

Amendment No. 402

Senate Amendment to Senate Bill No. 91 First Reprint	(BDR 40-271)
Proposed by: Senator Hardy	
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/JWP



Date: 4/17/2017

S.B. No. 91—Revises provisions relating to drug donation programs.  
(BDR 40-271)





## SENATE BILL NO. 91—SENATOR HARDY

PREFILED JANUARY 27, 2017

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to drug donation programs.  
(BDR 40-271)

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 prescription drugs; combining the HIV/AIDS Drug Donation Program and the Cancer Drug Donation Program to create the Prescription Drug Donation Program; authorizing a person or governmental entity to donate ~~certain~~ **prescription** drugs to the Program; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law establishes the HIV/AIDS Drug Donation Program and the Cancer Drug Donation Program. (NRS 453B.010-453B.130, 453B.150-453B.240) This bill: (1) combines those Programs to create the Prescription Drug Donation Program; and (2) additionally allows a person or governmental entity to donate to the Prescription Drug Donation Program any prescription drug ~~that has a wholesale acquisition cost of more than \$500 per month if the drug is used in accordance with the instructions of the manufacturer.~~ **with limited exceptions.**

**Section 2** of this bill authorizes a person or governmental entity to donate to the Prescription Drug Donation Program any prescription drug, other than marijuana and certain other drugs for which the patient must be registered with the manufacturer, ~~that (1) is used to treat the human immunodeficiency virus, acquired immunodeficiency syndrome or cancer, or (2) has a wholesale acquisition cost of more than \$500 per month if the drug is used in accordance with the instructions of the manufacturer.~~ **Section 2** also authorizes a pharmacy, medical facility, health clinic or provider of health care to impose a handling fee upon a patient who receives a donated **prescription** drug and imposes requirements concerning the acceptance, distribution or dispensing of a donated **prescription** drug.

**Section 3** of this bill prescribes certain recordkeeping requirements relating to donated **prescription** drugs and the storage of donated **prescription** drugs. **Section 4** of this bill requires a donated **prescription** drug to be dispensed by a registered pharmacist, pursuant to a prescription, to a recipient who is eligible under regulations adopted by the State Board of Pharmacy. **Section 5** of this bill requires a pharmacy, medical facility, health clinic or provider of health care that participates in the Program to comply with all applicable state and federal laws. **Section 5** also authorizes such a pharmacy, medical facility, health clinic or provider of health care to distribute a donated **prescription** drug to another pharmacy, medical facility, health clinic or provider of health care that participates in the Program. **Section 6** of this bill requires the Board to adopt regulations to carry out the Program. **Section 7** of this bill: (1) provides immunity from liability for certain actions relating to the Program; and (2) requires a person to whom a donated **prescription** drug is dispensed to sign a waiver of liability for such actions.

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

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1       **Section 1.** NRS 453B.060 is hereby amended to read as follows:  
2       453B.060 “Program” means the ~~HIV/AIDS~~ **Prescription** Drug Donation  
3       Program established pursuant to NRS 453B.080.

4       **Sec. 2.** NRS 453B.080 is hereby amended to read as follows:

5       453B.080 1. The Board shall establish and maintain the ~~HIV/AIDS~~  
6       **Prescription** Drug Donation Program to accept, distribute and dispense  
7       ~~HIV/AIDS~~ **prescription** drugs donated to the Program.

8       2. ~~Any~~ **Except as otherwise provided in this section, a** person or  
9       governmental entity may donate ~~an HIV/AIDS or~~ **any prescription** drug to the  
10      Program. ~~1. An HIV/AIDS that:~~

11      ~~(a) Is used to treat the human immunodeficiency virus or acquired~~  
12      ~~immunodeficiency syndrome;~~

13      ~~(b) Is used to treat cancer; or~~

14      ~~(c) Has a wholesale acquisition cost of more than \$500 per month if the drug~~  
15      ~~is used in accordance with the instructions of the manufacturer.~~

16      3. A **prescription** drug ~~described in subsection 2~~ may be donated **to the**  
17      **Program** at a pharmacy, medical facility, health clinic or provider of health care  
18      that participates in the Program.

19      ~~3.~~ 4. A pharmacy, medical facility, health clinic or provider of health care  
20      that participates in the Program may charge a patient who receives ~~an HIV/AIDS~~  
21      **a donated prescription** drug a handling fee in accordance with the regulations  
22      adopted by the Board pursuant to NRS 453B.120.

23      ~~4.~~ 5. A pharmacy, medical facility, health clinic or provider of health care  
24      that participates in the Program must establish written procedures for receiving and  
25      inspecting donated ~~HIV/AIDS~~ **prescription** drugs. ~~which are approved by the~~  
26      Board.

27      ~~5. An HIV/AIDS~~

28      6. A **prescription** drug may be accepted, distributed or dispensed pursuant to  
29      the Program only if the ~~HIV/AIDS~~ drug:

30      (a) ~~Is a drug described in subsection 2;~~

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

33      ~~(b)~~ ~~(c)~~ Is not adulterated or misbranded; and

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

36      ~~6. An HIV/AIDS~~

37      7. A **prescription** drug donated to the Program may not be:

38      (a) Resold; or

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

40      ~~7.~~ 8. The provisions of this section do not require a pharmacy, medical  
41      facility, health clinic or provider of health care to participate in the Program.

42      9. **Marijuana, as defined in NRS 453.096, or any drug that may only be**  
43      **dispensed to a patient registered with the manufacturer of the drug pursuant to**  
44      **requirements of the United States Food and Drug Administration may not be**  
45      **donated, accepted, distributed or dispensed pursuant to the Program.**

46      ~~10. As used in this section, “wholesale acquisition cost” means the~~  
47      ~~manufacturer’s list price for a drug to wholesalers or direct purchasers in the~~

~~United States, not including discounts, rebates or reductions in price, for the most recent month for which the information is available, as reported in wholesale price guides or other publications of drug pricing data.~~

Sec. 3. NRS 453B.090 is hereby amended to read as follows:

453B.090 A pharmacy, medical facility, health clinic or provider of health care that participates in the Program shall:

1. Maintain the records for any ~~{an HIV/AIDS}~~ prescription 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}~~ prescription 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}~~ a donated prescription 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}~~ donated prescription 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 ~~{HIV/AIDS}~~ prescription drug is dispensed.

4. Store ~~{an HIV/AIDS}~~ a prescription 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. 4. NRS 453B.100 is hereby amended to read as follows:

453B.100 ~~{An HIV/AIDS}~~ A prescription 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. Pursuant to a prescription written by a person who is authorized to write prescriptions; and

3. To a person who is eligible to receive ~~{HIV/AIDS}~~ prescription drugs dispensed pursuant to the Program.

1       **Sec. 5.** NRS 453B.110 is hereby amended to read as follows:  
2       453B.110 A pharmacy, medical facility, health clinic or provider of health  
3 care that participates in the Program:

4       1. Shall comply with all applicable state and federal laws concerning the  
5 storage, distribution and dispensing of any ~~{HIV/AIDS}~~ prescription drugs donated  
6 to the Program; and

7       2. May distribute ~~{an HIV/AIDS}~~ a prescription drug donated to the Program  
8 to another pharmacy, medical facility, health clinic or provider of health care for  
9 use in the Program.

10       **Sec. 6.** NRS 453B.120 is hereby amended to read as follows:

11       453B.120 The Board shall adopt regulations to carry out the provisions of this  
12 chapter. The regulations must prescribe, without limitation:

13       1. The requirements for the participation of pharmacies, medical facilities,  
14 health clinics and providers of health care in the Program. ~~{ } For medical facilities~~  
15 ~~or providers of health care who participate in the Program by accepting,~~  
16 ~~distributing or dispensing a~~ prescription ~~drug used to treat cancer, the~~  
17 ~~requirements prescribed pursuant to this subsection must include a requirement~~  
18 ~~that any such medical facility or provider of health care provide, as a regular~~  
19 ~~course of practice, medical services and goods to persons with cancer.~~

20       2. The criteria for determining the eligibility of persons to receive  
21 ~~{HIV/AIDS}~~ prescription drugs dispensed pursuant to the Program, including,  
22 without limitation, a requirement that a person apply to the Board on a form  
23 prescribed by the Board for eligibility to receive ~~{HIV/AIDS}~~ prescription drugs  
24 dispensed or distributed pursuant to the Program. ~~{ }~~

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

27       ~~—4.} The maximum fee that a pharmacy, medical facility, health clinic or~~  
28 ~~provider of health care may charge to distribute or dispense~~ ~~{HIV/AIDS}~~  
29 prescription drugs pursuant to the Program. ~~{ } and~~

30       ~~—5.} 4. The requirements for the written procedures established by a pharmacy,~~  
31 ~~medical facility, health clinic or provider of health care for receiving and inspecting~~  
32 ~~{donated HIV/AIDS}~~ prescription drugs ~~donated to the Program~~ and the manner in  
33 which a pharmacy, medical facility, health clinic or provider of health care must  
34 submit such procedures for approval.

35       **Sec. 7.** NRS 453B.130 is hereby amended to read as follows:

36       453B.130 1. A person who exercises reasonable care in the donation of ~~{an~~  
37 ~~HIV/AIDS}~~ a prescription drug in accordance with the provisions of this chapter  
38 and the regulations adopted pursuant thereto is not subject to any civil or criminal  
39 liability or disciplinary action by a professional licensing board for any loss, injury  
40 or death that results from the donation of the ~~{HIV/AIDS}~~ prescription drug.

41       2. A pharmacy, medical facility, health clinic or provider of health care which  
42 participates in the Program and which exercises reasonable care in the acceptance,  
43 distribution or dispensation of ~~{an HIV/AIDS}~~ a prescription drug ~~donated to the~~  
44 Program is not subject to civil or criminal liability or disciplinary action by a  
45 professional licensing board for any loss, injury or death that results from the  
46 acceptance, distribution or dispensation of the ~~{HIV/AIDS}~~ prescription drug.

47       3. A manufacturer of ~~{an HIV/AIDS}~~ a prescription drug ~~donated to the~~  
48 Program is not subject to civil or criminal liability for any claim or injury arising  
49 from the donation, acceptance, distribution or dispensation of the ~~{HIV/AIDS}~~  
50 prescription drug pursuant to this chapter and the regulations adopted pursuant  
51 thereto.

52       4. ~~{An HIV/AIDS}~~ A prescription drug may not be dispensed pursuant to the  
53 Program unless the person to whom the drug is dispensed has signed a waiver of

1 liability for any action described in this section performed by any person,  
2 pharmacy, medical facility, health clinic, provider of health care or manufacturer of  
3 the ~~HIV/AIDS~~ prescription drug.

4 **Sec. 8.** NRS 453B.030, 453B.150, 453B.160, 453B.170, 453B.180,  
5 453B.190, 453B.200, 453B.210, 453B.220, 453B.230 and 453B.240 are hereby  
6 repealed.

7 **Sec. 9.** This act becomes effective upon passage and approval for the purpose  
8 of adopting regulations and performing any other preparatory administrative tasks  
9 that are necessary to carry out the provisions of this act, and on January 1, 2018, for  
10 all other purposes.

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#### LEADLINES OF REPEALED SECTIONS

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453B.030 “HIV/AIDS drug” defined.

453B.150 Definitions.

453B.160 “Cancer drug” defined.

453B.170 “Medical facility” defined.

453B.180 “Program” defined.

453B.190 “Provider of health care” defined.

453B.200 Establishment of Program; handling fee; conditions for  
acceptance, distribution and dispensing of donated drugs; certain restrictions.

453B.210 Dispensing of donated drug.

453B.220 Compliance with applicable laws; authority to distribute  
donated drug to another participant in Program.

453B.230 Regulations.

453B.240 Limitation on civil and criminal liability; limitation on  
disciplinary action by professional licensing board.