SENATE BILL NO. 229–SENATOR RATTI

MARCH 15, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to the practice of pharmacy. (BDR 54-823)

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 pharmacists; revising requirements governing the collaborative practice of pharmacy and collaborative drug therapy management; making certain provisions relating to communicable diseases and exposure to biological, radiological or chemical agents applicable to pharmacists; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a pharmacist to engage in the collaborative practice of pharmacy or collaborative drug therapy management pursuant to a collaborative practice agreement entered into with a licensed practitioner who: (1) maintains an ongoing relationship with his or her patient; (2) obtains the informed, written consent of a patient that is referred to the pharmacist; and (3) practices within 100 miles of the primary location where the pharmacist practices in this State. (NRS 639.2623) **Section 2** of this bill removes these requirements and instead: (1) imposes certain requirements to ensure that the geographic distance between a practitioner and a pharmacist who enter into a collaborative practice agreement does not impair effective collaboration; and (2) prohibits a practitioner from entering into a collaborative practice agreement with a pharmacist that authorizes the pharmacist to engage in an activity that is outside the scope of practice of the practitioner. **Section 2** additionally removes a prohibition on collaborative practice agreements for the management of controlled substances. **Section 7** of this bill expressly authorizes a pharmacist to possess and administer a controlled substance pursuant to a collaborative practice agreement.

Sections 2 and 3 of this bill remove a requirement that a pharmacist obtain the consent of a patient before engaging in the collaborative practice of pharmacy or collaborative drug therapy management. **Sections 1, 4 and 6** of this bill remove provisions limiting collaborative drug therapy management to patients who are in a medical facility or affiliated setting. **Section 4** additionally prescribes requirements concerning the contents of written guidelines and protocols for collaborative drug

therapy and removes the requirement that such guidelines and protocols must be approved by the Board. **Sections 6 and 8** of this bill make conforming changes to reflect the removal of the requirement for such approval.

Existing law requires a provider of health care who knows of, or provides services to, a person who has or is suspected of having a communicable disease or of having suffered a drug overdose to report that fact to the appropriate health authority. (NRS 441A.150) Existing law also: (1) requires a provider of health care to take certain measures to cooperate with an investigation by the health authority concerning a case or suspected case of an infectious disease or exposure to a biological, radiological or chemical agent; and (2) authorizes the health authority to take certain actions against a provider of health care who has significantly contributed to a case of an infectious disease or exposure to a biological, radiological or chemical agent. (NRS 441A.165, 441A.169) **Section 5** of this bill provides that a pharmacist is a provider of health care for the purposes of these provisions.

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

Section 1. 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 collaborative drug therapy management. The written guidelines and protocols must comply with NRS 639.2629.

9. Implementation and modification of drug therapy, administering drugs and ordering and performing tests in accordance with a collaborative practice agreement.

➥ 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. 2. NRS 639.2623 is hereby amended to read as follows:

639.2623 1. ~~[Except as otherwise provided in subsection 5, a]~~ ***A*** pharmacist who has entered into a valid collaborative practice agreement may engage in the collaborative practice of pharmacy or collaborative drug therapy management at any location in this State.

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

~~(a) Be]~~ ***be*** licensed in good standing to practice his or her profession in this State ***.*** ~~[;~~

~~(b) Agree to maintain an ongoing relationship with a patient who is referred by the practitioner to a pharmacist pursuant to a collaborative practice agreement for collaborative drug therapy management;~~

~~(c) Agree to obtain the informed, written consent from a patient who is referred by the practitioner to a pharmacist pursuant to a collaborative practice agreement for collaborative drug therapy management; and~~

~~(d) Except as otherwise provided in this paragraph, actively practice his or her profession within 100 miles of the primary location where the collaborating pharmacist practices in this State. 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 practitioner shall not enter into a collaborative practice agreement with a collaborating pharmacist if the geographic distance between the practitioner and the collaborating pharmacist prevents or limits effective collaboration in the delivery of care or treatment to patients.

4. Except as otherwise provided in this subsection, a practitioner shall not enter a collaborative practice agreement that includes diagnosis or initiating treatment unless the practitioner actively practices his or her profession in this State or provides those services using telehealth. The Board may grant a written request for an exemption from the requirements of this subsection for good cause shown.

5. A collaborative practice agreement must not grant a pharmacist the authority to engage in an activity that is outside the scope of the current practice of the practitioner.

~~[3.]~~ ***6.*** 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 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, on the chart of the patient or in a separate log book any decision or action concerning the management of drug therapy pursuant to a collaborative practice agreement 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;

(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; and

(e) Provide a patient with written notification of:

(1) Any test administered by the pharmacist and the results of such a test;

(2) The name of any drug or prescription filled and dispensed by the pharmacist to the patient; and

(3) The contact information of the pharmacist.

~~[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. Such written consent must include, without limitation, a statement that the pharmacist:~~

~~(a) May initiate, modify or discontinue the medication of the patient pursuant to a collaborative practice agreement;~~

~~(b) Is not a physician, osteopathic physician, advanced practice registered nurse or physician assistant; and~~

~~(c) May not diagnose.~~

~~5. A practitioner may not enter into a collaborative practice agreement with a pharmacist for the management of controlled substances.~~

~~6.]~~ ***7.*** A pharmacy must not require a registered pharmacist, as a condition of employment, to enter into a collaborative practice agreement.

Sec. 3. NRS 639.2627 is hereby amended to read as follows:

639.2627 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]~~ ***6*** of NRS 639.2623, 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 the patient;

(d) The procedure by which the practitioner will provide the pharmacist with a diagnosis of the patient and any other medical information necessary to carry out the patient's drug therapy management;

(e) 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;

(f) 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;

(g) Authorization for either party to terminate the agreement by written notice to the other party, which must include, without limitation, written notice to the patient that informs the patient of the procedures by which he or she may continue drug therapy;

(h) The effective date of the agreement;

(i) 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; and

(j) The address of the location where the records described in subsection ~~[3]~~ ***6*** of NRS 639.2623 will be maintained ***.*** ~~[; and~~

~~(k) The process by which the pharmacist will obtain the informed, written consent required by subsection 4 of NRS 639.2623.]~~

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. 4. NRS 639.2629 is hereby amended to read as follows:

639.2629 1. Written guidelines and protocols developed by a registered pharmacist in collaboration with a practitioner which authorize collaborative drug therapy management ~~[:~~

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

~~(b) May provide for collaborative drug therapy management 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 initiating or modifying the drug therapy, provide written notice of the initiation 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.]~~ ***must include, without limitation:***

(a) A description of the types of decisions concerning the management of drug therapy that the pharmacist is authorized to make, including, without limitation:

(1) A specific description of the diseases, drugs and categories of drugs covered by the guidelines; and

(2) The types of decisions that the pharmacist is authorized to make for each disease, drug or category of drugs;

(b) The training that the pharmacist is required to complete;

(c) The procedures that the pharmacist is required to follow when initiating or modifying drug therapy or making other therapeutic decisions, including, without limitation:

(1) Criteria that the pharmacist is required to use when making therapeutic decisions; and

(2) Procedures for documenting therapeutic decisions and reporting such decisions to the practitioner; and

(d) Procedures for the practitioner to provide feedback concerning therapeutic decisions to each pharmacist who is a party to the agreement.

2. The Board may adopt regulations which ~~[~~:

~~(a) Prescribe]~~ ***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.]~~

Sec. 5. NRS 441A.110 is hereby amended to read as follows:

441A.110 "Provider of health care" means a physician, nurse or veterinarian licensed in accordance with state law**,** ~~[or]~~ a physician assistant licensed pursuant to chapter 630 or 633 of NRS ~~[.]~~ ***or a pharmacist registered pursuant to chapter 639 of NRS.***

Sec. 6. 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 639.2629 or a collaborative practice agreement, as defined in NRS 639.0052, 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. 7. NRS 453.375 is hereby amended to read as follows:

453.375 1. A controlled substance may be possessed and administered by the following persons:

(a) A practitioner.

(b) A registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a physician, physician assistant, dentist, podiatric physician or advanced practice registered nurse, or pursuant to a chart order, for administration to a patient at another location.

(c) A paramedic:

(1) As authorized by regulation of:

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

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

(2) In accordance with any applicable regulations of:

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

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

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

(d) A respiratory therapist, at the direction of a physician or physician assistant.

(e) A medical student, student in training to become a physician assistant 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 or physician assistant and:

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

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

➥ A medical student or student nurse may administer a controlled substance 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.

(f) An ultimate user or any person whom the ultimate user designates pursuant to a written agreement.

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

(h) A veterinary technician at the direction of his or her supervising veterinarian.

(i) 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.

(j) In accordance with applicable regulations of the State Board of Pharmacy, an animal control officer, a wildlife biologist or an employee designated by a federal, state or local governmental agency whose duties include the control of domestic, wild and predatory animals.

(k) A person who is enrolled in a training program to become a paramedic, respiratory therapist or veterinary technician if the person possesses and administers the controlled substance in the same manner and under the same conditions that apply, respectively, to a paramedic, respiratory therapist or veterinary technician who may possess and administer the controlled substance, and under the direct supervision of a person licensed or registered to perform the respective medical art or a supervisor of such a person.

(l) A registered pharmacist pursuant to written guidelines and protocols developed pursuant to NRS 639.2629 or a collaborative practice agreement, as defined in NRS 639.0052.

2. As used in this section, "accredited college of medicine" means:

(a) A medical school that is accredited by the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges or their successor organizations; or

(b) A school of osteopathic medicine, as defined in NRS 633.121.

Sec. 8. NRS 454.213 is hereby amended to read as follows:

454.213 1. Except as otherwise provided in NRS 454.217, 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 holder of a license to engage in radiation therapy and radiologic imaging issued pursuant to chapter 653 of NRS, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

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

(o) 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.

(p) 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.

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

(r) 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.

(s) A registered pharmacist pursuant to written guidelines and protocols developed ~~[and approved]~~ pursuant to NRS 639.2629 or a collaborative practice agreement, as defined in NRS 639.0052.

(t) 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, physical therapist or veterinary technician or to obtain a license to engage in radiation therapy and radiologic imaging pursuant to chapter 653 of NRS 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, physical therapist, veterinary technician or person licensed to engage in radiation therapy and radiologic imaging 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.

(u) 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. 9. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 8, inclusive, of this act become effective:

(a) 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

(b) October 1, 2021, for all other purposes.

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