Amendment No. 403

Senate Amendment to Senate Bill No. 329 (BDR 54-904)
Proposed by: Senate Committee on Commerce, Labor and Energy
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 underlining** is newly added transitory language.

SLP/MSN Date: 4/22/2011

S.B. No. 329—Revises provisions governing prescriptions. (BDR 54-904)

SENATE BILL NO. 329–SENATORS BREEDEN AND WIENER

MARCH 21, 2011

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions governing prescriptions. (BDR 54-904)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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 pharmacy; **authorizing certain education and training to be provided to practitioners concerning the management by a patient of medications of the patient;** requiring practitioners to [~~include on a prescription the symptom or purpose for which a drug is prescribed; authorizing a patient to choose whether~~] **post a sign informing patients of the right to have** the symptom or purpose for which a drug is prescribed be included on the label of the container of the drug; [~~requiring a pharmacy to provide the contents of a prescription to a person authorized by the patient for whom the prescription was originally issued; providing a penalty;~~] and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes, but does not require, a practitioner to ask a patient if the patient wishes to have included on the label of a prescription the symptom or purpose for which the drug is dispensed and, if the patient so requests, requires the practitioner to include such information on the written prescription. (NRS 639.2352) [~~Sections 1.3 and 7 of this bill require the practitioner to include the symptom or purpose for which the drug is dispensed on the written prescription. Section 2 also requires the practitioner to ask the patient if the patient wants such~~] **Section 2 of this bill requires practitioners to post signs in English and Spanish informing patients of the right to have certain** information included on the label attached to the container of the drug**.** [~~and to include on the written prescription a notation whether the symptom or purpose for which the drug is dispensed must be included on the label. Section 6 of this bill requires that a prescription filled by a practitioner be dispensed in a container with a label that clearly shows the symptom or purpose for which the drug is prescribed, if the prescription contains a notation that the symptom or purpose must be included on the label as requested by the patient.~~

~~Existing law prohibits a pharmacist from sharing the contents of a prescription except with certain authorized persons, including the patient, certain practitioners or pharmacists, members or investigators of certain boards and agencies, insurance carriers, persons authorized by court order and certain peace officers. (NRS 639.238) Section 4 of this bill authorizes a pharmacist to share the contents of a prescription with a person authorized by the patient or a parent or legal guardian of the patient.~~] **Sections 1.3 and 1.7 of this bill require**

the Board of Medical Examiners and the State Board of Osteopathic Medicine to encourage physicians to obtain continuing education concerning methods of educating patients about how to effectively manage medications. Section 6.5 of this bill authorizes the State Board of Pharmacy or the Investigation Division of the Department of Public Safety, in cooperation with the Health Division of the Department of Health and Human Services, to carry out education and training regarding the rights of patients to have the symptom or purpose of a medication printed on the label attached to the container for that medication.

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

Section 1. ~~[NRS 639.23284 is hereby amended to read as follows:~~

~~639.23284 1. Every pharmacy located outside Nevada that provides mail order service to a resident of Nevada:~~

~~(a) Shall report to the Board any change of information that appears on its license and pay the fee required by regulation of the Board.~~

~~(b) Shall make available for inspection all pertinent records, reports, documents or other material or information required by the Board.~~

~~(c) As required by the Board, must be inspected by the Board or:~~

~~(1) The regulatory board or licensing authority of the state or country in which the pharmacy is located; or~~

~~(2) The Drug Enforcement Administration.~~

~~(d) As required by the Board, shall provide the following information concerning each prescription for a drug that is shipped, mailed or delivered to a resident of Nevada:~~

~~(1) The name of the patient;~~

~~(2) The name of the prescriber;~~

~~(3) The number of the prescription;~~

~~(4) The date of the prescription;~~

~~(5) The name of the drug;~~

~~(6) The symptom or purpose for which the drug is prescribed [, if requested by the patient] ;~~

~~*(7) A notation whether the symptom or purpose for which the drug is prescribed must be included on the label attached to the container of the drug* pursuant to NRS 639.2352; and~~

~~[(7)] *(9)* The strength and quantity of the dose.~~

~~2. In addition to complying with the requirements of subsection 1, every Canadian pharmacy which is licensed by the Board and which has been recommended by the Board pursuant to subsection 4 of NRS 639.2328 for inclusion on the Internet website established and maintained pursuant to subsection 9 of NRS 223.560 that provides mail order service to a resident of Nevada shall not sell, distribute or furnish to a resident of this State:~~

~~(a) A controlled substance;~~

~~(b) A prescription drug that has not been approved by the federal Food and Drug Administration;~~

~~(c) A generic prescription drug that has not been approved by the federal Food and Drug Administration;~~

~~(d) A prescription drug for which the federal Food and Drug Administration has withdrawn or suspended its approval; or~~

~~(e) A quantity of prescription drugs at one time that includes more drugs than are prescribed to the patient as a 3-month supply of the drugs.~~] **(Deleted by amendment.)**

Sec. 1.3. **NRS 630.253 is hereby amended to read as follows:**

630.253 1. The Board shall, as a prerequisite for the:

(a) Renewal of a license as a physician assistant; or

(b) Biennial registration of the holder of a license to practice medicine,

➥ require each holder to comply with the requirements for continuing education adopted by the Board.

2. These requirements:

(a) May provide for the completion of one or more courses of instruction relating to risk management in the performance of medical services.

(b) Must provide for the completion of a course of instruction, within 2 years after initial licensure, relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction. The course must provide at least 4 hours of instruction that includes instruction in the following subjects:

(1) An overview of acts of terrorism and weapons of mass destruction;

(2) Personal protective equipment required for acts of terrorism;

(3) Common symptoms and methods of treatment associated with exposure to, or injuries caused by, chemical, biological, radioactive and nuclear agents;

(4) Syndromic surveillance and reporting procedures for acts of terrorism that involve biological agents; and

(5) An overview of the information available on, and the use of, the Health Alert Network.

➥ The Board may thereafter determine whether to include in a program of continuing education additional courses of instruction relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction.

3. The Board shall encourage each holder of a license who treats or cares for persons who are more than 60 years of age to receive, as a portion of their continuing education, education in geriatrics and gerontology, including such topics as:

(a) The skills and knowledge that the licensee needs to address aging issues;

(b) Approaches to providing health care to older persons, including both didactic and clinical approaches;

(c) The biological, behavioral, social and emotional aspects of the aging process; and

(d) The importance of maintenance of function and independence for older persons.

4. ***The Board shall encourage each holder of a license to practice medicine to receive, as a portion of his or her continuing education, training concerning methods for educating patients about how to effectively manage medications, including, without limitation, the ability of the patient to request to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of the drug.***

5. As used in this section:

(a) "Act of terrorism" has the meaning ascribed to it in NRS 202.4415.

(b) "Biological agent" has the meaning ascribed to it in NRS 202.442.

(c) "Chemical agent" has the meaning ascribed to it in NRS 202.4425.

(d) "Radioactive agent" has the meaning ascribed to it in NRS 202.4437.

(e) "Weapon of mass destruction" has the meaning ascribed to it in NRS 202.4445.

Sec. 1.7. **NRS 633.471 is hereby amended to read as follows:**

633.471 1. Except as otherwise provided in subsection ~~[4]~~ **5** and NRS 633.491, every holder of a license to practice osteopathic medicine issued under this chapter, except a temporary or a special license, may renew the license on or before January 1 of each calendar year after its issuance by:

(a) Applying for renewal on forms provided by the Board;

(b) Paying the annual license renewal fee specified in this chapter;

(c) Submitting a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against the holder during the previous year;

(d) Submitting an affidavit to the Board that in the year preceding the application for renewal the holder has attended courses or programs of continuing education approved by the Board totaling a number of hours established by the Board which must not be less than 35 hours nor more than that set in the requirements for continuing medical education of the American Osteopathic Association; and

(e) Submitting all information required to complete the renewal.

2. The Secretary of the Board shall notify each licensee of the practice of osteopathic medicine of the requirements for renewal not less than 30 days before the date of renewal.

3. The Board shall request submission of verified evidence of completion of the required number of hours of continuing medical education annually from no fewer than one-third of the applicants for renewal of a license to practice osteopathic medicine. Upon a request from the Board, an applicant for renewal of a license to practice osteopathic medicine shall submit verified evidence satisfactory to the Board that in the year preceding the application for renewal the applicant attended courses or programs of continuing medical education approved by the Board totaling the number of hours established by the Board.

4. ***The Board shall encourage each holder of a license to practice osteopathic medicine to receive, as a portion of his or her continuing education, training concerning methods for educating patients about how to effectively manage medications, including, without limitation, the ability of the patient to request to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of the drug.***

5. Members of the Armed Forces of the United States and the United States Public Health Service are exempt from payment of the annual license renewal fee during their active duty status.

Sec. 2. NRS 639.2352 is hereby amended to read as follows:

639.2352 ***1.*** Before issuing a prescription, a practitioner may ~~***[shall]***~~ ask the patient whether he or she wishes to have included on the label ~~[of the prescription]~~ ***attached to the container of the drug*** the symptom or purpose for which the drug is prescribed. If the patient requests that the information be included on the label, the ~~***[The]***~~ practitioner shall include on the prescription the symptom or purpose for which the drug is prescribed ~~***, and a notation that the symptom or purpose must:***~~

~~***1. Be included on the label attached to the container of the drug, if the patient requests that the information be included on the label; or***~~

~~***2. Not be included on the label attached to the container of the drug, if the patient requests that the information not be included on the label.]***~~

2. Each practitioner shall post in a conspicuous location in each room used for the examination of a patient a sign which is not less than 8.5 inches wide and not less than 11 inches high and which contains, in at least 12-point boldface type, the following:

NOTICE TO PATIENTS

You have the right to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of your prescribed drug.

You have the right to ask the person writing your prescription to instruct the pharmacy to print this information on the label attached to the container of your prescribed drug.

Having the purpose or symptom printed on the label attached to the container of your drug may help you to properly use and track your prescribed drugs.

AVISO A LOS PACIENTES

Tiene derecho de que se imprima cierta información en la etiqueta de sus medicamentos. Específicamente, usted puede elegir que la etiqueta incluya los síntomas o el propósito para que el medicamento se prescribe.

Tiene derecho de pedirle a la person que prescriba su medicamento que dirija a la farmacia que imprima la información en la etiqueta.

Si se imprimen los síntomas o el propósito en la etiqueta de sus medicamentos, le puede ayudar a mantenerlos y usarlos apropriadamente.

Sec. 3. ~~[~~NRS 639.2353 is hereby amended to read as follows:

~~639.2353 Except as otherwise provided in a regulation adopted pursuant to NRS 453.385 or 639.2357:~~

~~1. A prescription must be given:~~

~~(a) Directly from the practitioner to a pharmacist;~~

~~(b) Indirectly by means of an order signed by the practitioner;~~

~~(c) By an oral order transmitted by an agent of the practitioner; or~~

~~(d) Except as otherwise provided in subsection 5, by electronic transmission or transmission by a facsimile machine, including, without limitation, transmissions made from a facsimile machine to another facsimile machine, a computer equipped with a facsimile modem to a facsimile machine or a computer to another computer, pursuant to the regulations of the Board.~~

~~2. A written prescription must contain:~~

~~(a) Except as otherwise provided in this section, the name and signature of the practitioner, and the address of the practitioner if not immediately available to the pharmacist;~~

~~(b) The classification of his or her license;~~

~~(c) The name of the patient, and the address of the patient if not immediately available to the pharmacist;~~

~~(d) The name, strength and quantity of the drug prescribed;~~

~~(e) The symptom or purpose for which the drug is prescribed [, if included by the practitioner] ;~~

~~*(f) A notation whether the symptom or purpose for which the drug is prescribed must be included on the label attached to the container of the drug*~~ ~~pursuant to NRS 639.2352;~~

~~[(f)]~~ ~~*(g)*~~ ~~Directions for use; and~~

~~[(g)]~~ ~~*(h)*~~ ~~The date of issue.~~

~~3. The directions for use must be specific in that they indicate the portion of the body to which the medication is to be applied or, if to be taken into the body by~~

~~means other than orally, the orifice or canal of the body into which the medication is to be inserted or injected.~~

~~4. Each written prescription must be written in such a manner that any registered pharmacist would be able to dispense it. A prescription must be written in Latin or English and may include any character, figure, cipher or abbreviation which is generally used by pharmacists and practitioners in the writing of prescriptions.~~

~~5. A prescription for a controlled substance must not be given by electronic transmission or transmission by a facsimile machine unless authorized by federal law.~~

~~6. A prescription that is given by electronic transmission is not required to contain the signature of the practitioner if:~~

~~(a) It contains a facsimile signature, security code or other mark that uniquely identifies the practitioner; or~~

~~(b) A voice recognition system, biometric identification technique or other security system approved by the Board is used to identify the practitioner.]~~

(Deleted by amendment.)

Sec. 4. ~~[~~NRS 639.238 is hereby amended to read as follows:

~~639.238 1. Prescriptions filled and on file in a pharmacy are not a public record. Except as otherwise provided in NRS 439.538 and 639.2357, a pharmacist shall not divulge the contents of any prescription or provide a copy of any prescription, except to:~~

~~(a) The patient for whom the original prescription was issued;~~

~~(b)~~ ***Any person authorized by the patient for whom the original prescription was issued or, if applicable, the parent or legal guardian of the patient;***

~~***(c)*** The practitioner who originally issued the prescription;~~

~~[(c)]~~ ***(d)*** ~~A practitioner who is then treating the patient;~~

~~[(d)]~~ ***(e)*** ~~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)]~~ ***(f)*** ~~An agency of state government charged with the responsibility of providing medical care for the patient;~~

~~[(f)]~~ ***(g)*** ~~An insurance carrier, on receipt of written authorization signed by the patient or his or her legal guardian, authorizing the release of such information;~~

~~[(g)]~~ ***(h)*** ~~Any person authorized by an order of a district court;~~

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

~~[(i)]~~ ***(j)*** ~~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;~~

~~[(j)]~~ ***(k)*** ~~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; or~~

~~[(k)]~~ ***(l)*** ~~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.~~

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

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

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

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

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

~~5. As used in this section, "peace officer" does not include:~~

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

~~(b) A school police officer who is appointed or employed pursuant to NRS 391.100.~~] **(Deleted by amendment.)**

Sec. 5. ~~[~~NRS 639.239 is hereby amended to read as follows:~~

~~639.239 Members, inspectors and investigators of the Board, inspectors of the Food and Drug Administration, agents of the Investigation Division of the Department of Public Safety and peace officers described in paragraph~~ ~~[(j)]~~ ***(k)*** ~~of subsection 1 of NRS 639.238 may remove any record required to be retained by state or federal law or regulation, including any prescription contained in the files of a practitioner, if the record in question will be used as evidence in a criminal action, civil action or an administrative proceeding, or contemplated action or proceeding. The person who removes a record pursuant to this section shall:~~

~~1. Affix the name and address of the practitioner to the back of the record;~~

~~2. Affix his or her initials, cause an agent of the practitioner to affix his or her initials and note the date of the removal of the record on the back of the record;~~

~~3. Affix the name of the agency for which the person is removing the record to the back of the record;~~

~~4. Provide the practitioner with a receipt for the record; and~~

~~5. Return a photostatic copy of both sides of the record to the practitioner within 15 working days after the record is removed.~~] **(Deleted by amendment.)**

Sec. 6. ~~[~~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. The symptom or purpose for which the drug is prescribed, if [included] *the prescription contains a notation* by the practitioner *that the symptom or purpose must be included on the label or other device* pursuant to NRS 639.2352.~~

~~6. Specific directions for use given by the prescribing practitioner.~~

~~7. The expiration date of the effectiveness of the drug or medicine dispensed, if that information is included on the original label of the manufacturer of that drug or medicine. If the expiration date specified by the manufacturer 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.~~

~~8. The proprietary or generic name of the drug or medicine as written by the prescribing practitioner.~~

~~9. The strength of the drug or medicine.~~

~~→ The label must contain the warning:~~

~~Caution: Do not use with alcohol or nonprescribed drugs without consulting the prescribing practitioner.]~~ **(Deleted by amendment.)**

Sec. 6.5. **NRS 453.155 is hereby amended to read as follows:**

453.155 1. The Board or Division, in cooperation with the Health Division of the Department, may carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with these programs the Board or Division may:

(a) Promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;

(b) Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;

(c) Consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(d) Evaluate procedures, projects, techniques and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances;

(e) Disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to alleviate them; ~~[and]~~

(f) Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances ~~[.]~~ ***; and***

(g) Carry out education and training for physicians, pharmacists and patients regarding the ability of the patient to request to have the symptom or purpose for which a controlled substance is prescribed included on the label attached to the container of the controlled substance.

2. The Board shall encourage research on misuse and abuse of controlled substances. In connection with the research, and in furtherance of the enforcement of the provisions of NRS 453.011 to 453.552, inclusive, it may:

(a) Establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse;

(b) Make studies and undertake programs of research to:

(1) Develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of such sections;

(2) Determine patterns of misuse and abuse of controlled substances and the social effects thereof; and

(3) Improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled substances; and

(c) Enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations or special projects which bear directly on misuse and abuse of controlled substances.

3. The Board may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subject of the research. A person who obtains this authorization is not compelled in any civil, criminal, administrative, legislative or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

4. The Board may authorize the possession and distribution of controlled substances by persons engaged in research. A person who obtains this authorization is exempt from state prosecution for possession and distribution of controlled substances to the extent of the authorization. The Board shall promptly notify the Division of any such authorization.

Sec. 7. ~~[~~NRS 454.223 is hereby amended to read as follows:

~~454.223 1. Each prescription for a dangerous drug must be written on a prescription blank or as an order on the chart of a patient. A chart of a patient may be used to order multiple prescriptions for that patient.~~

~~2. A written prescription must contain:~~

~~(a) The name of the practitioner, the signature of the practitioner if the prescription was not transmitted orally and the address of the practitioner if not immediately available to the pharmacist;~~

~~(b) The classification of his or her license;~~

~~(c) The name of the patient, and the address of the patient if not immediately available to the pharmacist;~~

~~(d) The name, strength and quantity of the drug or drugs prescribed;~~

~~(e) The symptom or purpose for which the drug is prescribed [, if included by the practitioner] ;~~

~~*(f) A notation whether the symptom or purpose for which the drug is prescribed must be included on the label attached to the container of the drug* pursuant to NRS 639.2352;~~

~~[(f)] *(g)* Directions for use; and~~

~~[(g)] *(h)* The date of issue.~~

~~3. Directions for use must be specific in that they must indicate the portion of the body to which the medication is to be applied, or, if to be taken into the body by means other than orally, the orifice or canal of the body into which the medication is to be inserted or injected.]~~ **(Deleted by amendment.)**