

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 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, 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. **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



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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.

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

Section 1. NRS 453B.060 is hereby amended to read as follows:

453B.060 “Program” means the ~~HIV/AIDS~~ *Prescription* Drug Donation Program established pursuant to NRS 453B.080.

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

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

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

3. *A prescription* drug may be donated *to the Program* at a pharmacy, medical facility, health clinic or provider of health care that participates in the Program.

~~3-1~~ 4. A pharmacy, medical facility, health clinic or provider of health care that participates in the Program may charge a patient who receives ~~an HIV/AIDS~~ *a donated prescription* drug a handling fee in accordance with the regulations adopted by the Board pursuant to NRS 453B.120.

~~4-1~~ 5. A pharmacy, medical facility, health clinic or provider of health care that participates in the Program must establish written procedures for receiving and inspecting donated ~~HIV/AIDS~~ *prescription* drugs. ~~which are approved by the Board.~~

~~5. An HIV/AIDS~~

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

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

(b) Is not adulterated or misbranded; and

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

~~6. An HIV/AIDS~~

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

(a) Resold; or

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



~~7.1~~ 8. The provisions of this section do not require a pharmacy, medical facility, health clinic or provider of health care to participate in the Program.

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

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 ~~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 donated ~~{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.

Sec. 5. NRS 453B.110 is hereby amended to read as follows:

453B.110 A pharmacy, medical facility, health clinic or provider of health care that participates in the Program:

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

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

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

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

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

2. The criteria for determining the eligibility of persons to receive ~~{HIV/AIDS}~~ *prescription* drugs dispensed pursuant to the



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1 Program, including, without limitation, a requirement that a person
2 apply to the Board on a form prescribed by the Board for eligibility
3 to receive ~~{HIV/AIDS}~~ *prescription* drugs dispensed or distributed
4 pursuant to the Program . ~~{;}~~

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

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

10 ~~—5.}~~ 4. The requirements for the written procedures established
11 by a pharmacy, medical facility, health clinic or provider of health
12 care for receiving and inspecting ~~{donated HIV/AIDS}~~ *prescription*
13 drugs *donated to the Program* and the manner in which a pharmacy,
14 medical facility, health clinic or provider of health care must submit
15 such procedures for approval.

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

17 453B.130 1. A person who exercises reasonable care in the
18 donation of ~~{an HIV/AIDS}~~ *a prescription* drug in accordance with
19 the provisions of this chapter and the regulations adopted pursuant
20 thereto is not subject to any civil or criminal liability or disciplinary
21 action by a professional licensing board for any loss, injury or death
22 that results from the donation of the ~~{HIV/AIDS}~~ *prescription* drug.

23 2. A pharmacy, medical facility, health clinic or provider of
24 health care which participates in the Program and which exercises
25 reasonable care in the acceptance, distribution or dispensation of ~~{an~~
26 ~~HIV/AIDS}~~ *a prescription* drug *donated to the Program* is not
27 subject to civil or criminal liability or disciplinary action by a
28 professional licensing board for any loss, injury or death that results
29 from the acceptance, distribution or dispensation of the ~~{HIV/AIDS}~~
30 *prescription* drug.

31 3. A manufacturer of ~~{an HIV/AIDS}~~ *a prescription* drug
32 *donated to the Program* is not subject to civil or criminal liability
33 for any claim or injury arising from the donation, acceptance,
34 distribution or dispensation of the ~~{HIV/AIDS}~~ *prescription* drug
35 pursuant to this chapter and the regulations adopted pursuant
36 thereto.

37 4. ~~{An HIV/AIDS}~~ *A prescription* drug may not be dispensed
38 pursuant to the Program unless the person to whom the drug is
39 dispensed has signed a waiver of liability for any action described in
40 this section performed by any person, pharmacy, medical facility,
41 health clinic, provider of health care or manufacturer of the
42 ~~{HIV/AIDS}~~ *prescription* drug.

43 Sec. 8. NRS 453B.030, 453B.150, 453B.160, 453B.170,
44 453B.180, 453B.190, 453B.200, 453B.210, 453B.220, 453B.230
45 and 453B.240 are hereby repealed.



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

LEADLINES OF REPEALED SECTIONS

- 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.

