

ASSEMBLY BILL NO. 362—ASSEMBLYMEN STEWART;
HICKEY AND MUNFORD

MARCH 18, 2013

Referred to Committee on Health and Human Services

SUMMARY—Provides for the establishment of the HIV/AIDS Drug Donation Program. (BDR 40-757)

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 health care; providing for the establishment of the HIV/AIDS Drug Donation Program; requiring the State Board of Pharmacy to adopt regulations to carry out the Program; providing immunity from liability to certain persons who participate in the Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Pharmacy to establish a Cancer Drug Donation Program to allow a person to donate a cancer drug at a pharmacy, medical facility, health clinic or provider of health care that participates in the Program to be dispensed to a qualifying patient. (NRS 457.400-457.490) **Section 9** of this bill similarly requires the Board to establish and maintain an HIV/AIDS Drug Donation Program to accept, distribute and dispense drugs donated to the Program. **Section 9** allows any person to donate a prescription drug that is used to treat the human immunodeficiency virus or acquired immunodeficiency syndrome at a participating pharmacy, medical facility, health clinic or provider of health care. In addition, **section 9** requires any such drug to be in the original, unopened and sealed package and not adulterated or misbranded in order to be accepted, distributed or dispensed pursuant to the Program. **Sections 10-12** of this bill set forth requirements for a participating pharmacy, medical facility, health clinic or provider of health care regarding accepting, distributing and dispensing drugs pursuant to the Program and keeping records. **Section 13** of this bill requires the Board to adopt regulations to carry out the Program.

Section 14 of this bill provides immunity from civil or criminal liability or any disciplinary action by a professional licensing board for: (1) any person who exercises reasonable care in donating a drug to the Program; and (2) any pharmacy, medical facility, health clinic or provider of health care that exercises reasonable care in accepting, distributing or dispensing a drug pursuant to the Program. **Section 14** also provides immunity from civil and criminal liability to a



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23 manufacturer of a drug for any claim or injury arising from the donation,
24 acceptance, distribution or dispensation of any drug pursuant to the Program.
25 **Section 14** further requires any person to whom a drug is dispensed pursuant to the
26 Program to sign a waiver of liability for any action described in that section.

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

1 **Section 1.** Title 40 of NRS is hereby amended by adding
2 thereto a new chapter to consist of the provisions set forth as
3 sections 2 to 14, inclusive, of this act.

4 **Sec. 2.** *As used in this chapter, unless the context otherwise*
5 *requires, the words and terms defined in sections 3 to 8, inclusive,*
6 *of this act, have the meanings ascribed to them in those sections.*

7 **Sec. 3.** *"Board" means the State Board of Pharmacy.*

8 **Sec. 4.** *"HIV/AIDS drug" means a prescription drug that is*
9 *used to treat the human immunodeficiency virus or acquired*
10 *immunodeficiency syndrome.*

11 **Sec. 5.** *"Medical facility" has the meaning ascribed to it in*
12 *NRS 449.0151.*

13 **Sec. 6.** *"Pharmacy" has the meaning ascribed to it in*
14 *NRS 639.012.*

15 **Sec. 7.** *"Program" means the HIV/AIDS Drug Donation*
16 *Program established pursuant to section 9 of this act.*

17 **Sec. 8.** *"Provider of health care" has the meaning ascribed*
18 *to it in NRS 629.031.*

19 **Sec. 9. 1.** *The Board shall establish and maintain the*
20 *HIV/AIDS Drug Donation Program to accept, distribute and*
21 *dispense HIV/AIDS drugs donated to the Program.*

22 **2.** *Any person or governmental entity may donate an*
23 *HIV/AIDS drug to the Program. An HIV/AIDS drug may be*
24 *donated at a pharmacy, medical facility, health clinic or provider*
25 *of health care that participates in the Program.*

26 **3.** *A pharmacy, medical facility, health clinic or provider of*
27 *health care that participates in the Program may charge a patient*
28 *who receives an HIV/AIDS drug a handling fee in accordance*
29 *with the regulations adopted by the Board pursuant to section 13*
30 *of this act.*

31 **4.** *A pharmacy, medical facility, health clinic or provider of*
32 *health care that participates in the Program must establish written*
33 *procedures for receiving and inspecting donated HIV/AIDS drugs*
34 *which are approved by the Board.*

35 **5.** *An HIV/AIDS drug may be accepted, distributed or*
36 *dispensed pursuant to the Program only if the HIV/AIDS drug:*



(a) Is in its original, unopened, sealed and tamper-evident unit dose packaging or, if packaged in single-unit doses, the single-unit dose packaging is unopened;

(b) Is not adulterated or misbranded; and

(c) Bears an expiration date that is 180 days or more after the date on which the drug is donated.

6. An HIV/AIDS drug donated to the Program may not be:

(a) Resold; or

(b) Designated by the donor for a specific person.

7. The provisions of this section do not require a pharmacy, medical facility, health clinic or provider of health care to participate in the Program.

Sec. 10. A pharmacy, medical facility, health clinic or provider of health care that participates in the Program shall:

1. Maintain the records for any HIV/AIDS drug that is donated to the Program separate from all other records kept by the pharmacy, medical facility, health clinic or provider of health care. Records for any HIV/AIDS drug donated to the Program must include, without limitation:

(a) The date the pharmacy, medical facility, health clinic or provider of health care received the drug;

(b) The date the drug was dispensed pursuant to the original prescription;

(c) The original prescription number of the drug;

(d) The name of the drug;

(e) The dosage of the drug;

(f) The quantity of the drug that is donated;

(g) The date of expiration of the drug;

(h) The name, address and telephone number of the person who originally dispensed the drug;

(i) The name, address and telephone number of the person who donated the drug; and

(j) The lot number of the drug.

2. Maintain the record of an HIV/AIDS drug that is distributed to another pharmacy, medical facility, health clinic or provider of health care which is participating in the Program separate from all other records kept by the pharmacy, medical facility, health clinic or provider of health care. The records for any HIV/AIDS drug distributed to another pharmacy, medical facility, health clinic or provider of health care must include, without limitation:

(a) The information required by subsection 1;

(b) The name, address and telephone number of the pharmacy, medical facility, health clinic or provider of health care that is distributing the drug;



(c) *The quantity of the drug that is being distributed; and*
(d) *The name, address and telephone number of the pharmacy, medical facility, health clinic or provider of health care to which the drug is distributed.*

3. *Record and retain the name and telephone number of any person to whom a donated HIV/AIDS drug is dispensed.*

4. *Store an HIV/AIDS drug that is donated to the Program:*

(a) *Pursuant to the recommendations of the manufacturer of the drug concerning the storage conditions;*

(b) *Separate from all other drugs; and*

(c) *In a locked storage area.*

Sec. 11. *An HIV/AIDS drug donated for use in the Program may only be dispensed:*

1. *By a pharmacist who is registered pursuant to chapter 639 of NRS; and*

2. *To a person who is eligible to receive HIV/AIDS drugs dispensed pursuant to the Program.*

Sec. 12. *A pharmacy, medical facility, health clinic or provider of health care that participates in the Program:*

1. *Shall comply with all applicable state and federal laws concerning the storage, distribution and dispensing of any HIV/AIDS drugs donated to the Program; and*

2. *May distribute an HIV/AIDS drug donated to the Program to another pharmacy, medical facility, health clinic or provider of health care for use in the Program.*

Sec. 13. *The Board shall adopt regulations to carry out the provisions of this chapter. The regulations must prescribe, without limitation:*

1. *The requirements for the participation of pharmacies, medical facilities, health clinics and providers of health care in the Program;*

2. *The criteria for determining the eligibility of persons to receive HIV/AIDS drugs dispensed pursuant to the Program, including, without limitation, a requirement that a person apply to the Board on a form prescribed by the Board for eligibility to receive HIV/AIDS drugs dispensed or distributed pursuant to the Program;*

3. *The categories of HIV/AIDS drugs that may be accepted for distribution or dispensing pursuant to the Program;*

4. *The maximum fee that a pharmacy, medical facility, health clinic or provider of health care may charge to distribute or dispense HIV/AIDS drugs pursuant to the Program; and*

5. *The requirements for the written procedures established by a pharmacy, medical facility, health clinic or provider of health care for receiving and inspecting donated HIV/AIDS drugs and*



1 *the manner in which a pharmacy, medical facility, health clinic or*
2 *provider of health care must submit such procedures for approval.*

3 **Sec. 14.** 1. *A person who exercises reasonable care in the*
4 *donation of an HIV/AIDS drug in accordance with the provisions*
5 *of this chapter and the regulations adopted pursuant thereto is not*
6 *subject to any civil or criminal liability or disciplinary action by a*
7 *professional licensing board for any loss, injury or death that*
8 *results from the donation of the HIV/AIDS drug.*

9 2. *A pharmacy, medical facility, health clinic or provider of*
10 *health care which participates in the Program and which exercises*
11 *reasonable care in the acceptance, distribution or dispensation of*
12 *an HIV/AIDS drug is not subject to civil or criminal liability or*
13 *disciplinary action by a professional licensing board for any loss,*
14 *injury or death that results from the acceptance, distribution or*
15 *dispensation of the HIV/AIDS drug.*

16 3. *A manufacturer of an HIV/AIDS drug is not subject to*
17 *civil or criminal liability for any claim or injury arising from the*
18 *donation, acceptance, distribution or dispensation of the*
19 *HIV/AIDS drug pursuant to this chapter and the regulations*
20 *adopted pursuant thereto.*

21 4. *An HIV/AIDS drug may not be dispensed pursuant to the*
22 *Program unless the person to whom the drug is dispensed has*
23 *signed a waiver of liability for any action described in this section*
24 *performed by any person, pharmacy, medical facility, health*
25 *clinic, provider of health care or manufacturer of the HIV/AIDS*
26 *drug.*

27 **Sec. 15.** This act becomes effective:

28 1. Upon passage and approval for the purposes of adopting
29 regulations; and

30 2. On October 1, 2014, for all other purposes.

