

SENATE BILL NO. 408—COMMITTEE ON FINANCE

(ON BEHALF OF THE OFFICE OF FINANCE
IN THE OFFICE OF THE GOVERNOR)

APRIL 6, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to the State Board of Pharmacy. (BDR 54-1098)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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 pharmacy; requiring certain meetings of the State Board of Pharmacy to be open and public; authorizing the Board to enter into certain agreements; authorizing the Board to require certain persons to undergo a criminal background check; requiring an applicant for registration as a pharmacist or pharmaceutical technician to undergo a criminal background check; increasing certain fees; revising provisions relating to administrative proceedings before the Board; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law creates the State Board of Pharmacy and sets forth the general and
2 regulatory powers of the Board. (NRS 639.020, 639.070) **Section 3** of this bill
3 authorizes the Board to: (1) enter into written agreements for improving the
4 enforcement of and compliance with the provisions of law governing the practice of
5 pharmacy, controlled substances and dangerous drugs; (2) contract with a private
6 entity for the administration of the database of the computerized program that
7 tracks each prescription for certain controlled substances; and (3) require the holder
8 of a certificate, license or permit issued by the Board or a person with significant
9 influence over the holder of a certificate, license or permit to undergo a criminal
10 background check. **Sections 5 and 6** of this bill require an applicant for registration
11 as a pharmacist or a pharmaceutical technician to undergo a criminal background



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check. **Section 11** of this bill requires the Board to implement and maintain reasonable security measures to protect information obtained for the purpose of conducting such a background check.

Existing law requires, in general, the meetings of a public body to be open and public. (NRS 241.016) However, existing law provides that meetings of the Board which are held to deliberate on a decision in an administrative action are closed to the public. (NRS 639.050) **Section 2** of this bill removes this provision, thereby requiring, in general, a meeting of the Board for that purpose to be open and public. The Board would still be authorized to close a meeting for certain purposes, including, consideration of the character, alleged misconduct, professional competence or physical or mental health of a person, unless the person waives such closure. (NRS 241.030)

Section 13 of this bill repeals a requirement that the Board furnish to applicants and registrants free copies of law and regulations governing the practice of pharmacy, controlled substances, dangerous drugs and foods, drugs and cosmetics. (NRS 639.095)

Section 4 of this bill revises the credentials that authorize a person to manufacture, engage in wholesale distribution, compound, sell or dispense any drug, poison, medicine or chemical. **Section 7** of this bill increases the fees for the investigation or issuance or renewal of a license as a manufacturer or wholesaler.

Existing law authorizes the Board to take disciplinary action against a holder of any certificate, license or permit issued by the Board for certain violations. (NRS 639.255) **Section 8** of this bill increases the amount of time for a person to request a hearing before the Board to answer to violations alleged by the Board and submit evidence.

Existing law makes it a misdemeanor to: (1) secure or attempt to secure registration as a pharmacist, pharmacy technician or a practitioner through false representation; or (2) fraudulently represent oneself to be a registered pharmacist or practitioner. Existing law provides for the automatic cancellation of any certificate issued by the Board based on false or fraudulent information. (NRS 639.281)

Section 10 of this bill expands these provisions to apply to any certificate, license or permit issued by the Board.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 639.050 is hereby amended to read as follows:

639.050 1. The Board shall hold a meeting at least once in every 6 months.

2. Four members of the Board constitute a quorum.

3. Meetings of the Board which are held ~~to deliberate on the decision in an administrative action or~~ to prepare, grade or administer examinations are closed to the public.

4. Each member of the Board is entitled to receive:

(a) A salary of not more than \$150 per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate



1 must not exceed the rate provided for state officers and employees
2 generally.

3 5. While engaged in the business of the Board, each employee
4 of the Board is entitled to receive a per diem allowance and travel
5 expenses at a rate fixed by the Board. The rate must not exceed the
6 rate provided for state officers and employees generally.

7 **Sec. 3.** NRS 639.070 is hereby amended to read as follows:

8 639.070 1. The Board may:

9 (a) Adopt such regulations, not inconsistent with the laws of this
10 State, as are necessary for the protection of the public, appertaining
11 to the practice of pharmacy and the lawful performance of its duties.

12 (b) Adopt regulations requiring that prices charged by retail
13 pharmacies for drugs and medicines which are obtained by
14 prescription be posted in the pharmacies and be given on the
15 telephone to persons requesting such information.

16 (c) Adopt regulations, not inconsistent with the laws of this
17 State, authorizing the Executive Secretary of the Board to issue
18 certificates, licenses and permits required by this chapter and
19 chapters 453 and 454 of NRS.

20 (d) Adopt regulations governing the dispensing of poisons,
21 drugs, chemicals and medicines.

22 (e) Regulate the practice of pharmacy.

23 (f) Regulate the sale and dispensing of poisons, drugs, chemicals
24 and medicines.

25 (g) Regulate the means of recordkeeping and storage, handling,
26 sanitation and security of drugs, poisons, medicines, chemicals and
27 devices, including, but not limited to, requirements relating to:

28 (1) Pharmacies, institutional pharmacies and pharmacies in
29 correctional institutions;

30 (2) Drugs stored in hospitals; and

31 (3) Drugs stored for the purpose of wholesale distribution.

32 (h) Examine and register, upon application, pharmacists and
33 other persons who dispense or distribute medications whom it
34 deems qualified.

35 (i) Charge and collect necessary and reasonable fees for the
36 expedited processing of a request or for any other incidental service
37 the Board provides, other than those specifically set forth in this
38 chapter.

39 (j) Maintain offices in as many localities in the State as it finds
40 necessary to carry out the provisions of this chapter.

41 (k) Employ attorneys, inspectors, investigators and other
42 professional consultants and clerical personnel necessary to the
43 discharge of its duties.

44 (l) Enforce the provisions of NRS 453.011 to 453.552, inclusive,
45 and enforce the provisions of this chapter and chapter 454 of NRS.



(m) Adopt regulations concerning the information required to be submitted in connection with an application for any license, certificate or permit required by this chapter or chapter 453 or 454 of NRS.

(n) Adopt regulations concerning the education, experience and background of a person who is employed by the holder of a license or permit issued pursuant to this chapter and who has access to drugs and devices.

(o) Adopt regulations concerning the use of computerized mechanical equipment for the filling of prescriptions.

(p) Participate in and expend money for programs that enhance the practice of pharmacy.

(q) Enter into written agreements with local, state and federal agencies for the purpose of improving the enforcement of and compliance with the provisions of this chapter and chapters 453 and 454 of NRS.

(r) Contract with a private entity to administer the database of the program established pursuant to NRS 453.162.

2. The Board shall, to the extent feasible, communicate or cooperate with or provide any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

3. This section does not authorize the Board to prohibit open-market competition in the advertising and sale of prescription drugs and pharmaceutical services.

Sec. 4. NRS 639.100 is hereby amended to read as follows:

639.100 1. Except as otherwise provided in this chapter, it is unlawful for any person to manufacture, engage in wholesale distribution, compound, sell or dispense, or permit to be manufactured, distributed at wholesale, compounded, sold or dispensed, any drug, poison, medicine or chemical, or to dispense or compound, or permit to be dispensed or compounded, any prescription of a practitioner, unless the person:

(a) ~~Is a prescribing practitioner, a person licensed to engage in wholesale distribution, a person licensed pursuant to chapter 653 of NRS under the supervision of the prescribing practitioner, a registered pharmacist, or a registered nurse certified in oncology under the supervision of the prescribing practitioner;~~ *Holds the appropriate certificate, license or permit required by this chapter or chapter 453 or 454 of NRS, as applicable, that authorizes the person to take such action;* and

(b) Complies with the regulations adopted by the Board.

2. A person who violates any provision of subsection 1:

(a) If no substantial bodily harm results, is guilty of a category D felony; or



(b) If substantial bodily harm results, is guilty of a category C felony,

➔ and shall be punished as provided in NRS 193.130.

3. Sales representatives, manufacturers or wholesalers selling only in wholesale lots and not to the general public and compounders or sellers of medical gases need not be registered pharmacists. A person shall not act as a manufacturer or wholesaler unless the person has obtained a license from the Board.

4. Any nonprofit cooperative organization or any manufacturer or wholesaler who furnishes, sells, offers to sell or delivers a controlled substance which is intended, designed and labeled "For Veterinary Use Only" is subject to the provisions of this chapter, and shall not furnish, sell or offer to sell such a substance until the organization, manufacturer or wholesaler has obtained a license from the Board.

5. Each application for such a license must be made on a form furnished by the Board and an application must not be considered by the Board until all the information required thereon has been completed. Upon approval of the application by the Board and the payment of the required fee, the Board shall issue a license to the applicant. Each license must be issued to a specific person for a specific location.

6. The Board shall not condition, limit, restrict or otherwise deny to a prescribing practitioner the issuance of a certificate, license, registration, permit or authorization to prescribe controlled substances or dangerous drugs because the practitioner is located outside this State.

Sec. 5. NRS 639.127 is hereby amended to read as follows:

639.127 1. An applicant for registration as a pharmacist in this State must submit an application to the Executive Secretary of the Board on a form furnished by the Board and must pay the fee fixed by the Board. The fee must be paid at the time the application is submitted and is compensation to the Board for the investigation and the examination of the applicant. Under no circumstances may the fee be refunded.

2. *In addition to the requirements of subsection 1, each applicant for registration as a pharmacist shall submit with the application a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Board may issue a provisional registration to an applicant pending receipt of the report from the Federal Bureau of Investigation if the Board determines that the applicant is otherwise qualified for registration.*



3. Proof of the qualifications of any applicant must be made to the satisfaction of the Board and must be substantiated by affidavits, records or such other evidence as the Board may require.

~~[3-]~~ 4. An application is only valid for 1 year after the date it is received by the Board unless the Board extends its period of validity.

~~[4-]~~ 5. A certificate of registration as a pharmacist must be issued to each person who the Board determines is qualified pursuant to the provisions of NRS 639.120, 639.134, 639.136 or 639.1365. The certificate entitles the person to whom it is issued to practice pharmacy in this State.

Sec. 6. NRS 639.1371 is hereby amended to read as follows:

639.1371 1. The ratio of pharmaceutical technicians to pharmacists must not allow more than one pharmaceutical technician to each pharmacist unless the Board by regulation expands the ratio.

2. The Board shall adopt regulations concerning pharmaceutical technicians, including requirements for:

(a) The qualifications, registration and supervision of pharmaceutical technicians; and

(b) The services which may be performed by pharmaceutical technicians,

↳ to ensure the protection and safety of the public in the provision of pharmaceutical care.

3. The regulations adopted by the Board pursuant to this section which prescribe:

(a) The qualifications for pharmaceutical technicians must include:

(1) The successful completion of a program for pharmaceutical technicians which is approved by the Board;

(2) The completion of at least 1,500 hours of experience in carrying out the duties of a pharmaceutical technician; or

(3) Any other experience or education deemed equivalent by the Board.

(b) An expanded ratio of pharmaceutical technicians to pharmacists must be appropriate and necessary for a particular category of pharmacy at any time.

(c) The services which may be performed by pharmaceutical technicians must include, without limitation, the:

(1) Removal of drugs from stock;

(2) Counting, pouring or mixing of drugs;

(3) Placing of drugs in containers;

(4) Affixing of labels to containers; and

(5) Packaging and repackaging of drugs.



4. *In addition to the requirements for registration as a pharmaceutical technician adopted by the Board pursuant to subsection 2, each applicant for such registration shall submit with his or her application a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Board may issue a provisional registration to an applicant pending receipt of the report from the Federal Bureau of Investigation if the Board determines that the applicant is otherwise qualified for registration.*

5. For the purposes of this chapter, and chapters 453 and 454 of NRS, pharmaceutical technicians may perform acts required to be performed by pharmacists, but only to the extent provided in regulations.

Sec. 7. NRS 639.170 is hereby amended to read as follows:

639.170 1. The Board shall charge and collect not more than the following fees for the following services:

For the examination of an applicant for registration as a pharmacist.....	Actual cost of the examination
For the investigation or registration of an applicant as a registered pharmacist, including a certificate by endorsement.....	\$200
For the investigation, examination or registration of an applicant as a registered pharmacist by reciprocity	300
For the investigation or issuance of an original license to conduct a retail pharmacy, including a license by endorsement	600
For the biennial renewal of a license to conduct a retail pharmacy	500
For the investigation or issuance of an original license to conduct an institutional pharmacy, including a license by endorsement	600
For the biennial renewal of a license to conduct an institutional pharmacy	500
For the investigation of or issuance of an original license to a facility pursuant to NRS 639.2177	600
For the biennial renewal of a license issued to a facility pursuant to NRS 639.2177	500



For the issuance of an original or duplicate certificate of registration as a registered pharmacist, including a certificate by endorsement	\$50
For the biennial renewal of registration as a registered pharmacist	200
For the reinstatement of a lapsed registration (in addition to the fees for renewal for the period of lapse).....	100
For the initial registration of a pharmaceutical technician or pharmaceutical technician in training	50
For the biennial renewal of registration of a pharmaceutical technician or pharmaceutical technician in training	50
For the investigation or registration of an intern pharmacist	50
For the biennial renewal of registration as an intern pharmacist.....	40
For investigation or issuance of an original license to a manufacturer or wholesaler	500 1,000
For the biennial renewal of a license for a manufacturer or wholesaler.....	500 1,000
For the reissuance of a license issued to a pharmacy, when no change of ownership is involved, but the license must be reissued because of a change in the information required thereon	100
For authorization of a practitioner to dispense controlled substances or dangerous drugs, or both.....	300
For the biennial renewal of authorization of a practitioner to dispense controlled substances or dangerous drugs, or both.....	300

2. If an applicant submits an application for a certificate or license by endorsement pursuant to NRS 639.136 or 639.2315, as applicable, the Board shall charge and collect not more than the fee specified in subsection 1, respectively, for:

(a) The initial registration and issuance of an original certificate of registration as a registered pharmacist.

(b) The issuance of an original license to conduct a retail or an institutional pharmacy.

3. If an applicant submits an application for a certificate or license by endorsement pursuant to NRS 639.1365 or 639.2316, as



1 applicable, the Board shall collect not more than one-half of the fee
2 set forth in subsection 1, respectively, for:

3 (a) The initial registration and issuance of an original certificate
4 of registration as a registered pharmacist.

5 (b) The issuance of an original license to conduct a retail or an
6 institutional pharmacy.

7 4. If a person requests a special service from the Board or
8 requests the Board to convene a special meeting, the person must
9 pay the actual costs to the Board as a condition precedent to the
10 rendition of the special service or the convening of the special
11 meeting.

12 5. All fees are payable in advance and are not refundable.

13 6. The Board may, by regulation, set the penalty for failure to
14 pay the fee for renewal for any license, permit, authorization or
15 certificate within the statutory period, at an amount not to exceed
16 100 percent of the fee for renewal for each year of delinquency in
17 addition to the fees for renewal for each year of delinquency.

18 **Sec. 8.** NRS 639.243 is hereby amended to read as follows:

19 639.243 The statement, entitled Statement to the Respondent,
20 shall be worded so as to inform the respondent:

21 1. That an accusation has been filed.

22 2. Of the right to a hearing before the Board to answer to the
23 alleged violations and to submit evidence in his or her own behalf if
24 requested by the filing of two copies of the Notice of Defense within
25 ~~15~~ 20 days after receipt of the accusation.

26 **Sec. 9.** (Deleted by amendment.)

27 **Sec. 10.** NRS 639.281 is hereby amended to read as follows:

28 639.281 1. Any person who secures or attempts to secure
29 ~~registration~~ *any certificate, license or permit issued by the Board*
30 for himself or herself or any other person by making, or causing to
31 be made, any false representation or who fraudulently represents
32 himself or herself to be ~~a registered pharmacist or practitioner~~ *the*
33 *holder of any certificate, license or permit issued by the Board* is
34 guilty of a misdemeanor.

35 2. Any certificate, *license or permit* issued by the Board on
36 information later found to be false or fraudulent must be
37 automatically cancelled by the Board.

38 **Sec. 11.** NRS 639.510 is hereby amended to read as follows:

39 639.510 The Board shall implement and maintain reasonable
40 security measures to protect the information obtained by the Board
41 pursuant to NRS *639.127, 639.1371 or* 639.500 ~~and all other~~
42 ~~information related to an application for a license to engage in~~
43 ~~wholesale distribution~~ to protect the information from unauthorized
44 access, acquisition, destruction, use, modification or disclosure. The
45 provisions of this section do not prohibit the Board from disclosing



1 and providing such information to other state and federal agencies
2 involved in the regulation of prescription drugs to the extent deemed
3 necessary by the Board.

4 **Sec. 12.** (Deleted by amendment.)

5 **Sec. 13.** NRS 639.095 is hereby repealed.

6 **Sec. 14.** Notwithstanding the provisions of NRS 218D.430 and
7 218D.435, a committee, other than the Assembly Standing
8 Committee on Ways and Means and the Senate Standing Committee
9 on Finance, may vote on this act before the expiration of the period
10 prescribed for the return of a fiscal note in NRS 218D.475. This
11 section applies retroactively from and after March 22, 2021.

12 **Sec. 15.** 1. This section and section 14 of this act become
13 effective upon passage and approval.

14 2. Sections 1 to 13, inclusive, of this act become effective:

15 (a) Upon passage and approval for the purpose of adopting any
16 regulations and performing any other preparatory administrative
17 tasks necessary to carry out the provisions of this act; and

18 (b) On July 1, 2021, for all other purposes.

TEXT OF REPEALED SECTION

639.095 Board to furnish free copies of law and regulations to applicants and registrants. The Board shall furnish each applicant for registration and each resident registered pharmacist with a free copy of chapters 453, 454, 585 and 639 of NRS and the regulations of the Board. Free copies must be provided nonresident pharmacists registered in Nevada upon request.

