

SENATE BILL NO. 231—SENATOR HECK

MARCH 7, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to confidentiality of contents of prescriptions. (BDR 54-524)

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 prescription drugs; providing expressly for the confidentiality of the contents of a prescription on file in a pharmacy; prohibiting a pharmacy or any person who has access to the contents of a prescription on file in a pharmacy from divulging any of the contents of the prescription to any person with certain exceptions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that prescriptions on file in a pharmacy are not public records, and also prohibits a pharmacist from releasing the contents of a prescription except to specified persons under specified circumstances. (NRS 639.238) This bill expressly provides that all contents of prescriptions on file in a pharmacy are confidential. This bill also prohibits a pharmacy or any person who has access to the contents of a prescription on file in a pharmacy from divulging any of the contents of the prescription to any person except to the persons authorized by law to receive such information. Additionally, this bill adds to and revises the list of persons who are authorized to receive such information. Finally, this bill provides that aggregated data concerning prescriptions can be released if the identity of the patients and the prescribing physicians is not revealed.

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

Section 1. NRS 639.238 is hereby amended to read as follows:
639.238 1. Prescriptions filled and on file in a pharmacy ,
including, without limitation, all contents of prescriptions, are
confidential and are not a public record. Except as otherwise



provided in *this section and* NRS 639.2357, a *pharmacy, pharmacist and any other person who has access to the contents of prescriptions on file in a pharmacy* shall not divulge *any of* the contents of any prescription or provide a copy of any prescription ~~to any person,~~ except : ~~to:~~

(a) The patient for whom the original prescription was issued;
(b) The practitioner who originally issued the prescription;
(c) A practitioner who is then treating the patient;
(d) A member, inspector or investigator of the Board or an inspector of the Food and Drug Administration or an agent of the Investigation Division of the Department of Public Safety;

(e) An agency of *the Federal or* State Government charged with the responsibility of providing medical care for the patient;

(f) An insurance carrier ~~on receipt of written authorization signed by the patient or his legal guardian, authorizing the release of such information;~~ *or health plan:*

(1) That is responsible for paying all or part of a claim for the prescription; or

(2) For the purposes of formulary compliance, case management or utilization review;

(g) Any person authorized by an order of a district court;

(h) Any member, inspector or investigator of a professional licensing board which licenses a practitioner who orders prescriptions filled at the pharmacy;

(i) Other registered pharmacists for the limited purpose of and to the extent necessary for the exchange of information relating to persons who are suspected of:

(1) Misusing prescriptions to obtain excessive amounts of drugs; or

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

(j) A peace officer employed by a local government for the limited purpose of and to the extent necessary:

(1) For the investigation of an alleged crime reported by an employee of the pharmacy where the crime was committed; or

(2) To carry out a search warrant or subpoena issued pursuant to a court order ~~H~~;

(k) A county coroner, medical examiner or investigator employed by an office of a county coroner for the purpose of:

(1) Identifying a deceased person;

(2) Determining a cause of death; or

(3) Performing other duties authorized by law ~~H~~;

(l) A person effectuating a drug alert, drug recall or other notice relating to drug safety;



1 (m) *A pharmacy benefit manager as needed for the*
2 *performance of his duties; or*

3 (n) *A person engaging in health care research that is funded*
4 *in whole or in part by the Federal Government.*

5 2. Any copy of a prescription for a controlled substance or a
6 dangerous drug as defined in chapter 454 of NRS that is issued to a
7 county coroner, medical examiner or investigator employed by an
8 office of a county coroner must be limited to a copy of the
9 prescription filled or on file for:

10 (a) The person whose name is on the container of the controlled
11 substance or dangerous drug that is found on or near the body of a
12 deceased person; or

13 (b) The deceased person whose cause of death is being
14 determined.

15 3. Except as otherwise provided in NRS 639.2357, any copy of
16 a prescription for a controlled substance or a dangerous drug as
17 defined in chapter 454 of NRS, issued to a person authorized by this
18 section to receive such a copy, must contain all of the information
19 appearing on the original prescription and be clearly marked on its
20 face "Copy, Not Refillable—For Reference Purposes Only." The
21 copy must bear the name or initials of the registered pharmacist who
22 prepared the copy.

23 4. If a copy of a prescription for any controlled substance or a
24 dangerous drug as defined in chapter 454 of NRS is furnished to the
25 customer, the original prescription must be voided and notations
26 made thereon showing the date and the name of the person to whom
27 the copy was furnished.

28 5. *The provisions of this section do not prohibit the collection*
29 *or release of aggregated data concerning prescriptions, provided*
30 *that the aggregated data cannot be used to identify any patient to*
31 *whom a prescription was issued or any practitioner who issued a*
32 *prescription.*

33 6. As used in this section ~~the~~, "~~peace~~":

34 (a) "*Contents of prescriptions*" includes, without limitation,
35 *any information contained in a prescription that can be used to*
36 *identify:*

37 (1) *The patient for whom the original prescription was*
38 *issued; and*

39 (2) *The practitioner who originally issued the prescription.*

40 (b) "*Peace officer*" does not include:

41 ~~(a)~~ (1) A member of the Police Department of the Nevada
42 System of Higher Education.

43 ~~(b)~~ (2) A school police officer who is appointed or employed
44 pursuant to NRS 391.100.



1 **Sec. 2.** This act becomes effective upon passage and approval.

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