

ASSEMBLY BILL NO. 326—ASSEMBLYMAN DENIS

MARCH 13, 2009

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing controlled substances.
(BDR 40-558)

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 controlled substances; exempting certain contracts entered into by the State Board of Pharmacy from the State Purchasing Act; revising provisions governing the tracking of prescriptions for controlled substances; requiring the Legislative Committee on Health Care to conduct a study of the abuse of prescription narcotic drugs in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law requires the State Board of Pharmacy to administer the Uniform
- 2 Controlled Substances Act. (NRS 453.011-453.348) **Section 1** of this bill provides
- 3 that the Board may enter into such professional services contracts as the Board
- 4 determines necessary to obtain federal money in the maximum amount available to
- 5 this State and exempts such contracts from the requirements of chapter 333 of NRS
- 6 governing state purchasing.
- 7 Existing law provides for the creation of a computerized program to track
- 8 prescriptions for controlled substances listed in schedule II, III or IV. **Section 7** of
- 9 this bill requires that the database of the computerized program be made available
- 10 on the Internet to persons who are authorized to dispense controlled substances in
- 11 this State. **Section 7** further requires that the computerized program contain the
- 12 contact information of each practitioner and person authorized to dispense
- 13 controlled substances who has access to the database of the program. In addition,
- 14 **section 7** requires the Board and the Investigation Division of the Department of
- 15 Public Safety to establish a course of training in the computerized program and
- 16 further requires that a person complete the course of training before the Board
- 17 provides the person with access to the database of the program. (NRS 453.1545)
- 18 **Section 9** of this bill requires the Legislative Committee on Health Care to
- 19 conduct a study of the abuse of prescription narcotic drugs and the manner of
- 20 monitoring and addressing such abuse in this State and to submit a written report to



* A B 3 2 6 *

21 the Director of the Legislative Counsel Bureau for transmittal to the next regular
22 session of the Legislature on or before January 15, 2011.

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

1 **Section 1.** Chapter 453 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 **1. To carry out the provisions of this section and NRS**
4 **453.011 to 453.348, inclusive, the Board may enter into such**
5 **professional services contracts as it determines necessary to obtain**
6 **federal money in the maximum amount available to this State.**

7 **2. All contracts authorized by this section are exempt from**
8 **the requirements of chapter 333 of NRS.**

9 **Sec. 2.** NRS 453.011 is hereby amended to read as follows:

10 453.011 1. NRS 453.011 to 453.348, inclusive, **and section 1**
11 **of this act** may be cited as the Uniform Controlled Substances Act.

12 2. The Uniform Controlled Substances Act (1990) is
13 substituted in a continuing way for the provisions of NRS 453.011
14 to 453.348, inclusive, **and section 1 of this act**, except as those
15 provisions are specifically amended.

16 **Sec. 3.** NRS 453.013 is hereby amended to read as follows:

17 453.013 NRS 453.011 to 453.348, inclusive, **and section 1 of**
18 **this act** shall be so applied and construed as to effectuate its general
19 purpose and to make uniform the law with respect to the subject of
20 such sections among those states which enact it.

21 **Sec. 4.** NRS 453.146 is hereby amended to read as follows:

22 453.146 1. The Board shall administer the provisions of NRS
23 453.011 to 453.552, inclusive, **and section 1 of this act** and may add
24 substances to or delete or reschedule all substances enumerated in
25 schedules I, II, III, IV and V by regulation.

26 2. In making a determination regarding a substance, the Board
27 shall consider the following:

28 (a) The actual or relative potential for abuse;

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

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

33 (d) The history and current pattern of abuse;

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

35 (f) The risk to the public health;

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

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



* A B 3 2 6 *

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. 5. NRS 453.153 is hereby amended to read as follows:

453.153 The Board and Division shall cooperate with each other in effectuating the purposes of NRS 453.011 to 453.552, inclusive ~~H~~, *and section 1 of this act.*

Sec. 6. NRS 453.154 is hereby amended to read as follows:

453.154 1. In this section, "diversion" means the transfer of a controlled substance from a lawful to an unlawful channel of distribution or use.

2. The Division shall regularly prepare and make available to other state regulatory, licensing and law enforcement agencies a report on the patterns and trends of distribution, diversion and abuse of controlled substances.

3. The Board and the Division may enter into written agreements with local, state and federal agencies to improve identification of sources of diversion and to improve enforcement of and compliance with NRS 453.011 to 453.348, inclusive, *and section 1 of this act* and other laws and regulations pertaining to unlawful conduct involving controlled substances. An agreement must specify the roles and responsibilities of each agency that has information or authority to identify, prevent or control diversion and abuse of controlled substances. The Board and the Division may convene periodic meetings to coordinate a state program to prevent and control diversion. The Board and the Division may arrange for cooperation and exchange of information among agencies and with other states and the Federal Government.

4. The Division shall report annually to the Governor and biennially to the presiding officer of each house of the Legislature on the outcome of the program with respect to its effect on



* A B 3 2 6 *

1 distribution and abuse of controlled substances, including
2 recommendations for improving control and prevention of the
3 diversion of controlled substances in this State.

4 **Sec. 7.** NRS 453.1545 is hereby amended to read as follows:

5 453.1545 1. The Board and the Division shall cooperatively
6 develop a computerized program to track each prescription for a
7 controlled substance listed in schedule II, III or IV that is filled by
8 a pharmacy that is registered with the Board or that is dispensed by
9 a practitioner who is registered with the Board. The program must:

10 (a) Be designed to provide information regarding:

11 (1) The inappropriate use by a patient of controlled
12 substances listed in schedules II, III and IV to pharmacies,
13 practitioners and appropriate state agencies to prevent the improper
14 or illegal use of those controlled substances; and

15 (2) Statistical data relating to the use of those controlled
16 substances that is not specific to a particular patient.

17 (b) Be administered by the Board, the Division, the Health
18 Division of the Department and various practitioners,
19 representatives of professional associations for practitioners,
20 representatives of occupational licensing boards and prosecuting
21 attorneys selected by the Board and the Division.

22 (c) Not infringe on the legal use of a controlled substance for the
23 management of severe or intractable pain.

24 *(d) Include the contact information of each person to whom
25 the Board has provided Internet access to the database of the
26 program pursuant to subsection 2, including, without limitation:*

27 *(1) The name of the person;*

28 *(2) The physical address of the person;*

29 *(3) The telephone number of the person; and*

30 *(4) If the person maintains an electronic mail address, the
31 electronic mail address of the person.*

32 2. The Board shall provide each practitioner who is authorized
33 to write prescriptions for *and each person who is authorized to
34 dispense* controlled substances listed in schedule II, III or IV with
35 Internet access to the database of the program established pursuant
36 to subsection 1 to carry out the provisions of NRS 639.23507.

37 3. The Board and the Division must have access to the program
38 established pursuant to subsection 1 to identify any suspected
39 fraudulent or illegal activity related to the dispensing of controlled
40 substances.

41 4. The Board or the Division shall report any activity it
42 reasonably suspects may be fraudulent or illegal to the appropriate
43 law enforcement agency or occupational licensing board and
44 provide the law enforcement agency or occupational licensing board



* A B 3 2 6 *

1 with the relevant information obtained from the program for further
2 investigation.

3 5. Information obtained from the program relating to a
4 practitioner or a patient is confidential and, except as otherwise
5 provided by this section and NRS 239.0115, must not be disclosed
6 to any person. That information must be disclosed:

7 (a) Upon the request of a person about whom the information
8 requested concerns or upon the request on his behalf by his attorney;
9 or

10 (b) Upon the lawful order of a court of competent jurisdiction.

11 6. *The Board and the Division shall cooperatively develop a*
12 *course of training for persons who are provided with Internet*
13 *access to the database of the program pursuant to subsection 2*
14 *and require each such person to complete the course of training*
15 *before he is provided with Internet access to the database pursuant*
16 *to subsection 2.*

17 7. The Board and the Division may apply for any available
18 grants and accept any gifts, grants or donations to assist in
19 developing and maintaining the program required by this section.

20 **Sec. 8.** NRS 453.159 is hereby amended to read as follows:

21 453.159 Any orders and regulations promulgated under any
22 law affected by NRS 453.011 to 453.552, inclusive, *and section 1*
23 *of this act* and in effect on January 1, 1972, and not in conflict with
24 it continue in effect until modified, superseded or repealed.

25 **Sec. 9.** The Legislative Committee on Health Care shall:

26 1. In cooperation with the State Board of Pharmacy, the Board
27 of Medical Examiners and the State Board of Osteopathic Medicine,
28 conduct a study of the abuse of prescription narcotic drugs and the
29 manner of monitoring and addressing the abuse of prescription
30 narcotic drugs in this State; and

31 2. On or before January 15, 2011, submit to the Director of the
32 Legislative Counsel Bureau for transmittal to the next regular
33 session of the Legislature a written report concerning the abuse of
34 prescription narcotic drugs and the manner of monitoring and
35 addressing the abuse of prescription narcotic drugs in this State.

36 **Sec. 10.** This act becomes effective on July 1, 2009.

