Amendment No. 185

Senate Amendment to Senate Bill No. 346 (BDR 54-676)
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) 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/JWP Date: 4/17/2017

S.B. No. 346—Clarifies provisions governing the prescribing, dispensing and administering of drugs. (BDR 54-676)

SENATE BILL NO. 346–SENATOR HARDY

MARCH 20, 2017

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Clarifies provisions governing the prescribing, dispensing and administering of drugs. (BDR 54-676)

FISCAL NOTE: Effect on Local Government: No.
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 the healing arts; clarifying that certain providers of health care [~~are authorized to prescribe, dispense or administer~~] **do not violate any applicable standard of care by prescribing, dispensing or administering** a drug for a purpose that has not been approved by the United States Food and Drug Administration; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits various providers of health care from knowingly procuring or administering a controlled substance or dangerous drug that is not approved by the United States Food and Drug Administration except in certain limited circumstances. (NRS 630.306, 631.3475, 632.347, 633.511, 635.130, 636.295) If the drug has been approved by the Food and Drug Administration for any purpose and certain other conditions are met, this bill clarifies that such persons and certain other professionals [~~are authorized to prescribe, dispense or administer~~] **do not violate any applicable standard of care by prescribing, dispensing or administering** a drug for a purpose that has not been approved by the Food and Drug Administration. **This bill also provides that: (1) an insurer or other third party is not required to cover any drug that is prescribed, dispensed or administered for such a purpose; and (2) the third party is not liable in any event for any injury sustained by the patient as a result of using the drug.**

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

Section 1. Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person licensed under the provisions of this chapter [~~is not subject to professional discipline and~~] does not violate any applicable standard of care solely because the person prescribes, dispenses or administers a drug for a purpose that has not been approved by the United States Food and Drug Administration if:

~~[1.]~~ (a) The drug has been approved by the United States Food and Drug Administration for any purpose;

~~[2.]~~ (b) The drug has been proven safe and effective in peer-reviewed scientific studies when used for the purpose for which it is prescribed, dispensed or administered;

~~[3.]~~ (c) Use of the drug for the purpose for which it is prescribed, dispensed or administered is not prohibited by law; and

~~[4.]~~ (d) Prescribing, dispensing or administering the drug, as applicable, is within the scope of practice of the person.

2. The provisions of this section shall not be construed to require a third party to cover a drug that is prescribed, dispensed or administered for a purpose that has not been approved by the United States Food and Drug Administration. The third party is not liable in any event for any injury sustained by the patient as a result of using the drug.

3. As used in this section, "third party" means:

(a) An insurer, as defined in NRS 679B.540;

(b) A health benefit plan, as defined in NRS 689A.540;

(c) A participating public agency, as defined in NRS 287.04052, and any other local government agency of this State which provides a system of health insurance for the benefit of its officers and employees, and the dependents of officers and employees, pursuant to chapter 287 of NRS; or

(d) Any other insurer or organization providing health coverage or benefits in accordance with state or federal law.

Sec. 2. Chapter 631 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person licensed under the provisions of this chapter ~~[is not subject to professional discipline and]~~ does not violate any applicable standard of care solely because the person prescribes, dispenses or administers a drug for a purpose that has not been approved by the United States Food and Drug Administration if:

~~[1.]~~ (a) The drug has been approved by the United States Food and Drug Administration for any purpose;

~~[2.]~~ (b) The drug has been proven safe and effective in peer-reviewed scientific studies when used for the purpose for which it is prescribed, dispensed or administered;

~~[3.]~~ (c) Use of the drug for the purpose for which it is prescribed, dispensed or administered is not prohibited by law; and

~~[4.]~~ (d) Prescribing, dispensing or administering the drug, as applicable, is within the scope of practice of the person.

2. The provisions of this section shall not be construed to require a third party to cover a drug that is prescribed, dispensed or administered for a purpose that has not been approved by the United States Food and Drug Administration. The third party is not liable in any event for any injury sustained by the patient as a result of using the drug.

3. As used in this section, "third party" has the meaning ascribed to it in section 1 of this act.

Sec. 3. Chapter 632 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person licensed or certified under the provisions of this chapter ~~[is not subject to professional discipline and]~~ does not violate any applicable standard of care solely because the person prescribes, dispenses or administers a drug for a purpose that has not been approved by the United States Food and Drug Administration if:

~~[1.]~~ (a) The drug has been approved by the United States Food and Drug Administration for any purpose;

~~[2.]~~ (b) The drug has been proven safe and effective in peer-reviewed scientific studies when used for the purpose for which it is prescribed, dispensed or administered;

~~[3.]~~ (c) Use of the drug for the purpose for which it is prescribed, dispensed or administered is not prohibited by law; and

~~[4.]~~ (d) Prescribing, dispensing or administering the drug, as applicable, is within the scope of practice of the person.

2. The provisions of this section shall not be construed to require a third party to cover a drug that is prescribed, dispensed or administered for a purpose that has not been approved by the United States Food and Drug Administration. The third party is not liable in any event for any injury sustained by the patient as a result of using the drug.

3. As used in this section, "third party" has the meaning ascribed to it in section 1 of this act.

Sec. 4. Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person licensed under the provisions of this chapter ~~[is not subject to professional discipline and]~~ does not violate any applicable standard of care solely because the person prescribes, dispenses or administers a drug for a purpose that has not been approved by the United States Food and Drug Administration if:

~~[1.]~~ (a) The drug has been approved by the United States Food and Drug Administration for any purpose;

~~[2.]~~ (b) The drug has been proven safe and effective in peer-reviewed scientific studies when used for the purpose for which it is prescribed, dispensed or administered;

~~[3.]~~ (c) Use of the drug for the purpose for which it is prescribed, dispensed or administered is not prohibited by law; and

~~[4.]~~ (d) Prescribing, dispensing or administering the drug, as applicable, is within the scope of practice of the person.

2. The provisions of this section shall not be construed to require a third party to cover a drug that is prescribed, dispensed or administered for a purpose that has not been approved by the United States Food and Drug Administration. The third party is not liable in any event for any injury sustained by the patient as a result of using the drug.

3. As used in this section, "third party" has the meaning ascribed to it in section 1 of this act.

Sec. 5. Chapter 635 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person licensed under the provisions of this chapter ~~[is not subject to professional discipline and]~~ does not violate any applicable standard of care solely because the person prescribes, dispenses or administers a drug for a purpose that has not been approved by the United States Food and Drug Administration if:

~~[1.]~~ (a) The drug has been approved by the United States Food and Drug Administration for any purpose;

~~[2.]~~ (b) The drug has been proven safe and effective in peer-reviewed scientific studies when used for the purpose for which it is prescribed, dispensed or administered;

~~[3.]~~ (c) Use of the drug for the purpose for which it is prescribed, dispensed or administered is not prohibited by law; and

~~[4.]~~ (d) *Prescribing, dispensing or administering the drug, as applicable, is within the scope of practice of the person.*

2. The provisions of this section shall not be construed to require a third party to cover a drug that is prescribed, dispensed or administered for a purpose that has not been approved by the United States Food and Drug Administration. The third party is not liable in any event for any injury sustained by the patient as a result of using the drug.

3. As used in this section, "third party" has the meaning ascribed to it in section 1 of this act.

Sec. 6. Chapter 636 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An optometrist who is certified to administer and prescribe therapeutic pharmaceutical agents pursuant to NRS 636.288 ~~[is not subject to professional discipline and]~~ does not violate any applicable standard of care solely because the optometrist administers or prescribes a drug for a purpose that has not been approved by the United States Food and Drug Administration if:

~~[1.]~~ (a) *The drug has been approved by the United States Food and Drug Administration for any purpose;*

~~[2.]~~ (b) *The drug has been proven safe and effective in peer-reviewed scientific studies when used for the purpose for which it is administered or prescribed;*

~~[3.]~~ (c) *Use of the drug for the purpose for which it is administered or prescribed is not prohibited by law; and*

~~[4.]~~ (d) *Administering or prescribing the drug, as applicable, is within the scope of practice of the person.*

2. The provisions of this section shall not be construed to require a third party to cover a drug that is administered or prescribed for a purpose that has not been approved by the United States Food and Drug Administration. The third party is not liable in any event for any injury sustained by the patient as a result of using the drug.

3. As used in this section, "third party" has the meaning ascribed to it in section 1 of this act.

Sec. 7. Chapter 638 of NRS is hereby amended by adding thereto a new section to read as follows:

A person licensed under the provisions of this chapter ~~[is not subject to professional discipline and]~~ does not violate any applicable standard of care solely because the person prescribes, dispenses or administers a drug for a purpose that has not been approved by the United States Food and Drug Administration if:

1. The drug has been approved by the United States Food and Drug Administration for any purpose;

2. The drug has been proven safe and effective in peer-reviewed scientific studies when used for the purpose for which it is prescribed, dispensed or administered;

3. Use of the drug for the purpose for which it is prescribed, dispensed or administered is not prohibited by law; and

4. Prescribing, dispensing or administering the drug, as applicable, is within the scope of practice of the person.

Sec. 8. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person registered, licensed or certified under the provisions of this chapter ~~[is not subject to professional discipline and]~~ does not violate any applicable standard of care solely because the person dispenses or administers a

drug for a purpose that has not been approved by the United States Food and Drug Administration if:

~~[1.]~~ (a) The drug has been approved by the United States Food and Drug Administration for any purpose;

~~[2.]~~ (b) The drug has been proven safe and effective in peer-reviewed scientific studies when used for the purpose for which it is dispensed or administered;

~~[3.]~~ (c) Use of the drug for the purpose for which it is dispensed or administered is not prohibited by law; and

~~[4.]~~ (d) Dispensing or administering the drug, as applicable, is within the scope of practice of the person.

2. The provisions of this section shall not be construed to require a third party to cover a drug that is dispensed or administered for a purpose that has not been approved by the United States Food and Drug Administration. The third party is not liable in any event for any injury sustained by the patient as a result of using the drug.

3. As used in this section, "third party" has the meaning ascribed to it in section 1 of this act.