SENATE BILL NO. 260–COMMITTEE ON COMMERCE, LABOR AND ENERGY

MARCH 13, 2017

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Establishes requirements for engaging in the collaborate practice of pharmacy. (BDR 54-973)

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 pharmacists; authorizing a pharmacist to engage in the collaborative practice of pharmacy under certain conditions; requiring a pharmacist who engages in the collaborative practice of pharmacy to maintain certain records; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a pharmacist to implement, monitor and modify drug therapy pursuant to written guidelines developed by the pharmacist in collaboration with a practitioner. (NRS 639.2809) **Section 12** of this bill repeals this provision. **Section 4** of this bill instead authorizes a pharmacist to engage in the collaborative practice of pharmacy pursuant to a collaborative practice agreement entered into with one or more practitioners who practice in the same geographic area as the pharmacist. **Section 3** of this bill defines the term "collaborative practice of pharmacy" to mean the management of drug therapy and performance of tests to address public health issues. **Section 4** also requires a pharmacist who engages in the collaborative practice of pharmacy pursuant to a collaborative practice agreement to keep certain records and obtain the informed, written consent of his or her patients. **Section 5** of this bill prescribes the contents and duration of a collaborative practice agreement. **Section 6** of this bill additionally authorizes a pharmacist to engage in the collaborative practice of pharmacy in accordance with an agreement with the operator of an institutional pharmacy or his or her designee while providing treatment and care to patients of the medical facility in conjunction with which the institutional pharmacy is operated. **Section 8** of this bill clarifies that the activities authorized by this bill constitute the practice of pharmacy. **Sections 9-11** of this bill make conforming changes.

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

Section 1. Chapter 639 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. ***"Collaborative practice agreement" means an agreement that meets the requirements of section 5 of this act between a pharmacist and one or more practitioners which authorizes the pharmacist to engage in the collaborative practice of pharmacy.***

Sec. 3. ***"Collaborative practice of pharmacy" means the management of drug therapy and testing to address public health issues, including, without limitation, outbreaks and occurrences of specific diseases and disorders, in collaboration with one or more practitioners and in accordance with a collaborative practice agreement or an agreement entered into pursuant to section 6 of this act.***

Sec. 4. ***1. A pharmacist who has entered into a valid collaborative practice agreement may engage in the collaborative practice of pharmacy at any location in this State. Except as otherwise provided in section 6 of this act, a pharmacist shall not engage in the collaborative practice of pharmacy unless the pharmacist has entered into such an agreement.***

2. To enter into a collaborative practice agreement, a practitioner must:

(a) Be licensed in good standing to practice his or her profession in this State; and

(b) Except as otherwise provided in this paragraph, actively practice his or her profession within 25 miles of the primary location where the collaborating pharmacist practices. A practitioner and pharmacist may submit a written request to the Board for an exemption from the requirements of this paragraph. The Board may grant such a request upon a showing of good cause.

3. A pharmacist who engages in the collaborative practice of pharmacy shall:

(a) Except as otherwise provided in paragraph (b), document any treatment or care provided to a patient pursuant to a collaborative practice agreement within 24 hours after providing such treatment or care in the medical record of the patient, on the chart of the patient or in a separate log book;

(b) Document in the medical record of the patient any decision or action concerning the management of drug therapy within 24 hours after making such a decision or taking such an action;

(c) Maintain all records concerning the care or treatment provided to a patient pursuant to a collaborative practice agreement in written or electronic form for at least 7 years; and

(d) Comply with all provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, the regulations adopted pursuant thereto, and all other federal and state laws and regulations concerning the privacy of information regarding health care.

4. A pharmacist shall obtain the informed, written consent of a patient before engaging in the collaborative practice of pharmacy on behalf of the patient.

Sec. 5. *1. A collaborative practice agreement must be signed by each practitioner and pharmacist who enter into the agreement and submitted to the Board in written and electronic form. A collaborative practice agreement must include:*

(a) A description of the types of decisions concerning the management of drug therapy that the pharmacist is authorized to make, which may include a specific description of the diseases and drugs for which the pharmacist is authorized to manage drug therapy;

(b) A detailed explanation of the procedures that the pharmacist must follow when engaging in the collaborative practice of pharmacy, including, without limitation, the manner in which the pharmacist must document decisions concerning treatment and care in accordance with subsection 3 of section 4 of this act, report such decisions to the practitioner and receive feedback from the practitioner;

(c) The procedure by which the pharmacist will notify the practitioner of an adverse event concerning the health of a patient;

(d) A description of the means by which the practitioner will monitor clinical outcomes of a patient and intercede when necessary to protect the health of the patient or accomplish the goals of the treatment prescribed for the patient;

(e) Authorization for the practitioner to override the agreement if necessary to protect the health of the patient or accomplish the goals of the treatment prescribed for the patient;

(f) Authorization for either party to terminate the agreement by written notice to the other party;

(g) The effective date of the agreement;

(h) The date by which a review must be conducted pursuant to subsection 2 for the renewal of the agreement, which must not be later than the expiration date of the agreement;

(i) The address of the location where the records described in subsection 3 of section 4 of this act will be maintained; and

(j) The process by which the pharmacist will obtain the informed, written consent required by subsection 4 of section 4 of this act.

2. A collaborative practice agreement must expire not later than 1 year after the date on which the agreement becomes effective. The parties to a collaborative practice agreement may renew the agreement after reviewing the agreement and making any necessary revisions.

Sec. 6. ***A pharmacist may engage in the collaborative practice of pharmacy in accordance with an agreement with the operator of an institutional pharmacy or his or her designee to provide treatment and care exclusively to patients of the medical facility in conjunction with which the institutional pharmacy is operated. Such a pharmacist is exempt from the requirements of sections 4 and 5 of this act while providing such treatment and care.***

Sec. 7. NRS 639.001 is hereby amended to read as follows:

639.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 639.0015 to 639.016, inclusive, ***and sections 2 and 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 8. NRS 639.0124 is hereby amended to read as follows:

639.0124 "Practice of pharmacy" includes, but is not limited to, the:

1. Performance or supervision of activities associated with manufacturing, compounding, labeling, dispensing and distributing of a drug, including the receipt, handling and storage of prescriptions and other confidential information relating to patients.
2. Interpretation and evaluation of prescriptions or orders for medicine.
3. Participation in drug evaluation and drug research.
4. Advising of the therapeutic value, reaction, drug interaction, hazard and use of a drug.
5. Selection of the source, storage and distribution of a drug.
6. Maintenance of proper documentation of the source, storage and distribution of a drug.
7. Interpretation of clinical data contained in a person's record of medication.
8. ~~[Development of written guidelines and protocols in collaboration with a practitioner which are intended for a patient in a licensed medical facility or in a setting that is affiliated with a medical facility where the patient is receiving care and which authorize the implementation, monitoring and modification of drug therapy. The written guidelines and protocols must comply with NRS 639.2809.~~

~~9.]~~ Implementation and modification of drug therapy ***, administering drugs and performing tests*** in accordance with ~~[the authorization of the prescribing practitioner for a patient in a pharmacy in which drugs, controlled substances, poisons, medicines or chemicals are sold at retail.]~~ ***a collaborative practice agreement or an agreement entered into pursuant to section 6 of this act.***

➥ The term does not include the changing of a prescription by a pharmacist or practitioner without the consent of the prescribing practitioner, except as otherwise provided in NRS 639.2583.

Sec. 9. NRS 639.230 is hereby amended to read as follows:

639.230 1. A person operating a business in this State shall not use the word "drug" or "drugs," "prescription" or "pharmacy," or similar words or words of similar import, without first having secured a license from the Board. A person operating a business in this State which is not otherwise subject to the provisions of this chapter shall not use the letters "Rx" or "RX" without the approval of the Board. The Board may deny approval of the use of the letters "Rx" or "RX" by any person if the Board determines that:

(a) The person is subject to the provisions of this chapter but has not secured a license from the Board; or

(b) The use of the letters "Rx" or "RX" by the person is confusing or misleading to or threatens the health or safety of the residents of this State.

2. Each license must be issued to a specific person and for a specific location and is not transferable. The original license must be displayed on the licensed premises as provided in NRS 639.150. The original license and the fee required for reissuance of a license must be submitted to the Board before the reissuance of the license.

3. If the owner of a pharmacy is a partnership or corporation, any change of partners or corporate officers must be reported to the Board at such a time as is required by a regulation of the Board.

4. Except as otherwise provided in subsection 6, in addition to the requirements for renewal set forth in NRS 639.180, every person holding a license to operate a pharmacy must satisfy the Board that the pharmacy is conducted according to law.

5. Any violation of any of the provisions of this chapter by a managing pharmacist or by personnel of the pharmacy under the supervision of the managing pharmacist is cause for the suspension or revocation of the license of the pharmacy by the Board.

6. The provisions of this section do not prohibit:

(a) A Canadian pharmacy which is licensed by the Board and which has been recommended by the Board pursuant to subsection 4 of NRS 639.2328 for inclusion on the Internet website established and maintained pursuant to paragraph (i) of subsection 1 of NRS 223.560 from providing prescription drugs through mail order

service to residents of Nevada in the manner set forth in NRS 639.2328 to 639.23286, inclusive; or

(b) A registered pharmacist or practitioner from collaborating in the implementation, monitoring and modification of drug therapy pursuant to ~~[guidelines and protocols approved by the Board.]~~ ***a collaborative practice agreement or an agreement entered into pursuant to section 6 of this act.***

Sec. 10. NRS 453.026 is hereby amended to read as follows:

453.026 "Agent" means a pharmacist who cares for a patient of a prescribing practitioner in a medical facility or in a setting that is affiliated with a medical facility where the patient is receiving care in accordance with ~~[written guidelines and protocols developed and approved pursuant to NRS 639.2809,]~~ ***a collaborative practice agreement, as defined in section 2 of this act, or an agreement entered into pursuant to section 6 of this act,*** a licensed practical nurse or registered nurse who cares for a patient of a prescribing practitioner in a medical facility or an authorized person who acts on behalf of or at the direction of and is employed by a manufacturer, distributor, dispenser or prescribing practitioner. The term does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.

Sec. 11. NRS 454.213 is hereby amended to read as follows:

454.213 1. A drug or medicine referred to in NRS 454.181 to 454.371, inclusive, may be possessed and administered by:

(a) A practitioner.

(b) A physician assistant licensed pursuant to chapter 630 or 633 of NRS, at the direction of his or her supervising physician or a licensed dental hygienist acting in the office of and under the supervision of a dentist.

(c) Except as otherwise provided in paragraph (d), a registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a prescribing physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician or advanced practice registered nurse, or pursuant to a chart order, for administration to a patient at another location.

(d) In accordance with applicable regulations of the Board, a registered nurse licensed to practice professional nursing or licensed practical nurse who is:

(1) Employed by a health care agency or health care facility that is authorized to provide emergency care, or to respond to the immediate needs of a patient, in the residence of the patient; and

(2) Acting under the direction of the medical director of that agency or facility who works in this State.

(e) A medication aide - certified at a designated facility under the supervision of an advanced practice registered nurse or

registered nurse and in accordance with standard protocols developed by the State Board of Nursing. As used in this paragraph, "designated facility" has the meaning ascribed to it in NRS 632.0145.

(f) Except as otherwise provided in paragraph (g), an advanced emergency medical technician or a paramedic, as authorized by regulation of the State Board of Pharmacy and in accordance with any applicable regulations of:

(1) The State Board of Health in a county whose population is less than 100,000;

(2) A county board of health in a county whose population is 100,000 or more; or

(3) A district board of health created pursuant to NRS 439.362 or 439.370 in any county.

(g) An advanced emergency medical technician or a paramedic who holds an endorsement issued pursuant to NRS 450B.1975, under the direct supervision of a local health officer or a designee of the local health officer pursuant to that section.

(h) A respiratory therapist employed in a health care facility. The therapist may possess and administer respiratory products only at the direction of a physician.

(i) A dialysis technician, under the direction or supervision of a physician or registered nurse only if the drug or medicine is used for the process of renal dialysis.

(j) A medical student or student nurse in the course of his or her studies at an accredited college of medicine or approved school of professional or practical nursing, at the direction of a physician and:

(1) In the presence of a physician or a registered nurse; or

(2) Under the supervision of a physician or a registered nurse if the student is authorized by the college or school to administer the drug or medicine outside the presence of a physician or nurse.

➥ A medical student or student nurse may administer a dangerous drug in the presence or under the supervision of a registered nurse alone only if the circumstances are such that the registered nurse would be authorized to administer it personally.

(k) Any person designated by the head of a correctional institution.

(l) An ultimate user or any person designated by the ultimate user pursuant to a written agreement.

(m) A nuclear medicine technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

(n) A radiologic technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

(o) A chiropractic physician, but only if the drug or medicine is a topical drug used for cooling and stretching external tissue during therapeutic treatments.

(p) A physical therapist, but only if the drug or medicine is a topical drug which is:

(1) Used for cooling and stretching external tissue during therapeutic treatments; and

(2) Prescribed by a licensed physician for:

(I) Iontophoresis; or

(II) The transmission of drugs through the skin using ultrasound.

(q) In accordance with applicable regulations of the State Board of Health, an employee of a residential facility for groups, as defined in NRS 449.017, pursuant to a written agreement entered into by the ultimate user.

(r) A veterinary technician or a veterinary assistant at the direction of his or her supervising veterinarian.

(s) In accordance with applicable regulations of the Board, a registered pharmacist who:

(1) Is trained in and certified to carry out standards and practices for immunization programs;

(2) Is authorized to administer immunizations pursuant to written protocols from a physician; and

(3) Administers immunizations in compliance with the "Standards for Immunization Practices" recommended and approved by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(t) A registered pharmacist pursuant to ~~[written guidelines and protocols developed and approved pursuant to NRS 639.2809.]~~ ***a collaborative practice agreement, as defined in section 2 of this act, or an agreement entered into pursuant to section 6 of this act.***

(u) A person who is enrolled in a training program to become a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, advanced emergency medical technician, paramedic, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician if the person possesses and administers the drug or medicine in the same manner and under the same conditions that apply, respectively, to a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, advanced emergency medical technician, paramedic, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician who may possess and administer the drug or medicine, and under the direct supervision of

a person licensed or registered to perform the respective medical art or a supervisor of such a person.

(v) A medical assistant, in accordance with applicable regulations of the:

(1) Board of Medical Examiners, at the direction of the prescribing physician and under the supervision of a physician or physician assistant.

(2) State Board of Osteopathic Medicine, at the direction of the prescribing physician and under the supervision of a physician or physician assistant.

2. As used in this section, "accredited college of medicine" has the meaning ascribed to it in NRS 453.375.

Sec. 12. NRS 639.2809 is hereby repealed.

Sec. 13. This act becomes effective on July 1, 2017.

TEXT OF REPEALED SECTION

639.2809 Implementation, monitoring and modification of drug therapy by pharmacist: Restrictions; notice; regulations.

1. Written guidelines and protocols developed by a registered pharmacist in collaboration with a practitioner which authorize the implementation, monitoring and modification of drug therapy:

(a) May authorize a pharmacist to order and use the findings of laboratory tests and examinations.

(b) May provide for implementation, monitoring and modification of drug therapy for a patient receiving care:

(1) In a licensed medical facility; or

(2) If developed to ensure continuity of care for a patient, in any setting that is affiliated with a medical facility where the patient is receiving care. A pharmacist who modifies a drug therapy of a patient receiving care in a setting that is affiliated with a medical facility shall, within 72 hours after implementing or modifying the drug therapy, provide written notice of the implementation or modification of the drug therapy to the collaborating practitioner or enter the appropriate information concerning the drug therapy in an electronic patient record system shared by the pharmacist and the collaborating practitioner.

(c) Must state the conditions under which a prescription of a practitioner relating to the drug therapy of a patient may be changed by the pharmacist without a subsequent prescription from the practitioner.

(d) Must be approved by the Board.

2. The Board may adopt regulations which:

(a) Prescribe additional requirements for written guidelines and protocols developed pursuant to this section; and

(b) Set forth the process for obtaining the approval of the Board of such written guidelines and protocols.

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