
ASSEMBLY BILL NO. 279—ASSEMBLYMEN SPRINKLE, KIRKPATRICK;
ARAUJO, BENITEZ-THOMPSON, DIAZ, JOINER AND
THOMPSON

MARCH 13, 2015

JOINT SPONSOR: SENATOR DENIS

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions concerning controlled substances.
(BDR 40-775)

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; requiring each person who registers with the State Board of Pharmacy to prescribe or dispense a controlled substance to be provided access to the database of the computerized program to track prescriptions for certain controlled substances that are filled by pharmacies; requiring a pharmacy to upload certain information to the database; requiring a pharmacist to report fraudulent or illegal activity concerning controlled substances to certain licensing boards or law enforcement agencies; requiring each person who prescribes a controlled substance to register with the State Board of Pharmacy; authorizing the Board to impose a fee for such registration; requiring each person registered by the Board to receive annual training concerning the misuse and abuse of controlled substances; requiring the Board of Medical Examiners and the State Board of Osteopathic Medicine to include information concerning fraudulent or illegal activity in certain reports; providing a penalty; and providing other matters properly relating thereto.



Legislative Counsel's Digest:

Existing law requires every person who dispenses a controlled substance within this State to register biennially with the State Board of Pharmacy. (NRS 453.226) **Section 4** of this bill also requires every person who prescribes a controlled substance to register biennially with the Board. **Section 1** of this bill amends the definition of "practitioner" to include persons who prescribe controlled substances for the purposes of provisions governing controlled substances.

Existing law authorizes the Board to charge a reasonable fee to register and control the dispensing of controlled substances and an additional fee to cover the cost of the computer program to track prescriptions. (NRS 453.221) **Section 3** of this bill authorizes the Board to also charge a reasonable fee relating to the registration and control of prescribing of controlled substances within this State. **Section 5** of this bill requires the Board to register an applicant to prescribe a controlled substance in the same manner as required for an applicant that dispenses a controlled substance, unless it determines that doing so would be against the public interest. **Section 5** also requires each person who is registered by the Board to receive annual training concerning the misuse and abuse of controlled substances. **Section 7** of this bill authorizes the Board to suspend or revoke a registration to prescribe a controlled substance upon a finding that the registrant has committed certain misconduct relating to controlled substances or failed to receive the required training in the same manner authorized for a registrant who dispenses a controlled substance.

Existing law makes it a category D felony to dispense a controlled substance unless the person is registered by the Board. (NRS 453.232) **Section 6** of this bill also makes it a category D felony to prescribe a controlled substance without being registered.

Existing law requires the Board and the Investigation Division of the Department of Public Safety to cooperatively develop a computerized program to track each prescription for a controlled substance. Persons who prescribe or dispense controlled substances can choose to access the database of the program and are given access to the database after receiving a course of training developed by the Board and the Division. (NRS 453.1545) **Section 2** of this bill requires any person who registers with the Board to prescribe or dispense controlled substances to receive such training and be given access to the database. **Section 2** also requires each person authorized to prescribe or dispense a controlled substance to report to the database contact information for each person to whom a controlled substance is prescribed or dispensed and the name, amount and prescribed dosage of the controlled substance. Additionally, **section 2** requires each pharmacist to report any activity he or she reasonably suspects may be fraudulent or illegal to the appropriate law enforcement agency or occupational licensing board.

Existing law requires the Board of Medical Examiners and the State Board of Osteopathic Medicine to compile a biennial report of certain information and submit the report to the Legislature. (NRS 630.130, 633.286) **Sections 8 and 9** of this bill require these reports to contain information concerning fraudulent or illegal activity concerning the prescription and dispensation of controlled substances reported by pharmacists, the State Board of Pharmacy and the Division.

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

Section 1. NRS 453.126 is hereby amended to read as follows:
453.126 "Practitioner" means:



1 1. A physician, dentist, veterinarian or podiatric physician who
2 holds a license to practice his or her profession in this State and is
3 registered pursuant to this chapter.

4 2. An advanced practice registered nurse who holds a
5 certificate from the State Board of Pharmacy authorizing him or her
6 to dispense or to prescribe and dispense controlled substances ~~H~~
7 **and is registered pursuant to this chapter.**

8 3. A scientific investigator or a pharmacy, hospital or other
9 institution **that is** licensed, registered or otherwise authorized in this
10 State to **prescribe**, distribute, dispense, conduct research with
11 respect to, to administer, or use in teaching or chemical analysis, a
12 controlled substance in the course of professional practice or
13 research ~~H~~ **and is registered pursuant to this chapter.**

14 4. A euthanasia technician who is licensed by the Nevada State
15 Board of Veterinary Medical Examiners and registered pursuant to
16 this chapter, while he or she possesses or administers sodium
17 pentobarbital pursuant to his or her license and registration.

18 5. A physician assistant who:

19 (a) Holds a license from the Board of Medical Examiners; ~~and~~

20 (b) Is authorized by the Board to possess, administer, prescribe
21 or dispense controlled substances under the supervision of a
22 physician as required by chapter 630 of NRS ~~H~~ ; **and**
23 **(c) Is registered pursuant to this chapter.**

24 6. A physician assistant who:

25 (a) Holds a license from the State Board of Osteopathic
26 Medicine; ~~and~~

27 (b) Is authorized by the Board to possess, administer, prescribe
28 or dispense controlled substances under the supervision of an
29 osteopathic physician as required by chapter 633 of NRS ~~H~~ ; **and**
30 **(c) Is registered pursuant to this chapter.**

31 7. An optometrist who is certified by the Nevada State Board
32 of Optometry to prescribe and administer therapeutic
33 pharmaceutical agents pursuant to NRS 636.288 ~~H~~ **and is**
34 **registered pursuant to this chapter**, when the optometrist prescribes
35 or administers therapeutic pharmaceutical agents within the scope of
36 his or her certification.

37 **Sec. 2.** NRS 453.1545 is hereby amended to read as follows:

38 453.1545 1. The Board and the Division shall cooperatively
39 develop a computerized program to track each prescription for a
40 controlled substance listed in schedule II, III or IV that is filled by
41 a pharmacy that is registered with the Board or that is dispensed by
42 a practitioner who is registered with the Board. The program must:

43 (a) Be designed to provide information regarding:

44 (1) The inappropriate use by a patient of controlled
45 substances listed in schedules II, III and IV to pharmacies,



1 practitioners and appropriate state agencies to prevent the improper
2 or illegal use of those controlled substances; and

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

5 (b) Be administered by the Board, the Investigation Division,
6 the Division of Public and Behavioral Health of the Department and
7 various practitioners, representatives of professional associations for
8 practitioners, representatives of occupational licensing boards and
9 prosecuting attorneys selected by the Board and the Investigation
10 Division.

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

13 (d) Include the contact information of each person who ~~felects~~
14 ~~to~~ *is provided* access *to* the database of the program pursuant to
15 subsection 2, including, without limitation:

16 (1) The name of the person;

17 (2) The physical address of the person;

18 (3) The telephone number of the person; and

19 (4) If the person maintains an electronic mail address, the
20 electronic mail address of the person.

21 *(e) Include, for each person to whom a controlled substance is*
22 *prescribed or dispensed:*

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

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

25 *(3) The telephone number of the person;*

26 *(4) If the person maintains an electronic mail address, the*
27 *electronic mail address of the person; and*

28 *(5) The name, amount and prescribed dosage of the*
29 *controlled substance prescribed or dispensed to the person.*

30 2. The Board shall provide Internet access to the database of
31 the program established pursuant to subsection 1 to each practitioner
32 ~~[who is authorized to write prescriptions for and each person who is~~
33 ~~authorized to dispense controlled substances listed in schedule II, III~~
34 ~~or IV] or other person~~ who:

35 (a) ~~[Elects to access the database of the program;]~~ *Is registered*
36 *by the Board pursuant to NRS 453.231; and*

37 (b) Completes the course of instruction described in subsection
38 ~~[7.] 8.~~

39 3. *Except as otherwise provided in this subsection, each*
40 *person registered pursuant to this chapter to prescribe or dispense*
41 *a controlled substance for use by humans shall, within 24 hours*
42 *after prescribing or dispensing a controlled substance, upload to*
43 *the database of the program established pursuant to subsection 1*
44 *the information described in paragraph (e) of subsection 1. The*
45 *requirements of this subsection do not apply if the controlled*



substance is administered directly by a practitioner to a patient in a health care facility, as defined in NRS 439.960, a child who is a resident in a child care facility, as defined in NRS 432A.024, or a prisoner, as defined in NRS 208.085. The Board shall establish by regulation and impose administrative penalties for the failure to upload information pursuant to this subsection.

4. 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.}~~ 5. The Board, ~~{or}~~ the Division *and each pharmacist* shall report any activity ~~{it}~~ *they* reasonably ~~{suspects}~~ *suspect* 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.}~~ 6. The Board and the Division may cooperatively enter into a written agreement with an agency of any other state to provide, receive or exchange information obtained by the program with a program established in that state which is substantially similar to the program established pursuant to subsection 1, including, without limitation, providing such state access to the database of the program or transmitting information to and receiving information from such state. Any information provided, received or exchanged as part of an agreement made pursuant to this section may only be used in accordance with the provisions of this chapter.

~~{6.}~~ 7. 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 behalf of that person by his or her attorney; or

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

~~{7.}~~ 8. The Board and the Division shall cooperatively develop a course of training for persons who ~~{elect to access the database of the program pursuant to subsection 2}~~ *register pursuant to NRS 453.226* and require each such person to complete the course of training before the person is provided with Internet access to the database pursuant to subsection 2.

~~{8.}~~ 9. A 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 acts with reasonable care when transmitting to the Board, ~~{or}~~ the Division, *a licensing board or a law enforcement agency* a report or information required



1 by this section or a regulation adopted pursuant thereto is immune
2 from civil and criminal liability relating to such action.

3 ~~19.1~~ 10. The Board and the Division may apply for any
4 available grants and accept any gifts, grants or donations to assist in
5 developing and maintaining the program required by this section.

6 **Sec. 3.** NRS 453.221 is hereby amended to read as follows:

7 453.221 1. The Board may adopt regulations and charge
8 reasonable fees relating to the registration and control of the
9 **prescribing and** dispensing of controlled substances within this
10 State.

11 2. The Board may charge an additional fee for **prescribing and**
12 dispensing controlled substances included in schedules I to V,
13 inclusive, to cover the cost of developing and maintaining the
14 computerized program developed pursuant to NRS 453.1545. The
15 amount of the fee must be:

16 (a) Set so that the aggregate amount received from the fee does
17 not exceed the estimated costs of developing and maintaining the
18 program.

19 (b) Approved by the Legislature, if it is in regular session, or the
20 Interim Finance Committee, if the Legislature is not in regular
21 session.

22 **Sec. 4.** NRS 453.226 is hereby amended to read as follows:

23 453.226 1. Every practitioner or other person who **prescribes**
24 **or** dispenses any controlled substance within this State or who
25 proposes to engage in the **prescribing or** dispensing of any
26 controlled substance within this State shall obtain biennially a
27 registration issued by the Board in accordance with its regulations.

28 2. A person registered by the Board in accordance with the
29 provisions of NRS 453.011 to 453.552, inclusive, to **prescribe,**
30 dispense or conduct research with controlled substances may
31 **prescribe,** possess, dispense or conduct research with those
32 substances to the extent authorized by the registration and in
33 conformity with the other provisions of those sections.

34 3. The following persons are not required to register and may
35 lawfully possess and distribute controlled substances pursuant to the
36 provisions of NRS 453.011 to 453.552, inclusive:

37 (a) An agent or employee of a registered dispenser of a
38 controlled substance if he or she is acting in the usual course of his
39 or her business or employment;

40 (b) A common or contract carrier or warehouseman, or an
41 employee thereof, whose possession of any controlled substance is
42 in the usual course of business or employment;

43 (c) An ultimate user or a person in possession of any controlled
44 substance pursuant to a lawful order of a physician, physician
45 assistant licensed pursuant to chapter 630 or 633 of NRS, dentist,



advanced practice registered nurse, podiatric physician or veterinarian or in lawful possession of a schedule V substance; or

(d) A physician who:

(1) Holds a locum tenens license issued by the Board of Medical Examiners or a temporary license issued by the State Board of Osteopathic Medicine; and

(2) Is registered with the Drug Enforcement Administration at a location outside this State.

4. The Board may waive the requirement for registration of certain **persons who prescribe controlled substances or** dispensers if it finds it consistent with the public health and safety.

5. A separate registration is required at each principal place of business or professional practice where the applicant **prescribes or** dispenses controlled substances.

6. The Board may inspect the establishment of a registrant or applicant for registration in accordance with the Board's regulations.

Sec. 5. NRS 453.231 is hereby amended to read as follows:

453.231 1. The Board shall register an applicant to **prescribe or** dispense controlled substances included in schedules I to V, inclusive, unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the Board shall consider the following factors:

(a) Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, research or industrial channels;

(b) Compliance with state and local law;

(c) Promotion of technical advances in the art of manufacturing controlled substances and the development of new substances;

(d) Convictions of the applicant pursuant to laws of another country or federal or state laws relating to a controlled substance;

(e) Past experience of the applicant in the **prescription, manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion of controlled substances into other than legitimate medical, scientific research or industrial channels;**

(f) Furnishing by the applicant of false or fraudulent material in an application filed pursuant to the provisions of NRS 453.011 to 453.552, inclusive;

(g) Suspension or revocation of the applicant's federal registration to manufacture, distribute, possess, administer or dispense controlled substances as authorized by federal law; and

(h) Any other factors relevant to and consistent with the public health and safety.



2. Registration pursuant to subsection 1 entitles a registrant to **prescribe or** dispense a substance included in schedules I or II only if it is specified in the registration.

3. A practitioner must be registered before **prescribing or** dispensing a controlled substance or conducting research with respect to a controlled substance included in schedules II to V, inclusive. The Board need not require separate registration pursuant to the provisions of NRS 453.011 to 453.552, inclusive, for practitioners engaging in research with nonnarcotic controlled substances included in schedules II to V, inclusive, if the registrant is already registered in accordance with the provisions of NRS 453.011 to 453.552, inclusive, in another capacity. A practitioner registered in accordance with federal law to conduct research with a substance included in schedule I may conduct research with the substance in this State upon furnishing the Board evidence of the federal registration.

4. The Board shall require each practitioner who is registered pursuant to subsection 1 to complete at least 2 hours of training approved by the Board concerning the misuse and abuse of controlled substances each year.

Sec. 6. NRS 453.232 is hereby amended to read as follows:

453.232 A person who **prescribes or** dispenses a controlled substance without being registered by the Board if required by NRS 453.231 is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 7. NRS 453.236 is hereby amended to read as follows:

453.236 1. The Board may suspend or revoke a registration pursuant to NRS 453.231 to **prescribe or** dispense a controlled substance upon a finding that the registrant has:

(a) Furnished false or fraudulent material information in an application filed pursuant to NRS 453.011 to 453.552, inclusive;

(b) Been convicted of a felony under a state or federal law relating to a controlled substance;

(c) Had his or her federal registration to dispense controlled substances suspended or revoked and is no longer authorized by federal law to dispense those substances; ~~for~~

(d) **Failed to complete the training required pursuant to NRS 453.231; or**

(e) Committed an act that would render registration under NRS 453.231 inconsistent with the public interest as determined pursuant to that section.

2. The Board may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.



3. If a registration is suspended or revoked, the Board may place under seal all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. When a revocation becomes final, the court may order the controlled substances forfeited to the State.

4. The Board may seize or place under seal any controlled substance owned or possessed by a registrant whose registration has expired or who has ceased to practice or do business in the manner permitted by the registration. The controlled substance must be held for the benefit of the registrant or the registrant's successor in interest. The Board shall notify a registrant, or the registrant's successor in interest, whose controlled substance is seized or placed under seal, of the procedures to be followed to secure the return of the controlled substance and the conditions under which it will be returned. The Board may not dispose of a controlled substance seized or placed under seal under this subsection until the expiration of 180 days after the controlled substance was seized or placed under seal. The Board may recover costs it incurred in seizing, placing under seal, maintaining custody and disposing of any controlled substance under this subsection from the registrant, from any proceeds obtained from the disposition of the controlled substance, or from both. The Board shall pay to the registrant or the registrant's successor in interest any balance of the proceeds of any disposition remaining after the costs have been recovered.

5. The Board shall promptly notify the Drug Enforcement Administration and the Division of all orders suspending or revoking registration and the Division shall promptly notify the Drug Enforcement Administration and the Board of all forfeitures of controlled substances.

6. A registrant shall not employ as his or her agent or employee in any premises where controlled substances are sold, *prescribed*, dispensed, stored or held for sale any person whose pharmacist's certificate has been suspended or revoked.

Sec. 8. NRS 630.130 is hereby amended to read as follows:

630.130 1. In addition to the other powers and duties provided in this chapter, the Board shall, in the interest of the public, judiciously:

(a) Enforce the provisions of this chapter;

(b) Establish by regulation standards for licensure under this chapter;



(c) Conduct examinations for licensure and establish a system of scoring for those examinations;

(d) Investigate the character of each applicant for a license and issue licenses to those applicants who meet the qualifications set by this chapter and the Board; and

(e) Institute a proceeding in any court to enforce its orders or the provisions of this chapter.

2. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against physicians for malpractice or negligence;

(b) Information reported to the Board during the previous biennium pursuant to NRS 630.3067, 630.3068, subsections 3 and 6 of NRS 630.307 and NRS 690B.250 and 690B.260; ~~and~~

(c) Information reported to the Board during the previous biennium pursuant to NRS 630.30665, including, without limitation, the number and types of surgeries performed by each holder of a license to practice medicine and the occurrence of sentinel events arising from such surgeries, if any ~~and~~; and

(d) Information reported to the Board during the previous biennium pursuant to NRS 453.1545, including, without limitation, the number of reports received, and the actions taken as a result of the information.

↪ The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

3. The Board may adopt such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter.

Sec. 9. NRS 633.286 is hereby amended to read as follows:

633.286 1. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against osteopathic physicians and physician assistants for malpractice or negligence;

(b) Information reported to the Board during the previous biennium pursuant to NRS 633.526, 633.527, subsections 3 and 6 of NRS 633.533 and NRS 690B.250 and 690B.260; ~~and~~

(c) Information reported to the Board during the previous biennium pursuant to NRS 633.524, including, without limitation, the number and types of surgeries performed by each holder of a



license to practice osteopathic medicine and the occurrence of sentinel events arising from such surgeries, if any ~~H~~; and

(d) Information reported to the Board during the previous biennium pursuant to NRS 453.1545, including, without limitation, the number of reports received, and the actions taken as a result of the information.

2. The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

Sec. 10. 1. This section and sections 1, 3, 5, 7, 8 and 9 of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

(b) On January 1, 2016, for all other purposes.

2. Section 2 of this act becomes effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

(b) On July 1, 2016, for all other purposes.

3. Sections 4 and 6 of this act become effective on July 1, 2016.

