

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 2** also reduces the minimum number of days before a prescription drug expires for the drug to be accepted, distributed or dispensed pursuant to the program from 180 to 60 days or more after the date on which the drug is donated.

**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.



\* S B 9 1 R 3 \*

**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:

**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.~~ 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.~~ 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~~ *60* 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.*

10. *A prescription drug donated to the Program that does not include a lot number shall be deemed to have been recalled if the prescription drug has the same National Drug Code assigned by the United States Food and Drug Administration as a recalled prescription drug.*

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~~ *If donated by the person for whom the drug was prescribed, the* date the drug was dispensed pursuant to the original prescription;

(c) ~~The~~ *If donated by the person for whom the drug was prescribed, 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~~ *If donated by the person for whom the drug was prescribed, 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



1 the pharmacy, medical facility, health clinic or provider of health  
2 care. The records for any ~~HIV/AIDS~~ *donated prescription* drug  
3 distributed to another pharmacy, medical facility, health clinic or  
4 provider of health care must include, without limitation:

5 (a) The information required by subsection 1;

6 (b) The name, address and telephone number of the pharmacy,  
7 medical facility, health clinic or provider of health care that is  
8 distributing the drug;

9 (c) The quantity of the drug that is being distributed; and

10 (d) The name, address and telephone number of the pharmacy,  
11 medical facility, health clinic or provider of health care to which the  
12 drug is distributed.

13 3. Record and retain the name and telephone number of any  
14 person to whom a donated ~~HIV/AIDS~~ *prescription* drug is  
15 dispensed.

16 4. Store ~~an HIV/AIDS~~ *a prescription* drug that is donated to  
17 the Program:

18 (a) Pursuant to the recommendations of the manufacturer of the  
19 drug concerning the storage conditions;

20 (b) Separate from all other drugs; and

21 (c) In a locked storage area.

22 **Sec. 4.** NRS 453B.100 is hereby amended to read as follows:

23 453B.100 ~~Any HIV/AIDS~~ *A prescription* drug donated for use  
24 in the Program may only be dispensed:

25 1. By a pharmacist who is registered pursuant to chapter 639 of  
26 NRS; ~~and~~

27 2. *Pursuant to a prescription written by a person who is*  
28 *authorized to write prescriptions; and*

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

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

32 453B.110 A pharmacy, medical facility, health clinic or  
33 provider of health care that participates in the Program:

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

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

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

41 453B.120 The Board shall adopt regulations to carry out the  
42 provisions of this chapter. The regulations must prescribe, without  
43 limitation:

44 1. The requirements for the participation of pharmacies,  
45 medical facilities, health clinics and providers of health care in the



1 Program . ~~§~~ *For medical facilities or providers of health care who*  
2 *participate in the Program by accepting, distributing or dispensing*  
3 *a prescription drug used to treat cancer, the requirements*  
4 *prescribed pursuant to this subsection must include a requirement*  
5 *that any such medical facility or provider of health care provide,*  
6 *as a regular course of practice, medical services and goods to*  
7 *persons with cancer.*

8 2. The criteria for determining the eligibility of persons to  
9 receive ~~HIV/AIDS~~ *prescription* drugs dispensed pursuant to the  
10 Program . ~~§, including, without limitation, a requirement that a~~  
11 ~~person apply to the Board on a form prescribed by the Board for~~  
12 ~~eligibility to receive HIV/AIDS drugs dispensed or distributed~~  
13 ~~pursuant to the Program;~~

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

16 ~~—4.~~ The maximum fee that a pharmacy, medical facility, health  
17 clinic or provider of health care may charge to distribute or dispense  
18 ~~HIV/AIDS~~ *prescription* drugs pursuant to the Program . ~~§; and~~

19 ~~—5.~~ 4. The requirements for the written procedures established  
20 by a pharmacy, medical facility, health clinic or provider of health  
21 care for receiving and inspecting ~~donated HIV/AIDS~~ *prescription*  
22 *drugs donated to the Program* and the manner in which a pharmacy,  
23 medical facility, health clinic or provider of health care must submit  
24 such procedures for approval ~~§~~ , *including, without limitation, a*  
25 *requirement that a pharmacy, medical facility, health clinic or*  
26 *provider of health care that dispenses prescription drugs donated*  
27 *to the Program verify and record the eligibility of persons to*  
28 *receive such prescription drugs in the manner set forth in*  
29 *regulations adopted pursuant to subsection 2.*

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

31 453B.130 1. A person who exercises reasonable care in the  
32 donation of ~~an HIV/AIDS~~ *a prescription* drug in accordance with  
33 the provisions of this chapter and the regulations adopted pursuant  
34 thereto is not subject to any civil or criminal liability or disciplinary  
35 action by a professional licensing board for any loss, injury or death  
36 that results from the donation of the ~~HIV/AIDS~~ *prescription* drug.

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



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

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

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

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

