

Amendment No. 471

Assembly Amendment to Assembly Bill No. 326 (BDR 40-558)

Proposed by: Assembly Committee on Health and Human Services**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date		SENATE ACTION				Initial and Date		
Adopted	☐	Lost	☐	_____			Adopted	☐	Lost	☐	_____	
Concurred In	☐	Not	☐	_____			Concurred In	☐	Not	☐	_____	
Receded	☐	Not	☐	_____			Receded	☐	Not	☐	_____	

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) ~~orange double underlining~~ is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold dashed underlining*** is newly added transitory language.

MSN/TMC



Date: 4/15/2009

A.B. No. 326—Revises provisions governing controlled substances. (BDR 40-558)



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.

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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 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:

~~Existing law requires the State Board of Pharmacy to administer the Uniform Controlled Substances Act. (NRS 453.011-453.348) Section 1 of this bill provides that the Board may enter into such professional services contracts as the Board determines necessary to obtain federal money in the maximum amount available to this State and exempts such contracts from the requirements of chapter 333 of NRS governing state purchasing.~~

Existing law provides for the creation of a computerized program to track prescriptions for controlled substances listed in schedule II, III or IV. **Section 7** of this bill requires that the database of the computerized program be made available on the Internet to persons who are authorized to dispense controlled substances in this State. **Section 7** further requires that the computerized program contain the contact information of each practitioner and person authorized to dispense controlled substances who ~~has access~~ **elects to access** the database of the program. In addition, **section 7** requires the Board and the Investigation Division of the Department of Public Safety to establish a course of training in the computerized program and further requires that a person complete the course of training before the Board provides the person with access to the database of the program. (NRS 453.1545)

Section 9 of this bill requires the Legislative Committee on Health Care to conduct a study of the abuse of prescription narcotic drugs and the manner of monitoring and addressing such abuse in this State and to submit a written report to the Director of the Legislative Counsel Bureau for transmittal to the next regular 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:

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

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

~~2. All contracts authorized by this section are exempt from the requirements of chapter 333 of NRS.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 453.011 is hereby amended to read as follows:~~

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

~~2. The Uniform Controlled Substances Act (1990) is substituted in a continuing way for the provisions of NRS 453.011 to 453.348, inclusive, and section 1 of this act, except as those provisions are specifically amended.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 453.013 is hereby amended to read as follows:~~

~~453.013 NRS 453.011 to 453.348, inclusive, and section 1 of this act shall be so applied and construed as to effectuate its general purpose and to make uniform the law with respect to the subject of such sections among those states which enact it.] (Deleted by amendment.)~~

Sec. 4. ~~[NRS 453.146 is hereby amended to read as follows:~~

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

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

- ~~(a) The actual or relative potential for abuse;~~
- ~~(b) The scientific evidence of its pharmacological effect, if known;~~
- ~~(c) The state of current scientific knowledge regarding the substance;~~
- ~~(d) The history and current pattern of abuse;~~
- ~~(e) The scope, duration and significance of abuse;~~
- ~~(f) The risk to the public health;~~
- ~~(g) The potential of the substance to produce psychic or physiological dependence liability; and~~

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

~~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.] (Deleted by amendment.)~~

1 **Sec. 5.** ~~NRS 453.153 is hereby amended to read as follows:~~
2 ~~453.153 The Board and Division shall cooperate with each other in~~
3 ~~effectuating the purposes of NRS 453.011 to 453.552, inclusive [], and section 1~~
4 ~~of this act.~~ **(Deleted by amendment.)**

5 **Sec. 6.** ~~NRS 453.154 is hereby amended to read as follows:~~
6 ~~453.154 1. In this section, "diversion" means the transfer of a controlled~~
7 ~~substance from a lawful to an unlawful channel of distribution or use.~~

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

11 ~~3. The Board and the Division may enter into written agreements with local,~~
12 ~~state and federal agencies to improve identification of sources of diversion and to~~
13 ~~improve enforcement of and compliance with NRS 453.011 to 453.248, inclusive,~~
14 ~~and section 1 of this act and other laws and regulations pertaining to unlawful~~
15 ~~conduct involving controlled substances. An agreement must specify the roles and~~
16 ~~responsibilities of each agency that has information or authority to identify, prevent~~
17 ~~or control diversion and abuse of controlled substances. The Board and the Division~~
18 ~~may convene periodic meetings to coordinate a state program to prevent and control~~
19 ~~diversion. The Board and the Division may arrange for cooperation and exchange~~
20 ~~of information among agencies and with other states and the Federal Government.~~

21 ~~4. The Division shall report annually to the Governor and biennially to the~~
22 ~~presiding officer of each house of the Legislature on the outcome of the program~~
23 ~~with respect to its effect on distribution and abuse of controlled substances,~~
24 ~~including recommendations for improving control and prevention of the diversion~~
25 ~~of controlled substances in this State.~~ **(Deleted by amendment.)**

26 **Sec. 7.** NRS 453.1545 is hereby amended to read as follows:
27 453.1545 1. The Board and the Division shall cooperatively develop a
28 computerized program to track each prescription for a controlled substance listed in
29 schedule II, III or IV that is filled by a pharmacy that is registered with the Board or
30 that is dispensed by a practitioner who is registered with the Board. The program
31 must:

32 (a) Be designed to provide information regarding:
33 (1) The inappropriate use by a patient of controlled substances listed in
34 schedules II, III and IV to pharmacies, practitioners and appropriate state agencies
35 to prevent the improper or illegal use of those controlled substances; and

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

38 (b) Be administered by the Board, the Division, the Health Division of the
39 Department and various practitioners, representatives of professional associations
40 for practitioners, representatives of occupational licensing boards and prosecuting
41 attorneys selected by the Board and the Division.

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

44 **(d) Include the contact information of each person ~~to whom the Board has~~**
45 ~~provided Internet access~~ **who elects to access the database of the program**
46 **pursuant to subsection 2, including, without limitation:**

47 (1) **The name of the person;**
48 (2) **The physical address of the person;**
49 (3) **The telephone number of the person; and**
50 (4) **If the person maintains an electronic mail address, the electronic**
51 **mail address of the person.**

52 2. The Board shall provide ~~each practitioner who is authorized to write~~
53 ~~prescriptions for and each person who is authorized to dispense controlled~~

substances listed in schedule II, III or IV with] Internet access to the database of the program established pursuant to subsection 1 to ~~carry out the provisions of NRS 639.23507.]~~ each practitioner who is authorized to write prescriptions for and each person who is authorized to dispense controlled substances listed in schedule II, III or IV who:

(a) Elects to access the database of the program; and

(b) Completes the course of instruction described in subsection 6.

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

4. The Board or the Division shall report any activity it reasonably suspects may be fraudulent or illegal to the appropriate law enforcement agency or occupational licensing board and provide the law enforcement agency or occupational licensing board with the relevant information obtained from the program for further investigation.

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

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

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

6. ~~The Board and the Division shall cooperatively develop a course of training for persons who are provided with Internet access.]~~ elect to access the database of the program pursuant to subsection 2 and require each such person to complete the course of training before he is provided with Internet access to the database pursuant to subsection 2.

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

Sec. 8. ~~[NRS 453.159 is hereby amended to read as follows:~~

~~453.159 Any orders and regulations promulgated under any law affected by NRS 453.011 to 453.552, inclusive, and section 1 of this act and in effect on January 1, 1972, and not in conflict with it continue in effect until modified, superseded or repealed.] (Deleted by amendment.)~~

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

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

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

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