SENATE BILL NO. 197–SENATORS WIENER, PARKS, COPENING, WOODHOUSE, BREEDEN; AMODEI, CEGAVSKE, HARDY, HORSFORD, LEE, MCGINNESS, NOLAN AND WASHINGTON

MARCH 10, 2009

Referred to Committee on Health and Education

SUMMARY—Revises provisions relating to the reissuance of certain prescription drugs. (BDR 39-804)

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 drugs; authorizing certain facilities to return certain prescription drugs for reissuance by nonprofit pharmacies; establishing procedures and requirements for the reissuance of certain prescription drugs transferred to nonprofit pharmacies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows public and private mental health facilities, facilities for skilled nursing and facilities for intermediate care to return to the dispensing pharmacy certain prescription drugs that are dispensed to a patient of the facility but not used by that patient and to reissue those drugs to other patients of the facility. (NRS 433.801, 449.2485) **Sections 1 and 2** of this bill authorize those facilities to return to the dispensing pharmacy such drugs for reissuance by a nonprofit pharmacy designated by the State Board of Pharmacy to reissue the drugs. **Section 3** of this bill authorizes nonprofit pharmacies to reissue those drugs for other prescriptions in the pharmacy free of charge. **Section 3** also provides that a person, pharmacy, facility or pharmaceutical manufacturer is immune from certain civil liability for damages sustained as a result of any act or omission in carrying out the provisions relating to the transfer and reissuance of those drugs. The Board is required to adopt regulations to carry out the provisions of this bill.

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

Section 1. NRS 433.801 is hereby amended to read as follows:

433.801 1. A public or private mental health facility may return a prescription drug that is dispensed to a patient of the facility, but will not be used by that patient, to the dispensing pharmacy for the purpose of reissuing the drug to fill other prescriptions for patients in that facility ***or for the purpose of transferring the drug to a nonprofit pharmacy designated by the State Board of Pharmacy pursuant to section 3 of this act*** if:

(a) The drug is not a schedule II drug specified in or pursuant to chapter 453 of NRS;

(b) The drug is dispensed in a unit dose, in individually sealed doses or in a bottle that is sealed by the manufacturer of the drug;

(c) The drug is returned unopened and sealed in the original manufacturer's packaging or bottle;

(d) The usefulness of the drug has not expired;

(e) The packaging or bottle contains the expiration date of the usefulness of the drug; and

(f) The name of the patient for whom the drug was originally prescribed, the prescription number and any other identifying marks are obliterated from the packaging or bottle before the return of the drug.

2. A dispensing pharmacy to which a drug is returned pursuant to this section may ~~[~~reissue~~]~~ ***:***

(a) Reissue the drug to fill other prescriptions for patients in the same facility if the registered pharmacist of the pharmacy determines that the drug is suitable for that purpose in accordance with standards adopted by the State Board of Pharmacy pursuant to subsection 5 ~~[.]~~ ***; or***

(b) Transfer the drug to a nonprofit pharmacy designated by the State Board of Pharmacy pursuant to section 3 of this act.

3. No drug that is returned to a dispensing pharmacy pursuant to this section may be used to fill other prescriptions more than one time.

4. A mental health facility shall adopt written procedures for returning drugs to a dispensing pharmacy pursuant to this section. The procedures must:

(a) Provide appropriate safeguards for ensuring that the drugs are not compromised or illegally diverted during their return.

(b) Require the maintenance and retention of such records relating to the return of such drugs as are required by the State Board of Pharmacy.

(c) Be approved by the State Board of Pharmacy.

5. The State Board of Pharmacy shall adopt such regulations as are necessary to carry out the provisions of this section, including, without limitation, requirements for:

(a) Returning and reissuing such drugs pursuant to the provisions of this section.

(b) ***Transferring drugs to a nonprofit pharmacy pursuant to the provisions of this section and section 3 of this act.***

(c) Maintaining records relating to the return and the use of such drugs to fill other prescriptions.

Sec. 2. NRS 449.2485 is hereby amended to read as follows:

449.2485 1. A facility for skilled nursing or a facility for intermediate care may return a prescription drug that is dispensed to a patient of the facility, but will not be used by that patient, to the dispensing pharmacy for the purpose of reissuing the drug to fill other prescriptions for patients in that facility ***or for the purpose of transferring the drug to a nonprofit pharmacy designated by the State Board of Pharmacy pursuant to section 3 of this act*** if:

(a) The drug is not a schedule II drug specified in or pursuant to chapter 453 of NRS;

(b) The drug is dispensed in a unit dose, in individually sealed doses or in a bottle sealed by the manufacturer of the drug;

(c) The drug is returned unopened and sealed in the original manufacturer's packaging or bottle;

(d) The usefulness of the drug has not expired;

(e) The packaging or bottle contains the expiration date of the usefulness of the drug; and

(f) The name of the patient for whom the drug was originally prescribed, the prescription number and any other identifying marks are obliterated from the packaging or bottle before the return of the drug.

2. A dispensing pharmacy to which a drug is returned pursuant to this section may ~~[reissue]~~ ***:***

(a) Reissue the drug to fill other prescriptions for patients in the same facility if the registered pharmacist of the pharmacy determines that the drug is suitable for that purpose in accordance with standards adopted by the State Board of Pharmacy pursuant to subsection 5 ~~[.]~~ ***; or***

(b) Transfer the drug to a nonprofit pharmacy designated by the State Board of Pharmacy pursuant to section 3 of this act.

3. No drug that is returned to a dispensing pharmacy pursuant to this section may be used to fill other prescriptions more than one time.

4. A facility for skilled nursing or facility for intermediate care shall adopt written procedures for returning drugs to a dispensing pharmacy pursuant to this section. The procedures must:

(a) Provide appropriate safeguards for ensuring that the drugs are not compromised or illegally diverted during their return.

(b) Require the maintenance and retention of such records relating to the return of drugs to dispensing pharmacies as are required by the State Board of Pharmacy.

(c) Be approved by the State Board of Pharmacy.

5. The State Board of Pharmacy shall adopt such regulations as are necessary to carry out the provisions of this section, including, without limitation, requirements for:

(a) Returning and reissuing such drugs pursuant to the provisions of this section.

(b) ***Transferring drugs to a nonprofit pharmacy pursuant to the provisions of this section and section 3 of this act.***

(c) Maintaining records relating to the return and the use of such drugs to fill other prescriptions.

Sec. 3. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A nonprofit pharmacy designated by the Board in accordance with the regulations adopted pursuant to subsection 5 to which a drug is transferred pursuant to NRS 433.801 or 449.2485 may reissue the drug to fill other prescriptions in the same pharmacy free of charge if the registered pharmacist of the nonprofit pharmacy determines that the drug is suitable for that purpose in accordance with the requirements adopted by the Board pursuant to subsection 5 and if:

(a) The drug is not a schedule II drug specified in or pursuant to chapter 453 of NRS;

(b) The drug is dispensed in a unit dose, in individually sealed doses or in a bottle that is sealed by the manufacturer of the drug;

(c) The drug is unopened and sealed in the original manufacturer's packaging or bottle;

(d) The usefulness of the drug has not expired;

(e) The packaging or bottle contains the expiration date of the usefulness of the drug; and

(f) The name of the patient for whom the drug was originally prescribed, the prescription number and any other identifying marks are obliterated from the packaging or bottle before the reissuance of the drug.

2. A person, pharmacy, facility or pharmaceutical manufacturer is immune from civil liability for damages sustained as a result of any act or omission in carrying out the provisions of this section if:

(a) That person, pharmacy, facility or pharmaceutical manufacturer complied with the procedures adopted pursuant to

subsection 4 and the regulations adopted pursuant to subsection 5; and

(b) The act or omission does not amount to gross negligence or willful misconduct.

➥ Before receiving a drug pursuant to this section, a person or his guardian, if applicable, must sign a form acknowledging that he understands the provisions of this subsection.

3. No drug that is transferred to a nonprofit pharmacy pursuant to this section may be used to fill other prescriptions more than one time.

4. A nonprofit pharmacy shall adopt written procedures for accepting and reissuing drugs pursuant to this section. The procedures must:

(a) Provide appropriate safeguards for ensuring that the drugs are not compromised or illegally diverted before being reissued.

(b) Require the maintenance and retention of records relating to the acceptance and use of the drugs and any other records as are required by the Board.

(c) Be approved by the Board.

5. The Board shall adopt such regulations as are necessary to carry out the provisions of this section, including, without limitation:

(a) Requirements for reissuing drugs pursuant to this section.

(b) Requirements for accepting drugs transferred to a nonprofit pharmacy pursuant to the provisions of this section and NRS 433.801 and 449.2485.

(c) Requirements for maintaining records relating to the acceptance and use of drugs to fill other prescriptions pursuant to this section.

(d) The criteria and procedure for obtaining a designation as a nonprofit pharmacy for the purposes of this section, including, without limitation, provisions for a pharmacy, registered pharmacist or practitioner who is registered with the Board to be designated as a nonprofit pharmacy.

Sec. 4. NRS 639.063 is hereby amended to read as follows:

639.063 1. The Board shall prepare an annual report concerning drugs that are returned or transferred to pharmacies pursuant to NRS 433.801, 449.2485 and 639.2675 ***and section 3 of this act*** and are reissued to fill other prescriptions. The report must include, without limitation:

(a) The number of drugs that are returned to dispensing pharmacies.

(b) ***The number of drugs that are transferred to nonprofit pharmacies designated by the Board pursuant to section 3 of this act.***

(c) The number of drugs that are reissued to fill other prescriptions.

~~[(c)]~~ ***(d)*** An estimate of the amount of money saved by reissuing such drugs to fill other prescriptions.

~~[(d)]~~ ***(e)*** Any other information that the Board deems necessary.

2. The report must be:

(a) Available for public inspection during regular business hours at the office of the Board; and

(b) Posted on a website or other Internet site that is operated or administered by or on behalf of the Board.

Sec. 5. NRS 639.267 is hereby amended to read as follows:

639.267 1. As used in this section, "unit dose" means that quantity of a drug which is packaged as a single dose.

2. A pharmacist who provides a regimen of drugs in unit doses to a patient in a facility for skilled nursing or facility for intermediate care as defined in chapter 449 of NRS may credit the person or agency which paid for the drug for any unused doses. The pharmacist may return the drugs to the dispensing pharmacy, which may reissue the drugs to fill other prescriptions ***or transfer the drugs*** in accordance with the provisions of NRS 449.2485.

3. Except schedule II drugs specified in or pursuant to chapter 453 of NRS and except as otherwise provided in NRS 433.801, 449.2485 and 639.2675 ~~[,]~~ ***and section 3 of this act,*** unit doses packaged in ampules or vials which do not require refrigeration may be returned to the pharmacy which dispensed them. The Board shall, by regulation, authorize the return of any other type or brand of drug which is packaged in unit doses if the Food and Drug Administration has approved the packaging for that purpose.

Sec. 6. NRS 639.282 is hereby amended to read as follows:

639.282 1. Except as otherwise provided in NRS 433.801, 449.2485, 639.267 and 639.2675 ~~[,]~~ ***and section 3 of this act,*** it is unlawful for any person to have in his possession, or under his control, for the purpose of resale, or to sell or offer to sell or dispense or give away, any pharmaceutical preparation, drug or chemical which:

(a) Has been dispensed pursuant to a prescription or chart order and has left the control of a registered pharmacist or practitioner;

(b) Has been damaged or subjected to damage by heat, smoke, fire or water, or other cause which might reasonably render it unfit for human or animal use;

(c) Has been obtained through bankruptcy or foreclosure proceedings, or other court action, auction or other legal or administrative proceedings, except when the pharmaceutical preparation, drug or chemical is in the original sealed container;

(d) Is no longer safe or effective for use, as indicated by the expiration date appearing on its label; or

(e) Has not been properly stored or refrigerated as required by its label.

2. The provisions of subsection 1 do not apply if the person in whose possession the pharmaceutical preparation, drug or chemical is found also has in his possession a valid and acceptable certification of analysis attesting to the purity and strength of the pharmaceutical preparation, drug or chemical and attesting to the fact that it can be safely and effectively used by humans or animals. The preparation, drug or chemical must not be sold or otherwise disposed of until the certification required by this subsection has been presented to and approved by the Board.

3. In the absence of conclusive proof that the preparation, drug or chemical can be used safely and effectively by humans or animals, it must be destroyed under the direct supervision of a member or an inspector of the Board, or two persons designated as agents by the Board who include an inspector of a health care board, a licensed practitioner of a health care board or a peace officer of an agency that enforces the provisions of chapters 453 and 454 of NRS.

4. As used in this section, "health care board" includes the State Board of Pharmacy, the State Board of Nursing, the Board of Medical Examiners and the Nevada State Board of Veterinary Medical Examiners.

Sec. 7. 1. This section and sections 1, 2 and 3 of this act become effective upon passage and approval for the purposes of adopting regulations and on October 1, 2009, for all other purposes.

2. Sections 4, 5 and 6 of this act become effective on October 1, 2009.

㉚