (a) The name of the patient;
8 (b) The name of the prescriber;
9 (c) The number of the prescription;
10 (d) The date of the prescription;
11 (e) The name of the drug; and
12 (f) The strength and quantity of the dose.
13 **Sec. 10.** NRS 639.23286 is hereby amended to read as follows:
14 639.23286 A pharmacy ~~{that is}~~ located outside Nevada ~~{and}~~ *that*
15 provides mail order service to a resident of Nevada:
16 1. May substitute a drug if the substitution is made in accordance with
17 the provisions of the laws and regulations of the state *or country* in which
18 the pharmacy is located.
19 2. Shall provide a toll-free telephone service for its customers to a
20 pharmacist who has access to the records of the customers from Nevada.
21 The telephone service must be available for not less than 5 days per week
22 and for at least 40 hours per week. The telephone number must be
23 disclosed on the label attached to each container of drugs dispensed to a
24 resident of Nevada.
25 **Sec. 11.** NRS 639.2353 is hereby amended to read as follows:
26 639.2353 *Except as otherwise provided in a regulation adopted*
27 *pursuant to NRS 453.385:*
28 1. A prescription must be given:
29 (a) Directly from the practitioner to a pharmacist;
30 (b) Indirectly by means of an order signed by the practitioner;
31 (c) By an oral order transmitted by an agent of the practitioner; or
32 (d) By electronic transmission or transmission by a facsimile machine
33 pursuant to the regulations of the board.
34 2. A written prescription must contain:
35 (a) ~~{The}~~ *Except as otherwise provided in this section, the* name and
36 signature of the practitioner, and his address if not immediately available to
37 the pharmacist;
38 (b) The classification of his license;
39 (c) ~~{His registration number assigned by the Drug Enforcement~~
40 ~~Administration if the prescription is for a controlled substance;~~
41 ~~—(d)}~~ The name of the patient, and his address if not immediately
42 available to the pharmacist;
43 ~~{(e)}~~ *(d)* The name, strength and quantity of the drug or drugs
44 prescribed;
45 ~~{(f)}~~ *(e)* Directions for use; and
46 ~~{(g)}~~ *(f)* The date of issue.
47 3. The directions for use must be specific in that they indicate the
48 portion of the body to which the medication is to be applied or, if to be



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1 taken into the body by means other than orally, the orifice or canal of the
2 body into which the medication is to be inserted or injected.

3 4. *A prescription that is given by electronic transmission is not*
4 *required to contain the signature of the practitioner if:*

5 (a) *It contains a facsimile signature, security code or other mark that*
6 *uniquely identifies the practitioner; or*

7 (b) *A voice recognition system, biometric identification technique or*
8 *other security system approved by the board is used to identify the*
9 *practitioner.*

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

15 **Sec. 12.** NRS 639.255 is hereby amended to read as follows:

16 639.255 1. The holder of any certificate, license or permit issued by
17 the board, whose default has been entered or who has been heard by the
18 board and found guilty of the violations alleged in the accusation, may be
19 disciplined by the board by one or more of the following methods:

20 (a) Suspending judgment;

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

22 (c) Suspending the right of a certificate holder to practice, or the right to
23 use any license or permit, for a period ~~not to exceed 1 year;~~ *to be*
24 *determined by the board;*

25 (d) Revoking the certificate, license or permit;

26 (e) Public or private reprimand;

27 (f) Imposition of a fine ~~not to exceed \$1,000~~ *for each count of the*
28 *accusation ~~1~~, in accordance with the schedule of fines established*
29 *pursuant to subsection 3; or*

30 (g) Requiring the certificate, license or permit holder to pay all costs
31 *and attorney's fees* incurred by the board relating to the discipline of the
32 person.

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

36 3. *The board shall by regulation establish a schedule of fines that*
37 *may be imposed pursuant to paragraph (f) of subsection 1. Each fine*
38 *must be commensurate with the severity of the applicable violation, but*
39 *must not exceed \$10,000 for each violation.*

40 **Sec. 13.** 1. This section becomes effective upon passage and
41 approval.

42 2. Sections 1 and 12 of this act become effective upon passage and
43 approval for the purpose of adopting regulations and on October 1, 2001,
44 for all other purposes.

45 3. Sections 2 to 10, inclusive, of this act become effective on July 1,
46 2001.

47 4. Section 11 of this act becomes effective on October 1, 2001.

