ASSEMBLY BILL NO. 239–COMMITTEE ON HEALTH AND HUMAN SERVICES

MARCH 5, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing prescriptions for controlled substances. (BDR 54-703)

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 controlled substances; clarifying the independent authority of the State Board of Pharmacy to take disciplinary action; revising provisions concerning prescribing controlled substances for the treatment of pain; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a practitioner, other than a veterinarian, to obtain a patient utilization report from the computerized prescription monitoring program before issuing an initial prescription for a controlled substance listed in schedule II, III or IV or an opioid that is a controlled substance listed in schedule V and at least once every 90 days thereafter for the duration of the course of treatment using the controlled substance. (NRS 639.23507) Existing law additionally requires a practitioner, other than a veterinarian, to meet certain requirements, including performing an evaluation and risk assessment and obtaining informed written consent, before issuing an initial prescription for a controlled substance listed in schedule II, III or IV for the treatment of pain. (NRS 639.23911, 639.23914) Existing law defines the term "initial prescription" to mean a prescription originated for a new patient of a practitioner, other than a veterinarian, or a new prescription to begin a new course of treatment for an existing patient of a practitioner, other than a veterinarian. (NRS 639.0082) Existing regulations of the State Board of Pharmacy define the term "course of treatment" to mean all treatment of a patient for a particular disease or symptom of a disease. (LCB File No. R047-18, adopted on June 26, 2018) **Section 7** of this bill codifies this definition into statute, and **section 8** of this bill makes a conforming change. **Section 9** of this bill revises requirements concerning the use of a patient utilization report.

Existing law imposes certain limitations on an initial prescription of a controlled substance listed in schedule II, III or IV for the treatment of acute pain.

(NRS 639.2391) Existing regulations of the Board define the term "acute pain" to mean pain that has an abrupt onset and is caused by an injury or another cause that is not ongoing. **Section 10** of this bill: (1) codifies that definition into law; and (2) authorizes a practitioner to prescribe an initial prescription of a controlled substance listed in schedule II, III or IV for the treatment of acute pain for a longer amount of time if the practitioner determines that it is medically necessary.

Existing law requires an evaluation and risk assessment to be performed before issuing an initial prescription for a controlled substance listed in schedule II, III or IV for the treatment of pain to include a good faith effort to review the medical records of the patient. (NRS 639.23912) **Section 11** of this bill limits the applicability of this requirement to: (1) initial prescriptions that will be for more than 30 days; and (2) medical records that are relevant to the prescription.

Existing regulations of the Board provide that obtaining informed written consent to the use of a controlled substance listed in schedule II, III or IV for the treatment of pain includes viewing previously obtained informed written consent and discussing the provisions of the informed written consent with the person who provided it. (LCB File No. R047-18) **Section 11** codifies that provision in statute. **Section 13** of this bill provides for the removal of provisions of the regulation adopted by the Board that are codified into law by this bill.

Existing law authorizes the State Board of Pharmacy to suspend or revoke a registration to dispense a controlled substance under certain circumstances. (NRS 453.236, 453.241) **Section 12** of this bill clarifies that such authority is not limited by the authority of any other regulatory body to take disciplinary action for the same conduct.

Existing law requires a practitioner to consider certain factors before prescribing a controlled substance listed in schedule II, III or IV. **Section 14** of this bill repeals that requirement, and **sections 1-6** of this bill remove references to that requirement.

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

Section 1. NRS 630.323 is hereby amended to read as follows:

630.323 1. The Executive Director of the Board or his or her designee shall review and evaluate any complaint or information received from the Investigation Division of the Department of Public Safety or the State Board of Pharmacy, including, without limitation, information provided pursuant to NRS 453.164, or from a law enforcement agency, professional licensing board or any other source indicating that:

(a) A licensee has issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV;

(b) A pattern of prescriptions issued by a licensee indicates that the licensee has issued prescriptions in the manner described in paragraph (a); or

(c) A patient of a licensee has acquired, used or possessed a controlled substance listed in schedule II, III or IV in a fraudulent, illegal, unauthorized or otherwise inappropriate manner.

2. If the Executive Director of the Board or his or her designee receives information described in subsection 1 concerning the licensee, the Executive Director or his or her designee must notify the licensee as soon as practicable after receiving the information.

3. A review and evaluation conducted pursuant to subsection 1 must include, without limitation:

(a) A review of relevant information contained in the database of the program established pursuant to NRS 453.162;

(b) A requirement that the licensee who is the subject of the review and evaluation attest that he or she has complied with the requirements of NRS 639.23507, 639.2391 ~~[,]~~ ***and*** 639.23911 **,** ~~[and 639.23915,]~~ as applicable; and

(c) A request for additional relevant information from the licensee who is the subject of the review and evaluation.

4. If, after a review and evaluation conducted pursuant to subsection 1, the Executive Director or his or her designee determines that a licensee may have issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV, the Board must proceed as if a written complaint had been filed against the licensee. If, after conducting an investigation and a hearing in accordance with the provisions of this chapter, the Board determines that the licensee issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription, the Board must impose appropriate disciplinary action.

5. When deemed appropriate, the Executive Director of the Board may:

(a) Refer information acquired during a review and evaluation conducted pursuant to subsection 1 to another professional licensing board, law enforcement agency or other appropriate governmental entity for investigation and criminal or administrative proceedings.

(b) Postpone any notification, review or part of such a review required by this section if he or she determines that it is necessary to avoid interfering with any pending administrative or criminal investigation into the suspected fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, dispensing or use of a controlled substance.

6. The Board shall adopt regulations providing for disciplinary action against a licensee for inappropriately prescribing a controlled substance listed in schedule II, III or IV or violating the provisions of NRS 639.2391 to 639.23916, inclusive, and any regulations adopted by the State Board of Pharmacy pursuant thereto. Such disciplinary action must include, without limitation, requiring the licensee to complete additional continuing education concerning prescribing controlled substances listed in schedules II, III and IV.

Sec. 2. NRS 631.364 is hereby amended to read as follows:

631.364 1. The Executive Director of the Board or his or her designee shall review and evaluate any complaint or information received from the Investigation Division of the Department of Public Safety or the State Board of Pharmacy, including, without limitation, information provided pursuant to NRS 453.164, or from a law enforcement agency, professional licensing board or any other source indicating that:

(a) A licensee has issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV;

(b) A pattern of prescriptions issued by a licensee indicates that the licensee has issued prescriptions in the manner described in paragraph (a); or

(c) A patient of a licensee has acquired, used or possessed a controlled substance listed in schedule II, III or IV in a fraudulent, illegal, unauthorized or otherwise inappropriate manner.

2. If the Executive Director of the Board or his or her designee receives information described in subsection 1 concerning the licensee, the Executive Director or his or her designee must notify the licensee as soon as practicable after receiving the information.

3. A review and evaluation conducted pursuant to subsection 1 must include, without limitation:

(a) A review of relevant information contained in the database of the program established pursuant to NRS 453.162;

(b) A requirement that the licensee who is the subject of the review and evaluation attest that he or she has complied with the requirements of NRS 639.23507, 639.2391 ~~[,]~~ ***and*** 639.23911 ***,*** ~~[and 639.23915,]~~ as applicable; and

(c) A request for additional relevant information from the licensee who is the subject of the review and evaluation.

4. If, after a review and evaluation conducted pursuant to subsection 1, the Executive Director or his or her designee determines that a licensee may have issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV, the Board must proceed as if a written complaint had been filed against the licensee. If, after conducting an investigation and a hearing in accordance with the provisions of this chapter, the Board determines that the licensee issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription, the Board must impose appropriate disciplinary action.

5. When deemed appropriate, the Executive Director of the Board may:

(a) Refer information acquired during a review and evaluation conducted pursuant to subsection 1 to another professional licensing

board, law enforcement agency or other appropriate governmental entity for investigation and criminal or administrative proceedings.

(b) Postpone any notification, review or part of such a review required by this section if he or she determines that it is necessary to avoid interfering with any pending administrative or criminal investigation into the suspected fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, dispensing or use of a controlled substance.

6. The Board shall adopt regulations providing for disciplinary action against a licensee for inappropriately prescribing a controlled substance listed in schedule II, III or IV or violating the provisions of NRS 639.2391 to 639.23916, inclusive, and any regulations adopted by the State Board of Pharmacy pursuant thereto. Such disciplinary action must include, without limitation, requiring the licensee to complete additional continuing education concerning prescribing controlled substances listed in schedules II, III and IV.

Sec. 3. NRS 632.352 is hereby amended to read as follows:

632.352 1. The Executive Director of the Board or his or her designee shall review and evaluate any complaint or information received from the Investigation Division of the Department of Public Safety or the State Board of Pharmacy, including, without limitation, information provided pursuant to NRS 453.164, or from a law enforcement agency, professional licensing board or any other source indicating that:

(a) A licensee has issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV;

(b) A pattern of prescriptions issued by a licensee indicates that the licensee has issued prescriptions in the manner described in paragraph (a); or

(c) A patient of a licensee has acquired, used or possessed a controlled substance listed in schedule II, III or IV in a fraudulent, illegal, unauthorized or otherwise inappropriate manner.

2. If the Executive Director of the Board or his or her designee receives information described in subsection 1 concerning the licensee, the Executive Director or his or her designee must notify the licensee as soon as practicable after receiving the information.

3. A review and evaluation conducted pursuant to subsection 1 must include, without limitation:

(a) A review of relevant information contained in the database of the program established pursuant to NRS 453.162;

(b) A requirement that the licensee who is the subject of the review and evaluation attest that he or she has complied with the requirements of NRS 639.23507, 639.2391 ~~[,]~~ ***and*** 639.23911 **,** ~~[and 639.23915,]~~ as applicable; and

(c) A request for additional relevant information from the licensee who is the subject of the review and evaluation.

4. If, after a review and evaluation conducted pursuant to subsection 1, the Executive Director or his or her designee determines that a licensee may have issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV, the Board must proceed as if a written complaint had been filed against the licensee. If, after conducting an investigation and a hearing in accordance with the provisions of this chapter, the Board determines that the licensee issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription, the Board must impose appropriate disciplinary action.

5. When deemed appropriate, the Executive Director of the Board may:

(a) Refer information acquired during a review and evaluation conducted pursuant to subsection 1 to another professional licensing board, law enforcement agency or other appropriate governmental entity for investigation and criminal or administrative proceedings.

(b) Postpone any notification, review or part of such a review required by this section if he or she determines that it is necessary to avoid interfering with any pending administrative or criminal investigation into the suspected fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, dispensing or use of a controlled substance.

6. The Board shall adopt regulations providing for disciplinary action against a licensee for inappropriately prescribing a controlled substance listed in schedule II, III or IV or violating the provisions of NRS 639.2391 to 639.23916, inclusive, and any regulations adopted by the State Board of Pharmacy pursuant thereto. Such disciplinary action must include, without limitation, requiring the licensee to complete additional continuing education concerning prescribing controlled substances listed in schedules II, III and IV.

Sec. 4. NRS 633.574 is hereby amended to read as follows:

633.574 1. The Executive Director of the Board or his or her designee shall review and evaluate any complaint or information received from the Investigation Division of the Department of Public Safety or the State Board of Pharmacy, including, without limitation, information provided pursuant to NRS 453.164, or from a law enforcement agency, professional licensing board or any other source indicating that:

(a) A licensee has issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV;

(b) A pattern of prescriptions issued by a licensee indicates that the licensee has issued prescriptions in the manner described in paragraph (a); or

(c) A patient of a licensee has acquired, used or possessed a controlled substance listed in schedule II, III or IV in a fraudulent, illegal, unauthorized or otherwise inappropriate manner.

2. If the Executive Director of the Board or his or her designee receives information described in subsection 1 concerning the licensee, the Executive Director or his or her designee must notify the licensee as soon as practicable after receiving the information.

3. A review and evaluation conducted pursuant to subsection 1 must include, without limitation:

(a) A review of relevant information contained in the database of the program established pursuant to NRS 453.162;

(b) A requirement that the licensee who is the subject of the review and evaluation attest that he or she has complied with the requirements of NRS 639.23507, 639.2391 ~~[,]~~ ***and*** 639.23911 ***,*** ~~[and 639.23915,]~~ as applicable; and

(c) A request for additional relevant information from the licensee who is the subject of the review and evaluation.

4. If, after a review and evaluation conducted pursuant to subsection 1, the Executive Director or his or her designee determines that a licensee may have issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV, the Board must proceed as if a written complaint had been filed against the licensee. If, after conducting an investigation and a hearing in accordance with the provisions of this chapter, the Board determines that the licensee issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription, the Board must impose appropriate disciplinary action.

5. When deemed appropriate, the Executive Director of the Board may:

(a) Refer information acquired during a review and evaluation conducted pursuant to subsection 1 to another professional licensing board, law enforcement agency or other appropriate governmental entity for investigation and criminal or administrative proceedings.

(b) Postpone any notification, review or part of such a review required by this section if he or she determines that it is necessary to avoid interfering with any pending administrative or criminal investigation into the suspected fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, dispensing or use of a controlled substance.

6. The Board shall adopt regulations providing for disciplinary action against a licensee for inappropriately prescribing a controlled substance listed in schedule II, III or IV or violating the provisions

of NRS 639.2391 to 639.23916, inclusive, and any regulations adopted by the State Board of Pharmacy pursuant thereto. Such disciplinary action must include, without limitation, requiring the licensee to complete additional continuing education concerning prescribing controlled substances listed in schedules II, III and IV.

Sec. 5. NRS 635.152 is hereby amended to read as follows:

635.152 1. The President of the Board or his or her designee shall review and evaluate any complaint or information received from the Investigation Division of the Department of Public Safety or the State Board of Pharmacy, including, without limitation, information provided pursuant to NRS 453.164, or from a law enforcement agency, professional licensing board or any other source indicating that:

(a) A licensee has issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV;

(b) A pattern of prescriptions issued by a licensee indicates that the licensee has issued prescriptions in the manner described in paragraph (a); or

(c) A patient of a licensee has acquired, used or possessed a controlled substance listed in schedule II, III or IV in a fraudulent, illegal, unauthorized or otherwise inappropriate manner.

2. If the President of the Board or his or her designee receives information described in subsection 1 concerning the licensee, the President or his or her designee must notify the licensee as soon as practicable after receiving the information.

3. A review and evaluation conducted pursuant to subsection 1 must include, without limitation:

(a) A review of relevant information contained in the database of the program established pursuant to NRS 453.162;

(b) A requirement that the licensee who is the subject of the review and evaluation attest that he or she has complied with the requirements of NRS 639.23507, 639.2391 ~~[,]~~ ***and*** 639.23911 ***,*** ~~[and 639.23915,]~~ as applicable; and

(c) A request for additional relevant information from the licensee who is the subject of the review and evaluation.

4. If, after a review and evaluation conducted pursuant to subsection 1, the President or his or her designee determines that a licensee may have issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV, the Board must proceed as if a written complaint had been filed against the licensee. If, after conducting an investigation and a hearing in accordance with the provisions of this chapter, the Board determines that the licensee issued a fraudulent,

illegal, unauthorized or otherwise inappropriate prescription, the Board must impose appropriate disciplinary action.

5. When deemed appropriate, the President of the Board may:

(a) Refer information acquired during a review and evaluation conducted pursuant to subsection 1 to another professional licensing board, law enforcement agency or other appropriate governmental entity for investigation and criminal or administrative proceedings.

(b) Postpone any notification, review or part of such a review required by this section if he or she determines that it is necessary to avoid interfering with any pending administrative or criminal investigation into the suspected fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, dispensing or use of a controlled substance.

6. The Board shall adopt regulations providing for disciplinary action against a licensee for inappropriately prescribing a controlled substance listed in schedule II, III or IV or violating the provisions of NRS 639.2391 to 639.23916, inclusive, and any regulations adopted by the State Board of Pharmacy pursuant thereto. Such disciplinary action must include, without limitation, requiring the licensee to complete additional continuing education concerning prescribing controlled substances listed in schedules II, III and IV.

Sec. 6. NRS 636.338 is hereby amended to read as follows:

636.338 1. The Executive Director of the Board or his or her designee shall review and evaluate any complaint or information received from the Investigation Division of the Department of Public Safety or the State Board of Pharmacy, including, without limitation, information provided pursuant to NRS 453.164, or from a law enforcement agency, professional licensing board or any other source indicating that:

(a) A licensee has issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV;

(b) A pattern of prescriptions issued by a licensee indicates that the licensee has issued prescriptions in the manner described in paragraph (a); or

(c) A patient of a licensee has acquired, used or possessed a controlled substance listed in schedule II, III or IV in a fraudulent, illegal, unauthorized or otherwise inappropriate manner.

2. If the Executive Director of the Board or his or her designee receives information described in subsection 1 concerning the licensee, the Executive Director or his or her designee must notify the licensee as soon as practicable after receiving the information.

3. A review and evaluation conducted pursuant to subsection 1 must include, without limitation:

(a) A review of relevant information contained in the database of the program established pursuant to NRS 453.162;

(b) A requirement that the licensee who is the subject of the review and evaluation attest that he or she has complied with the requirements of NRS 639.23507, 639.2391 ~~[,]~~ ***and*** 639.23911 ***,*** ~~[and 639.23915,]~~ as applicable; and

(c) A request for additional relevant information from the licensee who is the subject of the review and evaluation.

4. If, after a review and evaluation conducted pursuant to subsection 1, the Executive Director or his or her designee determines that a licensee may have issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV, the Board must proceed as if a written complaint had been filed against the licensee. If, after conducting an investigation and a hearing in accordance with the provisions of this chapter, the Board determines that the licensee issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription, the Board must impose appropriate disciplinary action.

5. When deemed appropriate, the Executive Director of the Board may:

(a) Refer information acquired during a review and evaluation conducted pursuant to subsection 1 to another professional licensing board, law enforcement agency or other appropriate governmental entity for investigation and criminal or administrative proceedings.

(b) Postpone any notification, review or part of such a review required by this section if he or she determines that it is necessary to avoid interfering with any pending administrative or criminal investigation into the suspected fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, dispensing or use of a controlled substance.

6. The Board shall adopt regulations providing for disciplinary action against a licensee for inappropriately prescribing a controlled substance listed in schedule II, III or IV or violating the provisions of NRS 639.2391 to 639.23916, inclusive, and any regulations adopted by the State Board of Pharmacy pursuant thereto. Such disciplinary action must include, without limitation, requiring the licensee to complete additional continuing education concerning prescribing controlled substances listed in schedules II, III and IV.

Sec. 7. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

"Course of treatment" means all treatment of a patient for a particular disease or symptom of a disease, including, without limitation, a new treatment initiated by any practitioner, other than a veterinarian, for a disease or symptom for which the patient was previously receiving treatment.

Sec. 8. 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 section 7 of this act*** have the meanings ascribed to them in those sections.

Sec. 9. NRS 639.23507 is hereby amended to read as follows:

639.23507 1. A practitioner, other than a veterinarian, shall, before issuing an initial prescription for a controlled substance listed in schedule II, III or IV or an opioid that is a controlled substance listed in schedule V and at least once every 90 days thereafter for the duration of the course of treatment using the controlled substance, obtain a patient utilization report regarding the patient from the computerized program established by the Board and the Investigation Division of the Department of Public Safety pursuant to NRS 453.162. The practitioner shall:

(a) Review the patient utilization report ***;*** ~~[to assess whether the prescription for the controlled substance is medically necessary;]~~ and

(b) Determine whether the patient has been issued another prescription for the same controlled substance that provides for ongoing treatment using the controlled substance. If the practitioner determines from the patient utilization report or from any other source that the patient has been issued such a prescription, the practitioner shall not prescribe the controlled substance ~~[.]~~ ***unless the practitioner determines that issuing the prescription is medically necessary.***

2. If a practitioner who attempts to obtain a patient utilization report as required by subsection 1 fails to do so because the computerized program is unresponsive or otherwise unavailable, the practitioner:

(a) Shall be deemed to have complied with subsection 1 if the practitioner documents the attempt and failure in the medical record of the patient.

(b) Is not liable for the failure.

3. The Board shall adopt regulations to provide alternative methods of compliance with subsection 1 for a physician while he or she is providing service in a hospital emergency department. The regulations must include, without limitation, provisions that allow a hospital to designate members of hospital staff to act as delegates for the purposes of accessing the database of the computerized program and obtaining patient utilization reports from the computerized program on behalf of such a physician.

Sec. 10. NRS 639.2391 is hereby amended to read as follows:

639.2391 1. If a practitioner, other than a veterinarian, prescribes or dispenses to a patient for the treatment of pain a

quantity of controlled substance that exceeds the amount prescribed by this subsection, the practitioner must document in the medical record of the patient the reasons for prescribing that quantity. A practitioner shall document the information required by this subsection if the practitioner prescribes for or dispenses for the treatment of pain:

(a) In any period of 365 consecutive days, a larger quantity of a controlled substance listed in schedule II, III or IV than will be used in 365 days if the patient adheres to the dose prescribed; or

(b) At any one time, a larger quantity of a controlled substance listed in schedule II, III or IV than will be used in 90 days if the patient adheres to the dose prescribed.

2. ~~[A]~~ ***Unless the practitioner determines that the prescription is medically necessary, a*** practitioner, other than a veterinarian, shall not issue an initial prescription of a controlled substance listed in schedule II, III or IV for the treatment of acute pain that prescribes:

(a) An amount of the controlled substance that is intended to be used for more than 14 days; and

(b) If the controlled substance is an opioid and a prescription for an opioid has never been issued to the patient or the most recent prescription issued to the patient for an opioid was issued more than 19 days before the date of the initial prescription for the treatment of acute pain, a dose of the controlled substance that exceeds 90 morphine milligram equivalents per day. For the purposes of this paragraph, the daily dose of a controlled substance must be calculated in accordance with the most recent guidelines prescribed by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

3. As used in this section, "acute pain" means pain that has an abrupt onset and is caused by injury or another cause that is not ongoing. The term does not include chronic pain or pain that is being treated as part of care for cancer, palliative care, hospice care or other end-of-life care.

Sec. 11. NRS 639.23912 is hereby amended to read as follows:

639.23912 1. An evaluation and risk assessment of a patient conducted pursuant to paragraph (b) of subsection 1 of NRS 639.23911 must include, without limitation:

(a) Obtaining and reviewing a medical history of the patient.

(b) Conducting a physical examination of the patient.

(c) ~~[Making]~~ ***If the prescription is for a quantity of a controlled substance listed in schedule II, III or IV that is intended to be used in not less than 30 days:***

(1) Making a good faith effort to obtain and review ~~[the]~~ ***any*** medical records of the patient from any other provider of health care who has provided care to the patient ~~[. The practitioner shall document]~~ ***that are relevant to the prescription; and***

(2) Documenting efforts to obtain such medical records and the conclusions from reviewing any such medical records in the medical record of the patient.

(d) Assessing the mental health and risk of abuse, dependency and addiction of the patient using methods supported by peer-reviewed scientific research and validated by a nationally recognized organization.

2. The informed written consent obtained pursuant to paragraph (e) of subsection 1 of NRS 639.23911 must include, without limitation, information concerning:

(a) The potential risks and benefits of treatment using the controlled substance, including if a form of the controlled substance that is designed to deter abuse is available, the risks and benefits of using that form;

(b) Proper use of the controlled substance;

(c) Any alternative means of treating the symptoms of the patient and the cause of such symptoms;

(d) The important provisions of the treatment plan established for the patient pursuant to paragraph (c) of subsection 1 of NRS 639.23911 in a clear and simple manner;

(e) The risks of dependency, addiction and overdose during treatment using the controlled substance;

(f) Methods to safely store and legally dispose of the controlled substance;

(g) The manner in which the practitioner will address requests for refills of the prescription, including, without limitation, an explanation of the provisions of NRS 639.23913, if applicable;

(h) If the patient is a woman between 15 and 45 years of age, the risk to a fetus of chronic exposure to controlled substances during pregnancy, including, without limitation, the risks of fetal dependency on the controlled substance and neonatal abstinence syndrome;

(i) If the controlled substance is an opioid, the availability of an opioid antagonist, as defined in NRS 453C.040, without a prescription; and

(j) If the patient is an unemancipated minor, the risks that the minor will abuse or misuse the controlled substance or divert the controlled substance for use by another person and ways to detect such abuse, misuse or diversion.

3. In addition to other methods of obtaining informed written consent, a practitioner shall be deemed to have obtained informed

written consent that meets the requirements of paragraph (e) of subsection 1 of NRS 639.23911 if the practitioner:

(a) Views informed written consent to the use of the controlled substance that meets the requirements of subsection 2 previously given by the patient, parent of the patient or legal guardian of the patient, as applicable, and which is stored on a database maintained by the practitioner or a group of practitioners with which the practitioner is associated; and

(b) Immediately before prescribing the controlled substance:

(1) Discusses the provisions of the informed written consent described in paragraph (a) with the patient, parent of the patient or legal guardian of the patient, as applicable;

(2) Allows the patient, parent or guardian to ask questions about those provisions; and

(3) Answers any such questions.

Sec. 12. Chapter 453 of NRS is hereby amended by adding thereto a new section to read as follows:

The authority of the Board to take disciplinary action to enforce the provisions of this chapter is not limited by the authority of any other regulatory body that may be authorized or required to take disciplinary action for the same conduct with respect to any license, registration, certificate or other professional designation issued and regulated by that regulatory body.

Sec. 13. Sections 2, 3 and 4 of the regulation adopted by the State Board of Pharmacy, LCB File No. R047-18, are hereby declared to be void and unenforceable on January 1, 2020. In preparing supplements to the Nevada Administrative Code on or after January 1, 2020, the Legislative Counsel shall remove those sections of that regulation.

Sec. 14. NRS 639.23915 is hereby repealed.

Sec. 15. This act becomes effective:

1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On January 1, 2020, for all other purposes.

TEXT OF REPEALED SECTION

639.23915 Practitioner to consider certain factors before prescribing certain controlled substances. Before prescribing a controlled substance listed in schedule II, III or IV, a practitioner, other than a veterinarian, must consider the following factors, when applicable:

1. Whether there is reason to believe that the patient is not using the controlled substance as prescribed or is diverting the controlled substance for use by another person.

2. Whether the controlled substance has had the expected effect on the symptoms of the patient.

3. Whether there is reason to believe that the patient is using other drugs, including, without limitation, alcohol, controlled substances listed in schedule I or prescription drugs, that:

(a) May interact negatively with the controlled substance prescribed by the practitioner; or

(b) Have not been prescribed by a practitioner who is treating the patient.

4. The number of attempts by the patient to obtain an early refill of the prescription.

5. The number of times the patient has claimed that the controlled substance has been lost or stolen.

6. Information from the database of the program established pursuant to NRS 453.162 that is irregular or inconsistent or indicates that the patient is inappropriately using a controlled substance.

7. Whether previous blood or urine tests have indicated inappropriate use of controlled substances by the patient.

8. The necessity of verifying that controlled substances, other than those authorized under the treatment plan established pursuant to paragraph (c) of subsection 1 of NRS 639.23911, are not present in the body of the patient.

9. Whether the patient has demonstrated aberrant behavior or intoxication.

10. Whether the patient has increased his or her dose of the controlled substance without authorization from the practitioner.

11. Whether the patient has been reluctant to stop using the controlled substance or has requested or demanded a controlled substance that is likely to be abused or cause dependency or addiction.

12. Whether the patient has been reluctant to cooperate with any examination, analysis or test recommended by the practitioner.

13. Whether the patient has a history of substance abuse.

14. Any major change in the health of the patient, including, without limitation, pregnancy, or any diagnosis concerning the mental health of the patient that would affect the medical appropriateness of prescribing the controlled substance for the patient.

15. Any other evidence that the patient is chronically using opioids, misusing, abusing, illegally using or addicted to any drug or

failing to comply with the instructions of the practitioner concerning the use of the controlled substance.

16. Any other factor that the practitioner determines is necessary to make an informed professional judgment concerning the medical appropriateness of the prescription.

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