

**Amendment No. 76**

Senate Amendment to Senate Bill No. 114 (BDR 40-239)

**Proposed by:** Senate 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	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

EWR/RBL



Date: 4/19/2015

S.B. No. 114—Makes changes relating to prescriptions for certain controlled substances. (BDR 40-239)



## SENATE BILL NO. 114—SENATOR HARDY

PREFILED FEBRUARY 1, 2015

Referred to Committee on Health and Human Services

SUMMARY—Makes changes relating to prescriptions for certain controlled substances. (BDR 40-239)

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 controlled substances; ~~requiring~~ **allowing certain law enforcement officers to access the database of** the computerized program to track prescriptions of controlled substances developed by the State Board of Pharmacy and the Investigation Division of the Department of Public Safety ~~to include certain information; authorizing access to such information~~ for certain purposes; **providing immunity from liability to certain persons and governmental entities for certain actions relating to the collection, transmission and maintenance of information included in the database in certain circumstances;** requiring the Board, ~~and~~ the Division ~~to use such information for certain purposes;~~ **or a law enforcement agency to notify a person of any unauthorized access to the information in the database; providing a penalty;** and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the State Board of Pharmacy and the Investigation Division of the Department of Public Safety to cooperatively develop a computerized program to track prescriptions for certain controlled substances that are filled by a pharmacy or dispensed by a practitioner that is registered with the Board. This program is required to be designed to provide certain information concerning the use of controlled substances, including data relating to the use of controlled substances that is not specific to a particular patient. The Board and Division use the program to identify any suspected fraudulent or illegal activity related to the dispensing of controlled substances and are required to report such activity to the appropriate law enforcement agency or occupational licensing board. (NRS 453.1545) ~~This Section 1 of this bill expands the information that this computerized system is required to be designed to provide to also include data relating to the prescribing of controlled substances that is specific to a particular patient. This bill also requires the Board and the Division to monitor the prescription activity of prescribing practitioners for certain controlled substances and notify a practitioner if he or she has written a certain comparatively high number of such prescriptions. Finally, this bill authorizes access to information concerning particular patients to: (1) the Board and the Division for the purpose of such monitoring; and (2) a practitioner who has received such notice from the Board for the purpose of confirming~~

~~the accuracy of information contained in the notice.] requires the Board to allow a law enforcement officer to have Internet access to the database of the program if the employer of the officer approves and submits certification to the Board that the officer meets certain requirements. The officer is limited to accessing the database to investigate a crime related to prescription drugs. The employer is required to monitor the use of the database by the office, and establish appropriate disciplinary action for any misuse by an officer. Existing law makes it a misdemeanor to violate certain provisions relating to controlled substances. (NRS 453.552) That penalty would also apply to a violation of section 1. Section 2 of this bill requires the Board, the Division or a law enforcement agency to notify any person whose information has been intentionally accessed by an improper person or for an improper purpose.~~

~~Existing law provides that any practitioner who is authorized to write prescriptions and any person who is authorized to dispense controlled substances who acts with reasonable care when transmitting information to the Board or Division for inclusion in the database is immune from civil and criminal liability relating to such transmission. (NRS 453.1545) Section 2 instead provides that such persons are immune from such liability if they make a good faith effort to comply with applicable law. Section 2 also provides that the Board and Division and employees thereof are immune from criminal and civil liability concerning the collection, transmission and maintenance of information for purposes relating to the database if a good faith effort is made to comply with applicable law.~~

---

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. Except as otherwise provided in this section, the Board shall allow a law enforcement officer to have Internet access to the database of the computerized program developed pursuant to NRS 453.1545 if:

(a) The primary responsibility of the law enforcement officer is to conduct investigations of crimes relating to prescription drugs;

(b) The law enforcement officer has been approved by his or her employer to have such access;

(c) The law enforcement officer has completed the course of training developed pursuant to subsection 7 of NRS 453.1545; and

(d) The employer of the law enforcement officer has submitted the certification required pursuant to subsection 2 to the Board.

2. Before a law enforcement officer may be given access to the database pursuant to subsection 1, the employer of the officer must certify to the Board that the law enforcement officer has been approved to be given such access and meets the requirements of subsection 1. Such certification must be made on a form provided by the Board and renewed annually.

3. When a law enforcement officer accesses the database of the computerized program pursuant to this section, the officer must enter a unique user name assigned to the officer and the case number corresponding to the investigation being conducted by the officer.

4. A law enforcement officer who is given access to the database of the computerized program pursuant to subsection 1 may access the database to investigate a crime related to prescription drugs and for no other purpose.

5. The employer of a law enforcement officer who is provided access to the database of the computerized program pursuant to this section shall monitor the use of the database by the law enforcement officer and establish appropriate

disciplinary action to take against an officer who violates the provisions of this section.

6. The Board or the Division may suspend or terminate access to the database of the computerized program pursuant to this section if a law enforcement officer or his or her employer violates any provision of this section.

7. As used in this section, "law enforcement officer" means any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.

~~Section 1~~ Sec. 2. NRS 453.1545 is hereby amended to read as follows:

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

(a) Be designed to provide information regarding:

(1) The inappropriate use by a patient of controlled substances listed in schedules II, III and IV to pharmacies, practitioners and appropriate state and local governmental agencies, including, without limitation, law enforcement agencies and occupational licensing boards, to prevent the improper or illegal use of those controlled substances; and

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

~~(3) Data relating to the prescribing of those controlled substances that is specific to a particular patient, access to which must be restricted to persons who are authorized to access such information for the purposes set forth in subsections 3, 4 and 5.~~

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

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

(d) Include the contact information of each person who elects to access the database of the program pursuant to subsection 2, including, without limitation:

(1) The name of the person;

(2) The physical address of the person;

(3) The telephone number of the person; and

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

2. The Board shall provide Internet access to the database of the program established pursuant to subsection 1 to 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 ~~7~~ 10.

~~3. A practitioner who is provided Internet access to the database of the program pursuant to subsection 2 must, for the purposes of complying with the provisions of subsection 5, be provided access to information specific to the prescriptions for controlled substances listed in schedule II, III or IV written by the practitioner, including, without limitation, the name of each patient for whom the practitioner has written such a prescription and, for each such patient:~~

~~(a) The date on which the prescription was written by the practitioner;~~

~~(b) The name, dosage and amount of the controlled substance prescribed by the practitioner; and~~

~~(c) The number of refills authorized and filled for the controlled substance.~~

~~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. 15. The Board and the Division shall access the program established pursuant to subsection 1 to monitor the prescription activity of practitioners authorized to write prescriptions for controlled substances listed in schedule II, III or IV, and to tabulate and compare the number of such prescriptions written monthly by each practitioner in a particular medical specialty or other category established by the Board for this purpose. When the number of such prescriptions written in a month by any practitioner exceeds the monthly average of 95 percent of the other practitioners in that specialty or category, the Board shall notify the practitioner in writing and via electronic mail, if available. Within 10 days after receiving such notice from the Board, the practitioner shall:~~

~~(a) Review the information described in subsection 3 to determine the accuracy of the information; and~~

~~(b) Submit a written report to the Board, on a form approved by the Board, of the accuracy of the information or identifying any inaccuracies in the information.~~

~~6. 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. 17. 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. 18. 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. 19. 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 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. 110. 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~~ makes a good faith effort to comply with applicable laws and regulations when transmitting to the Board or the Division a report or information required by this section or a regulation adopted pursuant thereto is immune from civil and criminal liability relating to such action.~~

~~9. 111. The Board, the Division and each employee thereof are immune from civil and criminal liability for any action relating to the collection,~~

*maintenance and transmission of information pursuant to this section if a good faith effort is made to comply with applicable laws and regulations.*

10. 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.

11. If the Board, the Division or a law enforcement agency determines that the database of the program has been intentionally accessed by a person or for a purpose not authorized pursuant to this section or section 1 of this act, the Board, Division or law enforcement agency, as applicable, must notify any person whose information was accessed by an unauthorized person or for an unauthorized purpose.

Sec. 3. NRS 453.552 is hereby amended to read as follows:

453.552 1. Any penalty imposed for violation of NRS 453.011 to 453.551, inclusive, and section 1 of this act is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.

2. Any violation of the provisions of NRS 453.011 to 453.551, inclusive, and section 1 of this act where no other penalty is specifically provided, is a misdemeanor.