

SENATE BILL NO. 37—SENATOR WIENER

PREFILED FEBRUARY 4, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing wholesalers of prescription drugs. (BDR 54-13)

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

~

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

AN ACT relating to prescription drugs; requiring an applicant for licensure as a wholesaler of prescription drugs to submit a set of his fingerprints to the State Board of Pharmacy for use by the Board in obtaining a report on the applicant's criminal history; authorizing the Board to require certain persons connected with the operations of a licensed wholesaler to submit a set of fingerprints to the Board for use by the Board in obtaining a report on the person's criminal history; requiring certain licensed wholesalers to file a bond or cash deposit conditioned upon compliance with the laws relating to wholesalers; requiring the State Board of Pharmacy to ensure the safe and efficient operation of wholesalers and the integrity and propriety of transactions involving wholesalers; revising provisions governing the sale and purchase of prescription drugs by wholesalers; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the licensure of wholesalers of prescription drugs and the regulation of the practice of the wholesale distribution of prescription drugs. (Chapter 639 of NRS)

This bill requires an applicant for a license as a wholesaler to submit a complete set of his fingerprints to the State Board of Pharmacy for a criminal background check. In addition, if the Board determines that an employee, agent, independent contractor, consultant, guardian, personal representative, lender or holder of indebtedness of an applicant has the power to exercise significant influence over the operation of the applicant as a licensed wholesaler, the Board



may require such a person to submit a complete set of his fingerprints for a criminal background check.

This bill requires each wholesaler to submit, on an annual basis, an updated list of employees, agents, independent contractors, consultants, guardians, personal representatives, lenders and holders of indebtedness. The Board may require persons identified on the updated list to submit a complete set of fingerprints for a criminal background check if the Board determines that such a person has the power to exercise significant influence over the operation of the wholesaler.

This bill requires an applicant for an initial license or renewal of a license as a wholesaler to file a bond or other form of security. This requirement does not apply to publicly traded corporations.

This bill requires the Board to ensure the safe and efficient operation of wholesalers and the integrity and propriety of transactions involving wholesalers, including, without limitation, ensuring the circumstances under which a wholesaler must prepare, deliver, acquire and maintain a statement identifying prior sales. Before January 1, 2007, the statement must be in either written or electronic form. On and after January 1, 2007, the statement must be in electronic form unless the Board determines that the technology is not reasonably available or that the wholesalers require additional time to provide the statements in electronic form.

This bill provides penalties if a wholesaler fails to comply with the requirements related to the statement identifying prior sales of prescription drugs and if the wholesaler knowingly destroys, fails to authenticate, forges or falsifies a statement or fails to record material information in such a statement. A wholesaler who violates these provisions is guilty of a category C felony.

Existing law requires the Board to employ an Executive Secretary. (NRS 639.040)

This bill amends existing law to require the Executive Secretary employed by the Board to have experience as a licensed pharmacist in this State or in another state with comparable licensing requirements.

Existing law governs transactions involving wholesalers, including the sale and purchase of prescription drugs. (NRS 639.2615)

This bill amends existing law to revise the descriptions of a "bona fide sale" and a "bona fide purchase" in transactions involving wholesalers.

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

Section 1. Chapter 639 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. 1. *In addition to the requirements for an application set forth in NRS 639.100, each applicant for a license to engage in wholesale distribution shall submit with his application a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. If the applicant is a:*

(a) Natural person, that person must submit his fingerprints.

(b) Partnership, each partner must submit his fingerprints.



1 (c) Corporation, each officer and director of the corporation
2 must submit his fingerprints.

3 (d) Sole proprietorship, that sole proprietor must submit his
4 fingerprints.

5 2. In addition to the requirements of subsection 1, the
6 applicant shall submit with his application a list containing each
7 employee, agent, independent contractor, consultant, guardian,
8 personal representative, lender or holder of indebtedness of the
9 applicant. The Board may require any person on the applicant's
10 list to submit a complete set of his fingerprints to the Board if the
11 Board determines that the person has the power to exercise
12 significant influence over the operation of the applicant as a
13 licensed wholesaler. The fingerprints must be submitted with
14 written permission authorizing the Board to forward the
15 fingerprints to the Central Repository for Nevada Records of
16 Criminal History for submission to the Federal Bureau of
17 Investigation for its report. The provisions of this subsection do
18 not apply to a:

19 (a) Lender or holder of indebtedness of an applicant who is a
20 commercial bank, bank holding company, subsidiary or affiliate of
21 a bank holding company, personal property broker, consumer
22 finance lender, commercial finance lender or insurer, or any other
23 person engaged in the business of extending credit, who is
24 regulated by an officer or agency of the State or the Federal
25 Government.

26 (b) Common motor carrier or other delivery service that
27 delivers a drug at the direction of a manufacturer.

28 3. The Board may issue a provisional license to an applicant
29 pending receipt of the reports from the Federal Bureau of
30 Investigation if the Board determines that the applicant is
31 otherwise qualified.

32 4. An applicant who is issued a license by the Board shall not
33 allow a person who is required to submit his fingerprints pursuant
34 to subsection 2 to act in any capacity in which he exercises
35 significant influence over the operation of the wholesaler if the:

36 (a) Person does not submit a complete set of his fingerprints in
37 accordance with subsection 2; or

38 (b) Report of the criminal history of the person indicates that
39 he has been convicted of, or entered a plea of guilty or nolo
40 contendere to, a felony or offense involving moral turpitude or
41 related to the qualifications, functions or duties of that person in
42 connection with the operation of the wholesaler.

43 5. The Board shall not issue a license to an applicant if the
44 requirements of this section are not satisfied.



1 **Sec. 2.5.** *The Board shall implement and maintain*
2 *reasonable security measures to protect the information obtained*
3 *by the Board pursuant to section 2 of this act and all other*
4 *information related to an application for a license to engage in*
5 *wholesale distribution to protect the information from*
6 *unauthorized access, acquisition, destruction, use, modification or*
7 *disclosure. The provisions of this section do not prohibit the Board*
8 *from disclosing and providing such information to other state and*
9 *federal agencies involved in the regulation of prescription drugs to*
10 *the extent deemed necessary by the Board.*

11 **Sec. 3.** *1. On an annual basis, each licensed wholesaler*
12 *shall submit to the Board an updated list of each employee, agent,*
13 *independent contractor, consultant, guardian, personal*
14 *representative, lender or holder of indebtedness of the wholesaler*
15 *who is employed by or otherwise contracts with the wholesaler for*
16 *the provision of services in connection with the operation of the*
17 *licensee as a wholesaler. Any changes to the list must be submitted*
18 *to the Board not later than 30 days after the change is made.*

19 *2. If a person identified on an undated list of the wholesaler*
20 *is employed by or otherwise contracts with the wholesaler after the*
21 *wholesaler is issued a license and that person did not submit his*
22 *fingerprints pursuant to section 2 of this act, the Board may*
23 *require that person to submit a complete set of his fingerprints to*
24 *the Board if the Board determines that the person has the power to*
25 *exercise significant influence over the operation of the licensee as*
26 *a wholesaler. The fingerprints must be submitted within 30 days*
27 *after being requested to do so by the Board and must include*
28 *written permission authorizing the Board to forward the*
29 *fingerprints to the Central Repository for Nevada Records of*
30 *Criminal History for submission to the Federal Bureau of*
31 *Investigation for its report. The provisions of this subsection do*
32 *not apply to a:*

33 *(a) Lender or holder of indebtedness of a wholesaler who is a*
34 *commercial bank, bank holding company, subsidiary or affiliate of*
35 *a bank holding company, personal property broker, consumer*
36 *finance lender, commercial finance lender or insurer, or any other*
37 *person engaged in the business of extending credit, who is*
38 *regulated by an officer or agency of the State or the Federal*
39 *Government.*

40 *(b) Common motor carrier or other delivery service that*
41 *delivers a drug at the direction of a manufacturer.*

42 **3.** *A wholesaler shall not allow a person who is required to*
43 *submit his fingerprints pursuant to subsection 2 to act in any*
44 *capacity in which he exercises significant influence over the*
45 *operation of the wholesaler if the:*



1 (a) Person does not submit a complete set of his fingerprints in
2 accordance with subsection 2; or

3 (b) Report of the criminal history of the person indicates that
4 he has been convicted of, or entered a plea of guilty or nolo
5 contendere to, a felony or offense involving moral turpitude or
6 related to qualifications, functions or duties of that person in
7 connection with the operation of the wholesaler.

8 **Sec. 4.** 1. Except as otherwise provided in this subsection,
9 before the Board issues a license to engage in the wholesale
10 distribution of prescription drugs, the applicant shall file with the
11 Board a bond in an amount not less than \$25,000 and not more
12 than \$100,000, as determined by the Board, executed by the
13 applicant as principal, and by a corporation qualified under the
14 laws of this State as surety, payable to this State and conditioned
15 upon the compliance with the requirements of this chapter
16 applicable to wholesalers. An applicant that is a publicly traded
17 corporation is not required to file a bond or other security
18 pursuant to this section.

19 2. In lieu of the bond required pursuant to subsection 1, an
20 applicant may deposit with the Board a like amount of lawful
21 money of the United States or any other form of security
22 authorized by NRS 100.065. If security is provided in the form of a
23 savings certificate, certificate of deposit or investment certificate,
24 the certificate must state that the amount is not available for
25 withdrawal except upon order of the Board.

26 3. The Board may, by agreement with a wholesaler who has
27 been licensed with the Board for 5 consecutive years or more,
28 allow a reduction in the amount of the bond or other security as
29 provided in subsections 1 and 2, if the wholesaler has conducted
30 business in accordance with the applicable provisions of this
31 chapter for the immediately preceding 5 years, but no bond may be
32 in an amount less than \$5,000. The Board may at any time
33 thereafter require the licensee to increase the amount of the bond
34 or other security if evidence is presented to the Board supporting
35 this requirement.

36 4. The purpose of the bond and other security required by this
37 section is to secure payment of any fines imposed by the Board
38 pursuant to NRS 639.255 and any costs incurred by the Board
39 regarding the license of a wholesaler that are imposed pursuant to
40 NRS 622.400 or 622.410 which the licensee fails to pay within 30
41 days after the fines or costs become due and payable. The Board
42 may make a claim against a bond or other security pursuant to
43 this subsection until 1 year after the license ceases to be valid or
44 until 60 days after any administrative proceeding against the



1 *licensee conducted pursuant to NRS 639.241 to 639.2576,*
2 *inclusive, is concluded.*

3 5. *Except as otherwise provided in this subsection, before*
4 *renewing a license to engage in wholesale distribution, the Board*
5 *shall require the licensee to file with the Board satisfactory*
6 *evidence that his surety bond or other security is in full force. A*
7 *licensee that is a publicly traded corporation is not required to*
8 *maintain a bond or other security.*

9 6. *Failure of an applicant or licensee to file or maintain in*
10 *full force the required bond or other security constitutes cause for*
11 *the Board to deny, revoke, suspend or refuse to renew a license to*
12 *engage in wholesale distribution.*

13 7. *All money received by the Board pursuant to this section*
14 *must be deposited in accordance with NRS 639.081.*

15 **Sec. 5.** *As used in sections 5 to 8, inclusive, of this act, unless*
16 *the context otherwise requires, "statement of prior sales" or*
17 *"statement":*

18 1. *Means a statement of prior sales that must be used in a*
19 *transaction involving the purchase or sale of a prescription drug*
20 *by a wholesaler, if required; and*

21 2. *Is synonymous with the term "Statement Identifying Prior*
22 *Sales of Prescription Drugs by Wholesalers Required by the*
23 *Prescription Drug Marketing Act."*

24 **Sec. 6.** 1. *The Board shall ensure the safe and efficient*
25 *operation of wholesalers and the integrity and propriety of*
26 *transactions involving the purchase and sale of prescription drugs*
27 *by wholesalers, including, without limitation, ensuring:*

28 (a) *The circumstances and conditions under which a*
29 *wholesaler must prepare, deliver, acquire and maintain a*
30 *statement of prior sales regarding a transaction involving the*
31 *purchase or sale of a prescription drug;*

32 (b) *The form and contents of a statement of prior sales; and*

33 (c) *The process and procedures for verifying and certifying*
34 *that the information contained in a statement of prior sales is*
35 *complete and accurate.*

36 2. *In ensuring the circumstances and conditions under which*
37 *a wholesaler must prepare, deliver, acquire and maintain a*
38 *statement of prior sales regarding a transaction involving the*
39 *purchase or sale of a prescription drug, the Board shall consider:*

40 (a) *The need for verification to ensure that the transaction is a*
41 *bona fide transaction pursuant to NRS 639.2615; and*

42 (b) *The level of risk the transaction poses to public health and*
43 *safety, including, without limitation, the potential that the*
44 *transaction may involve the sale or purchase of a prescription*
45 *drug that is:*



- (1) Counterfeit;
- (2) Deemed to be adulterated or misbranded in accordance with the provisions of chapter 585 of NRS;
- (3) Mislabeled;
- (4) Damaged or compromised by improper handling, storage or temperature control;
- (5) From a foreign or unlawful source; or
- (6) Manufactured, packaged, labeled or shipped in violation of any state or federal law relating to prescription drugs.

3. If a statement of prior sales is required for a transaction involving the purchase or sale of a prescription drug by a wholesaler, the statement:

(a) Must include the signature of the wholesaler or his designated representative certifying that the information contained in the statement is complete and accurate; and

(b) Except as otherwise provided in subsection 4, must be:

(1) In written or electronic form, if the transaction occurs before January 1, 2007; and

(2) In electronic form, if the transaction occurs on or after January 1, 2007.

4. The Board may extend the date for compliance with the requirement that the statement of prior sales must be in electronic form if the Board determines that the technology to provide such a statement in electronic form is not reasonably available or that the licensed wholesalers in this State otherwise require additional time to carry out the requirements of an electronic form. If the Board extends the deadline pursuant to this subsection, the Board shall ensure that all licensed wholesalers in this State are provided adequate notice of the extension.

Sec. 6.5. If a statement of prior sales indicates that more than 3 prior sales of a prescription drug have occurred, including, without limitation, a sale involving an authorized distributor of record, a person who is licensed to engage in wholesale distribution pursuant to this chapter shall not sell that prescription drug to another wholesaler.

Sec. 7. A person who is licensed to engage in wholesale distribution pursuant to this chapter is guilty of a category C felony and shall be punished as provided in NRS 193.130 if, with the intent to defraud or deceive, he:

1. Fails to deliver to another person a complete and accurate statement of prior sales for a prescription drug, if such a statement is required, before selling or otherwise transferring the drug to that person.



1 2. *Fails to acquire a complete and accurate statement of prior*
2 *sales for a prescription drug, if such a statement is required,*
3 *before obtaining the drug from another person.*

4 3. *Falsely swears or certifies that the information in a*
5 *statement of prior sales is accurate and complete.*

6 **Sec. 8.** *A person who is licensed to engage in wholesale*
7 *distribution pursuant to this chapter is guilty of a category C*
8 *felony and shall be punished as provided in NRS 193.130 if he*
9 *knowingly:*

10 1. *Destroys, alters, conceals or fails to maintain a complete*
11 *and accurate statement of prior sales for each prescription drug in*
12 *his possession for wholesale distribution if such a statement is*
13 *required.*

14 2. *Fails to authenticate information contained in a statement*
15 *of prior sales for a prescription drug, if such a statement is*
16 *required, and distributes or attempts to distribute that prescription*
17 *drug.*

18 3. *Forges, counterfeits or falsely creates a statement of prior*
19 *sales.*

20 4. *Makes a false representation or assertion of any factual*
21 *matter contained in a statement of prior sales.*

22 5. *Fails to record material information required to be*
23 *recorded in a statement of prior sales.*

24 **Sec. 9.** *A person who is licensed to engage in wholesale*
25 *distribution pursuant to this chapter shall maintain the following*
26 *information, updated annually, concerning each wholesaler from*
27 *whom the licensee purchases a prescription drug or to whom the*
28 *licensee sells a prescription drug:*

29 1. *A list that identifies each state in which the wholesaler is*
30 *domiciled and each state into which the wholesaler ships*
31 *prescription drugs.*

32 2. *Copies of each state and federal regulatory license and*
33 *registration held by the wholesaler, including, without limitation,*
34 *the numbers accompanying each license and registration.*

35 3. *Copies of formation documents, business licenses and*
36 *other documents related to the company of the wholesaler and its*
37 *operations.*

38 4. *Copies of the wholesaler's most recent site inspection*
39 *report by state or federal agencies.*

40 5. *If the licensee receives a prescription drug from the*
41 *wholesaler, a copy of the wholesaler's product liability insurance*
42 *policy that includes the licensee as an additional insured for at*
43 *least \$1,000,000.*

44 6. *A list that includes the name and address of:*



1 (a) If the wholesaler is a partnership, limited-liability
2 partnership or limited-liability corporation, the partners or
3 shareholders, as applicable.

4 (b) If the wholesaler is a private corporation, the officers,
5 directors and shareholders.

6 (c) If the wholesaler is a public corporation, the officers and
7 directors.

8 7. Evidence of due diligence in accordance with section 10 of
9 this act.

10 8. A copy of the wholesaler's policy or procedure for internal
11 operations, including, without limitation, the procedures related to
12 handling counterfeit, misbranded or adulterated prescription
13 drugs.

14 9. A listing of all manufacturers with whom the wholesaler
15 claims status as an authorized distributor of record and the
16 applicable account numbers.

17 **Sec. 10.** 1. A person who is licensed to engage in wholesale
18 distribution pursuant to this chapter shall maintain the following
19 evidence regarding due diligence concerning each wholesaler with
20 whom the licensee does business in accordance with any
21 applicable requirements of the Fair Credit Reporting Act, 15
22 U.S.C. §§ 1681 et seq.:

23 (a) A copy of the driver's license of:

24 (1) If the wholesaler is a sole proprietor, the owner.

25 (2) If the wholesaler is a partnership, limited-liability
26 partnership or limited-liability corporation, each partner or
27 shareholder, as applicable.

28 (3) If the wholesaler is a private corporation, each officer
29 and director.

30 (b) Proof that the licensee has checked to determine if civil or
31 criminal litigation or both exists against the company, its owners,
32 partners, officers or directors and whether any disciplinary action
33 has been taken or is pending against the company, its owners,
34 partners, officers or directors by a state or federal agency.

35 2. A person who is licensed to engage in wholesale
36 distribution pursuant to this chapter shall not maintain a business
37 relationship with any company if any of the owners, partners,
38 officers or directors have been convicted of a felony related to the
39 wholesale distribution of prescription drugs.

40 **Sec. 11.** 1. A person who is licensed to engage in wholesale
41 distribution pursuant to this chapter shall, within 30 days after
42 beginning a business relationship with another wholesaler,
43 conduct an on-site inspection of each facility of the wholesaler to
44 verify that the wholesaler complies with federal requirements for



1 *the storage of prescription drugs and the operation of the facilities*
2 *where prescription drugs are stored.*

3 2. *After the date of the inspection pursuant to subsection 1,*
4 *the licensee shall conduct an on-site inspection biannually.*

5 3. *Each on-site inspection conducted pursuant to this section*
6 *must include:*

7 (a) *An assessment of the authority, training and experience of*
8 *persons who are responsible for receiving, inspecting, storing,*
9 *handling and shipping prescription drugs at the facility;*

10 (b) *An assessment of the operational conditions of each facility*
11 *of the wholesaler, including, without limitation, security, climate*
12 *control and cleanliness;*

13 (c) *An assessment of compliance with:*

14 (1) *The Federal Prescription Drug Marketing Act;*

15 (2) *Appropriate recordkeeping measures;*

16 (3) *The Drug Enforcement Administration recordkeeping*
17 *requirements if the wholesaler maintains a federal controlled*
18 *substance registration; and*

19 (4) *Temperature monitoring and documentation*
20 *requirements; and*

21 (d) *An assessment of the procedures of the wholesaler for*
22 *detecting adulterated, misbranded or counterfeit prescription*
23 *drugs.*

24 4. *For each inspection pursuant to this section, the licensee*
25 *shall obtain and maintain the signature of the appropriate*
26 *representative of the wholesaler verifying the accuracy of the*
27 *inspection.*

28 5. *Each licensee shall enter into an agreement with each*
29 *wholesaler with whom the licensee enters into a business*
30 *relationship providing that the wholesaler will comply with all*
31 *applicable federal and state laws and regulations relating to the*
32 *purchase and sale of prescription drugs and requiring the*
33 *wholesaler to notify the licensee of any material change regarding*
34 *the integrity or legal status of prescription drugs received by the*
35 *licensee or any other material change regarding the legal status of*
36 *the wholesaler.*

37 **Sec. 12.** *A person who is licensed to engage in wholesale*
38 *distribution pursuant to this chapter shall certify a claim by*
39 *another wholesaler that the wholesaler is an authorized distributor*
40 *of record from whom the licensee purchases a prescription drug.*
41 *Such certification includes a statement signed by a representative*
42 *of the wholesaler certifying the claim that the wholesaler is an*
43 *authorized distributor of record for a specified manufacturer and:*

44 1. *A copy of the written agreement currently in effect with the*
45 *manufacturer;*



2. A copy of a letter from the manufacturer endorsing the wholesaler as an authorized distributor of record;

3. Copies of applicable invoices from the manufacturer demonstrating the purchase by the wholesaler of at least 1,000 sales units of prescription drugs from the manufacturer within the 12 months immediately preceding the current month;

4. Copies of applicable invoices from the manufacturer from each of the previous 12 months;

5. Copies of applicable invoices from the manufacturer specific to the given transaction; or

6. Verification from the manufacturer's website that the wholesaler is an authorized distributor of record.

Sec. 13. NRS 639.040 is hereby amended to read as follows:

639.040 1. The Board shall elect a President and a Treasurer from among its members.

2. The Board shall employ an Executive Secretary, who ~~must not be~~ *is not* a member of the Board. *The Executive Secretary must have experience as a licensed pharmacist in this State or in another state with comparable licensing requirements.* The Executive Secretary shall keep a complete record of all proceedings of the Board and of all certificates issued, and shall perform such other duties as the Board may require, for which services he is entitled to receive a salary to be determined by the Board.

Sec. 14. NRS 639.180 is hereby amended to read as follows:

639.180 1. Except as otherwise provided in this subsection, a certificate, license or permit issued by the Board pursuant to this chapter expires on October 31 of each even-numbered year. A certificate of registration as a pharmacist expires on October 31 of each odd-numbered year.

2. Except as otherwise provided by NRS 639.137, 639.230 and 639.2328, each person to whom a certificate, license or permit has been issued may, if the certificate, license or permit has not been revoked, renew the certificate, license or permit biennially by:

(a) Filing an application for renewal;

(b) Paying the fee for renewal;

(c) Complying with the requirement of continuing professional education, if applicable; ~~and~~

(d) *If applicable, filing with the Board satisfactory evidence that his surety bond or other security required by section 4 of this act is in full force; and*

(e) If the applicant is a natural person who is applying for the renewal of a certificate of registration as a pharmacist, intern pharmacist, pharmaceutical technician or pharmaceutical technician in training or a license issued pursuant to NRS 639.233, submitting the statement required pursuant to NRS 639.129.



3. The application for renewal, together with the fee for renewal and, if applicable, *the evidence of compliance with section 4 of this act and* the statement ~~is~~ *required pursuant to NRS 639.129*, must be delivered to the Executive Secretary of the Board on or before the expiration date of the certificate, license or permit, or the current renewal receipt thereof.

4. If a certificate, license or permit is renewed, it must be delivered to the applicant within a reasonable time after receipt of the application for renewal and the fee for renewal.

5. The Board may refuse to renew a certificate, license or permit if the applicant has committed any act proscribed by NRS 639.210.

6. If the application for renewal, ~~and~~ the fee for renewal and, if applicable, *the evidence of compliance with section 4 of this act and* the statement *required pursuant to NRS 639.129*, are not postmarked on or before the expiration date of the certificate, license or permit, or the current renewal receipt thereof, the registration is automatically forfeited.

Sec. 15. NRS 639.180 is hereby amended to read as follows:

639.180 1. Except as otherwise provided in this subsection, a certificate, license or permit issued by the Board pursuant to this chapter expires on October 31 of each even-numbered year. A certificate of registration as a pharmacist expires on October 31 of each odd-numbered year.

2. Except as otherwise provided by NRS 639.137, 639.230 and 639.2328, each person to whom a certificate, license or permit has been issued may, if the certificate, license or permit has not been revoked, renew the certificate, license or permit biennially by:

(a) Filing an application for renewal;

(b) Paying the fee for renewal; ~~and~~

(c) *If applicable, filing with the Board satisfactory evidence that his surety bond or other security required by section 4 of this act is in full force; and*

(d) Complying with the requirement of continuing professional education, if applicable.

3. The application for renewal, together with the fee for renewal ~~is~~ *and, if applicable, the evidence of compliance with section 4 of this act*, must be delivered to the Executive Secretary of the Board on or before the expiration date of the certificate, license or permit, or the current renewal receipt thereof.

4. If a certificate, license or permit is renewed, it must be delivered to the applicant within a reasonable time after receipt of the application for renewal and the fee for renewal.



1 5. The Board may refuse to renew a certificate, license or
2 permit if the applicant has committed any act proscribed by
3 NRS 639.210.

4 6. If the application for renewal , ~~and~~ the fee for renewal *and,*
5 *if applicable, the evidence of compliance with section 4 of this act*
6 are not postmarked on or before the expiration date of the
7 certificate, license or permit, or the current renewal receipt thereof,
8 the registration is automatically forfeited.

9 **Sec. 16.** NRS 639.210 is hereby amended to read as follows:

10 639.210 The Board may suspend or revoke any certificate,
11 license, registration or permit issued pursuant to this chapter, and
12 deny the application of any person for a certificate, license,
13 registration or permit, if the holder or applicant:

14 1. Is not of good moral character;

15 2. Is guilty of habitual intemperance;

16 3. Becomes or is intoxicated or under the influence of liquor,
17 any depressant drug or a controlled substance, unless taken pursuant
18 to a lawfully issued prescription, while on duty in any establishment
19 licensed by the Board;

20 4. Is guilty of unprofessional conduct or conduct contrary to
21 the public interest;

22 5. Is addicted to the use of any controlled substance;

23 6. Has been convicted of a violation of any law or regulation of
24 the Federal Government or of this or any other state related to
25 controlled substances, dangerous drugs, drug samples, or the
26 wholesale or retail distribution of drugs;

27 7. Has been convicted of:

28 (a) A felony relating to holding a certificate, license, registration
29 or permit pursuant to this chapter; ~~or~~

30 (b) *A felony pursuant to section 7 or 8 of this act; or*

31 (c) Other crime involving moral turpitude, dishonesty or
32 corruption;

33 8. Has been convicted of violating any of the provisions of
34 NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440,
35 inclusive;

36 9. Has willfully made to the Board or its authorized
37 representative any false statement which is material to the
38 administration or enforcement of any of the provisions of this
39 chapter;

40 10. Has obtained any certificate, certification, license or permit
41 by the filing of an application, or any record, affidavit or other
42 information in support thereof, which is false or fraudulent;

43 11. Has violated any provision of the Federal Food, Drug and
44 Cosmetic Act or any other federal law or regulation relating to
45 prescription drugs;



12. Has violated, attempted to violate, assisted or abetted in the violation of or conspired to violate any of the provisions of this chapter or any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy, or has knowingly permitted, allowed, condoned or failed to report a violation of any of the provisions of this chapter or any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy committed by the holder of a certificate, license, registration or permit;

13. Has failed to renew his certificate, license or permit by failing to submit the application for renewal or pay the renewal fee therefor;

14. Has had his certificate, license or permit suspended or revoked in another state on grounds which would cause suspension or revocation of a certificate, license or permit in this State;

15. Has, as a managing pharmacist, violated any provision of law or regulation concerning recordkeeping or inventory in a store over which he presides, or has knowingly allowed a violation of any provision of this chapter or other state or federal laws or regulations relating to the practice of pharmacy by personnel of the pharmacy under his supervision;

16. Has repeatedly been negligent, which may be evidenced by claims of malpractice settled against him; ~~{or}~~

17. Has failed to maintain and make available to a state or federal officer any records in accordance with the provisions of this chapter or chapter 453 or 454 of NRS ~~{ }~~; *or*

18. Has failed to file or maintain a bond or other security if required by section 4 of this act.

Sec. 17. NRS 639.2615 is hereby amended to read as follows:

639.2615 1. A wholesaler may sell a prescription drug only ~~{to:~~

~~—(a) A pharmacy or practitioner; or~~

~~—(b) Another wholesaler if:~~

~~—(1) The wholesaler who purchases the drug is licensed by the Board or the board or other relevant authority of another state; and~~

~~—(2) The~~ *if the* sale is a bona fide transaction.

2. A wholesaler may purchase a prescription drug only from:

(a) A manufacturer; ~~{or}~~

(b) A pharmacy or practitioner if that pharmacy or practitioner maintains a valid license in the State in which the pharmacy or practitioner is domiciled; or

(c) Another wholesaler if:

(1) The wholesaler who sells the drug is licensed by the Board; and

(2) The sale is a bona fide transaction.



1 3. *A wholesaler may receive a prescription drug from a*
2 *pharmacy or practitioner only if the wholesaler does not pay the*
3 *pharmacy or practitioner an amount, either in cash or credit, that*
4 *is more than the price for which the wholesaler sells such*
5 *prescription drugs to other pharmacies or practitioners at the time*
6 *of return and:*

7 (a) *The prescription drug was originally shipped to the*
8 *pharmacy or practitioner by the wholesaler; or*

9 (b) *The prescription drug could not be returned by the*
10 *pharmacy or practitioner to the original wholesaler.*

11 ↪ *If a wholesaler receives a prescription drug pursuant to this*
12 *subsection and the wholesaler subsequently sells the prescription*
13 *drug to another wholesaler, the prescription drug must be*
14 *accompanied by a statement of prior sales as defined in section 5*
15 *of this act.*

16 4. The Board shall not limit the quantity of prescription drugs a
17 wholesaler may purchase, sell, distribute or otherwise provide to
18 another wholesaler, distributor or manufacturer.

19 ~~[4-]~~ 5. For the purposes of this section:

20 (a) A purchase shall be deemed a bona fide transaction if:

21 (1) The wholesaler purchased the drug:

22 (I) Directly from the manufacturer of the drug; or

23 (II) With a reasonable belief that the drug was originally
24 purchased directly from the manufacturer of the drug;

25 (2) The circumstances of the purchase reasonably indicate
26 that the drug was not purchased from a source prohibited by law;

27 (3) Unless the drug is purchased by the wholesaler from the
28 manufacturer, before the wholesaler sells the drug to another
29 wholesaler, the wholesaler who sells the drug conducts a reasonable
30 visual examination of the drug to ensure that the drug is not:

31 (I) Counterfeit;

32 (II) Deemed to be adulterated or misbranded in
33 accordance with the provisions of chapter 585 of NRS;

34 (III) Mislabeled;

35 (IV) Damaged or compromised by improper handling,
36 storage or temperature control;

37 (V) From a foreign or unlawful source; or

38 (VI) Manufactured, packaged, labeled or shipped in
39 violation of any state or federal law relating to prescription drugs;

40 (4) The drug is shipped directly from the wholesaler who
41 sells the drug to the wholesaler who purchases the drug; and

42 (5) The documents of the shipping company concerning the
43 shipping of the drug are attached to the invoice for the drug and are
44 maintained in the records of the wholesaler.



(b) A sale shall be deemed a bona fide transaction if ~~[there is a reasonable assurance by the wholesaler that purchases the drug that the wholesaler will sell the drug directly and]~~ *the wholesaler sells the prescription drug* only to ~~[a]~~ :

(1) *A pharmacy or practitioner ~~[.]~~ if that pharmacy or practitioner maintains a valid license in the state in which the pharmacy or practitioner is domiciled.*

(2) *Another wholesaler who maintains a valid license in the state in which he is domiciled if the wholesaler who sells the prescription drug has complied with sections 9, 10 and 11 of this act.*

(c) The purchase or sale of a prescription drug includes, without limitation, the distribution, transfer, trading, bartering or any other provision of a prescription drug to another person by a wholesaler. A transfer of a prescription drug from a wholesale facility of a wholesaler to another wholesale facility of the wholesaler shall not be deemed a purchase or sale of a prescription drug pursuant to this section if the wholesaler is a corporation whose securities are publicly traded and regulated by the Securities Exchange Act of 1934.

Sec. 18. NRS 639.2801 is hereby amended to read as follows:

639.2801 Unless specified to the contrary in writing on the prescription by the prescribing practitioner, all prescriptions filled by any practitioner must be dispensed in a container to which is affixed a label or other device which clearly shows:

1. The date.

2. The name, address and prescription serial number of the practitioner who filled the prescription.

3. The names of the prescribing practitioner and of the person for whom prescribed.

4. The number of dosage units.

5. Specific directions for use given by the prescribing practitioner.

6. The expiration date of the effectiveness of the drug or medicine dispensed, if that information is ~~[required to be]~~ included on the original label of the manufacturer of ~~[the]~~ *that* drug or medicine. ~~[The practitioner shall not specify on the label or other device for the drug or medicine an expiration date that is earlier than]~~ *If the expiration date specified by the manufacturer ~~[on the original label.]~~ is not less than 1 year after the date of dispensing, the practitioner may use a date that is 1 year after the date of dispensing as the expiration date.*

7. The proprietary or generic name of the drug or medicine as written by the prescribing practitioner.



- 1 8. The strength of the drug or medicine.
2 ➔ The label must contain the warning:

3

4 Caution: Do not use with alcohol or nonprescribed drugs
5 without consulting the prescribing practitioner.

6 **Sec. 19.** A person who possesses a license to engage in the
7 wholesale distribution of prescription drugs issued by the State
8 Board of Pharmacy before October 1, 2005, must, as a condition to
9 renewal of that license, file a bond or other security required by
10 section 4 of this act.

11 **Sec. 20.** 1. This section and sections 1 to 14, inclusive, and
12 16 to 19, inclusive, of this act become effective on October 1, 2005.

13 2. Section 14 of this act expires by limitation on the date on
14 which the provisions of 42 U.S.C. § 666 requiring each state to
15 establish procedures under which the state has authority to withhold
16 or suspend, or to restrict the use of professional, occupational and
17 recreational licenses of persons who:

18 (a) Have failed to comply with a subpoena or warrant relating to
19 a proceeding to determine the paternity of a child or to establish or
20 enforce an obligation for the support of a child; or

21 (b) Are in arrears in the payment for the support of one or more
22 children,

23 ➔ are repealed by the Congress of the United States.

24 3. Section 15 of this act becomes effective on the date on
25 which the provisions of 42 U.S.C. § 666 requiring each state to
26 establish procedures under which the state has authority to withhold
27 or suspend, or to restrict the use of professional, occupational and
28 recreational licenses of persons who:

29 (a) Have failed to comply with a subpoena or warrant relating to
30 a proceeding to determine the paternity of a child or to establish or
31 enforce an obligation for the support of a child; or

32 (b) Are in arrears in the payment for the support of one or more
33 children,

34 ➔ are repealed by the Congress of the United States.



