
ASSEMBLY BILL NO. 49—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 16, 2018

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to the monitoring of prescriptions for controlled substances. (BDR 40-420)

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; requiring the Chief Medical Officer to upload certain information relating to a drug overdose to the computerized program to track certain prescriptions for controlled substances; requiring the program to allow the upload of such information to the extent of available money; revising requirements concerning the uploading of certain information to the program; authorizing certain action against practitioners and licensing boards who commit certain violations relating to the program; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires the State Board of Pharmacy and the Investigation
2 Division of the Department of Public Safety to cooperatively develop a
3 computerized program to track each prescription for a controlled substance listed in
4 schedule II, III, IV or V that is filled by a registered pharmacy or dispensed by a
5 registered practitioner. (NRS 453.162) Existing law also requires a provider of
6 health care who knows of, or provides services to, a person who has suffered or is
7 suspected of having suffered a drug overdose to report that fact to the Chief
8 Medical Officer or his or her designee. To the extent that money is available to
9 include such information reported by providers of health care concerning drug
10 overdoses in the database of the program, **sections 1 and 2** of this bill require the
11 Chief Medical Officer or a designee thereof to upload such information to the
12 database of the program.



13 Existing law requires a law enforcement officer who has probable cause to
14 believe that a violation of chapter 453 of NRS involving a prescription for a
15 controlled substance is occurring or has occurred or receives a report of a stolen
16 prescription for a controlled substance to report certain information to his or her
17 employer. Existing law also requires an employer of a law enforcement officer who
18 receives such a report to upload that information to the database of the program.
19 (NRS 453.1635) **Section 3** of this bill replaces those requirements with a
20 requirement that a law enforcement agency which arrests a person for a violation of
21 chapter 453 of NRS involving a prescription for a controlled substance or receives a
22 report of a stolen prescription for a controlled substance must upload to the
23 database of the program the information prescribed by regulation of the Board.
24 **Section 3** also abolishes a requirement that a coroner, medical examiner or deputy
25 thereof must upload to the database of the program certain information concerning
26 a person who dies as the result of using a prescribed controlled substance.

27 Existing law requires the Board to provide Internet access to the database of the
28 program to: (1) certain occupational licensing boards for the purposes of
29 investigating information that indicates fraudulent, illegal, unauthorized or
30 otherwise inappropriate activity related to the prescribing, dispensing or use of a
31 controlled substance; and (2) each practitioner who is authorized to write
32 prescriptions for and each person who is authorized to dispense controlled
33 substances for human consumption. (NRS 453.164) **Section 4** of this bill authorizes
34 the Board to terminate the access of an occupational licensing board that accesses
35 the database for an unauthorized purpose. **Section 6** of this bill authorizes the
36 Board to suspend or revoke the registration to dispense controlled substances of a
37 practitioner who violates certain requirements concerning the program. Violations
38 for which **section 6** authorizes such suspension or revocation include failure to: (1)
39 comply with requirements relating to the program; or (2) obtain a patient utilization
40 report from the program before issuing certain prescriptions. (NRS 639.23507)
41 **Section 2** of this bill makes a conforming change.

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

1 **Section 1.** NRS 441A.150 is hereby amended to read as
2 follows:

3 441A.150 1. A provider of health care who knows of, or
4 provides services to, a person who has or is suspected of having a
5 communicable disease shall report that fact to the health authority in
6 the manner prescribed by the regulations of the Board. If no
7 provider of health care is providing services, each person having
8 knowledge that another person has a communicable disease shall
9 report that fact to the health authority in the manner prescribed by
10 the regulations of the Board.

11 2. A provider of health care who knows of, or provides
12 services to, a person who has suffered or is suspected of having
13 suffered a drug overdose shall report that fact *and the information*
14 *required by the Board pursuant to NRS 441A.120* to the Chief
15 Medical Officer or his or her designee in the manner prescribed by
16 the regulations of the Board. *The Chief Medical Officer or his or*



1 *her designee shall upload that information to the database of the*
2 *program established pursuant to NRS 453.162 if the program*
3 *allows for the upload of such information.*

4 3. A medical facility in which more than one provider of health
5 care may know of, or provide services to, a person who has or is
6 suspected of having a communicable disease or who has suffered or
7 is suspected of having suffered a drug overdose shall establish
8 administrative procedures to ensure that the health authority or
9 Chief Medical Officer or his or her designee, as applicable, is
10 notified.

11 4. A laboratory director shall, in the manner prescribed by the
12 Board, notify the health authority of the identification by his or her
13 medical laboratory of the presence of any communicable disease in
14 the jurisdiction of that health authority. The health authority shall
15 not presume a diagnosis of a communicable disease on the basis of
16 the notification received from the laboratory director.

17 5. If more than one medical laboratory is involved in testing a
18 specimen, the laboratory that is responsible for reporting the results
19 of the testing directly to the provider of health care for the patient
20 shall also be responsible for reporting to the health authority.

21 **Sec. 2.** NRS 453.162 is hereby amended to read as follows:

22 453.162 1. The Board and the Division shall cooperatively
23 develop a computerized program to track each prescription for a
24 controlled substance listed in schedule II, III, IV or V that is filled
25 by a pharmacy that is registered with the Board or that is dispensed
26 by a practitioner who is registered with the Board. The program
27 must:

28 (a) Be designed to provide information regarding:

29 (1) The inappropriate use by a patient of controlled
30 substances listed in schedules II, III, IV or V to pharmacies,
31 practitioners and appropriate state and local governmental agencies,
32 including, without limitation, law enforcement agencies and
33 occupational licensing boards, to prevent the improper or illegal use
34 of those controlled substances; and

35 (2) Statistical data relating to the use of those controlled
36 substances that is not specific to a particular patient.

37 (b) Be administered by the Board, the Investigation Division,
38 the Division of Public and Behavioral Health of the Department and
39 various practitioners, representatives of professional associations for
40 practitioners, representatives of occupational licensing boards and
41 prosecuting attorneys selected by the Board and the Investigation
42 Division.

43 (c) Not infringe on the legal use of a controlled substance for the
44 management of severe or intractable pain.



1 (d) Include the contact information of each person who is
2 required to access the database of the program pursuant to
3 **subsection 7 of** NRS 453.164, including, without limitation:

- 4 (1) The name of the person;
5 (2) The physical address of the person;
6 (3) The telephone number of the person; and
7 (4) If the person maintains an electronic mail address, the
8 electronic mail address of the person.

9 (e) Include, for each prescription of a controlled substance listed
10 in schedule II, III, IV or V:

11 (1) The fewest number of days necessary to consume the
12 quantity of the controlled substance dispensed to the patient if the
13 patient consumes the maximum dose of the controlled substance
14 authorized by the prescribing practitioner;

15 (2) Each state in which the patient to whom the controlled
16 substance was prescribed has previously resided or filled a
17 prescription for a controlled substance listed in schedule II, III, IV
18 or V; and

19 (3) The code established in the International Classification of
20 Diseases, Tenth Revision, Clinical Modification, adopted by the
21 National Center for Health Statistics and the Centers for Medicare
22 and Medicaid Services, or the code used in any successor
23 classification system adopted by the National Center for Health
24 Statistics and the Centers for Medicare and Medicaid Services, that
25 corresponds to the diagnosis for which the controlled substance was
26 prescribed.

27 (f) To the extent that money is available, include:

28 (1) A means by which a practitioner may designate in the
29 database of the program that he or she suspects that a patient is
30 seeking a prescription for a controlled substance for an improper or
31 illegal purpose. If the Board reviews the designation and determines
32 that such a designation is warranted, the Board shall inform
33 pharmacies, practitioners and appropriate state agencies that the
34 patient is seeking a prescription for a controlled substance for an
35 improper or illegal purpose as described in subparagraph (1) of
36 paragraph (a).

37 (2) The ability to integrate the records of patients in the
38 database of the program with the electronic health records of
39 practitioners.

40 (3) ***The ability for the Chief Medical Officer to upload***
41 ***information relating to drug overdoses which is required to be***
42 ***reported pursuant to NRS 441A.150.***

43 2. The Board, the Division and each employee thereof are
44 immune from civil and criminal liability for any action relating to
45 the collection, maintenance and transmission of information



1 pursuant to this section and NRS 453.163 to 453.1645, inclusive, if
2 a good faith effort is made to comply with applicable laws and
3 regulations.

4 3. The Board and the Division may apply for any available
5 grants and accept any gifts, grants or donations to assist in
6 developing and maintaining the program required by this section.

7 **Sec. 3.** NRS 453.1635 is hereby amended to read as follows:

8 453.1635 1. If a law enforcement ~~officer, while acting in his~~
9 ~~or her official capacity and in the regular course of an investigation:~~

10 ~~— (a) Encounters a situation in which the law enforcement officer~~
11 ~~has probable cause to believe that] agency arrests a person for a~~
12 violation of this chapter involving a prescription for a controlled
13 substance ~~[is occurring or has occurred; or~~

14 ~~— (b) Receives] or receives~~ a report of a stolen prescription for a
15 controlled substance,

16 ~~[→] the law enforcement [officer] agency shall [report to his or her~~
17 ~~employer the information required by subsection 3.] upload to the~~
18 ~~database such information as prescribed by regulation by the~~
19 ~~Board.~~

20 2. ~~[A coroner, medical examiner or deputy thereof who, as the~~
21 ~~result of an investigation into the cause of a death determines that a~~
22 ~~person died as the result of using a prescribed controlled substance,~~
23 ~~shall:~~

24 ~~— (a) If the coroner, medical examiner or deputy thereof has access~~
25 ~~to the database of the computerized program developed pursuant to~~
26 ~~NRS 453.162, upload the information required by subsection 3 as~~
27 ~~soon as practicable; or~~

28 ~~— (b) If the coroner, medical examiner or deputy thereof does not~~
29 ~~have access to the database of the computerized program developed~~
30 ~~pursuant to NRS 453.162, report the information to a coroner,~~
31 ~~medical examiner or deputy thereof who has such access:~~

32 ~~— 3. A law enforcement officer or a coroner, medical examiner or~~
33 ~~deputy thereof who is required to report or upload, as applicable,~~
34 ~~information pursuant to subsection 1 or 2 shall report or upload, as~~
35 ~~applicable, the following information, to the extent such information~~
36 ~~is available and applicable:~~

37 ~~— (a) The name of the person who:~~

38 ~~— (1) Is believed to have violated this chapter;~~

39 ~~— (2) Died as a result of using a prescribed controlled~~
40 ~~substance; or~~

41 ~~— (3) Filed the report of a stolen prescription for a controlled~~
42 ~~substance.~~

43 ~~— (b) The name of the person to whom the controlled substance~~
44 ~~involved in an event described in subsection 1 or 2 is or was~~
45 ~~prescribed.~~



1 ~~—(c) If a prescription container for the controlled substance is~~
2 ~~found in the vicinity of the location of an event described in~~
3 ~~paragraph (a) of subsection 1 or subsection 2 or if a prescription for~~
4 ~~a controlled substance is reported stolen:~~

5 ~~—(1) The name of the prescribing practitioner;~~

6 ~~—(2) The prescription number; and~~

7 ~~—(3) The name of the controlled substance as it appears on the~~
8 ~~prescription container or prescription order.~~

9 ~~4. Except as otherwise provided in subsection 5, an employer~~
10 ~~of a law enforcement officer or a coroner, medical examiner or~~
11 ~~deputy thereof who receives a report pursuant to subsection 1 or 2~~
12 ~~shall, as soon as practicable after receiving that report, upload to the~~
13 ~~database of the program established pursuant to NRS 453.162 notice~~
14 ~~of the occurrence of an event described in subsection 1 or 2, as~~
15 ~~applicable, and the information received pursuant to subsection 3.~~
16 ~~The employer of a] A law enforcement [officer or a coroner,~~
17 ~~medical examiner or deputy thereof] agency shall ensure that only a~~
18 ~~person who is authorized to access the database of the program~~
19 ~~pursuant to NRS 453.1645 or 453.165 uploads [such] information [.~~
20 ~~— 5.] pursuant to subsection 1.~~

21 **3.** If ~~[an employer of]~~ a law enforcement ~~[officer]~~ **agency**
22 determines that uploading any information to the database of the
23 program pursuant to subsection ~~[4]~~ **1** will interfere with an active
24 criminal investigation, the ~~[employer]~~ **agency** may postpone
25 uploading such information until after the conclusion of the
26 investigation.

27 ~~[6.]~~ **4.** Each law enforcement ~~[officer or employer of a law~~
28 ~~enforcement officer and each coroner, medical examiner and~~
29 ~~deputy] agency and each employee~~ thereof who makes a good faith
30 effort to comply with this section, or a regulation adopted pursuant
31 thereto, is immune from civil and criminal liability for any act or
32 omission relating to the transmission of information pursuant to this
33 section.

34 ~~[7.—As used in this section, “law enforcement officer” means~~
35 ~~any person upon whom some or all of the powers of a peace officer~~
36 ~~are conferred pursuant to NRS 289.150 to 289.360, inclusive.]~~

37 **Sec. 4.** NRS 453.164 is hereby amended to read as follows:

38 453.164 1. ~~[The]~~ **Except as otherwise provided in this**
39 **subsection, the** Board shall provide Internet access to the database
40 of the program established pursuant to NRS 453.162 to an
41 occupational licensing board that licenses any practitioner who is
42 authorized to write prescriptions for human consumption of
43 controlled substances listed in schedule II, III, IV or V. An
44 occupational licensing board that is provided access to the database
45 pursuant to this section may access the database to investigate a



1 complaint, report or other information that indicates fraudulent,
2 illegal, unauthorized or otherwise inappropriate activity related to
3 the prescribing, dispensing or use of a controlled substance. *The*
4 *Board may terminate the access of an occupational licensing*
5 *board that accesses the database for any other purpose.*

6 2. The Board and the Division must have access to the program
7 established pursuant to NRS 453.162 to identify any suspected
8 fraudulent, illegal, unauthorized or otherwise inappropriate activity
9 related to the prescribing, dispensing or use of controlled
10 substances.

11 3. Except as otherwise provided in subsection 4, the Board or
12 the Division shall report any activity it reasonably suspects may:

13 (a) Indicate fraudulent, illegal, unauthorized or otherwise
14 inappropriate activity related to the prescribing, dispensing or use of
15 a controlled substance to the appropriate law enforcement agency or
16 occupational licensing board and provide the law enforcement
17 agency or occupational licensing board with the relevant
18 information obtained from the program for further investigation.

19 (b) Indicate the inappropriate use by a patient of a controlled
20 substance to the occupational licensing board of each practitioner
21 who has prescribed the controlled substance to the patient. ~~The~~
22 *Except as otherwise provided in subsection 1, the* occupational
23 licensing board may access the database of the program established
24 pursuant to NRS 453.162 to determine which practitioners are
25 prescribing the controlled substance to the patient. The occupational
26 licensing board may use this information for any purpose it deems
27 necessary, including, without limitation, alerting a practitioner that a
28 patient may be fraudulently obtaining a controlled substance or
29 determining whether a practitioner is engaged in unlawful or
30 unprofessional conduct.

31 4. The Board or Division may withhold any report required by
32 subsection 3 if the Board determines that doing so is necessary to
33 avoid interfering with any pending administrative or criminal
34 investigation into the suspected fraudulent, illegal, unauthorized or
35 otherwise inappropriate prescribing, dispensing or use of a
36 controlled substance.

37 5. The Board and the Division shall cooperatively develop a
38 course of training for persons who are required or authorized to
39 receive access to the database of the program pursuant to subsection
40 7 or NRS 453.1645 and 453.165 and require each such person to
41 complete the course of training before the person is provided with
42 Internet access to the database.

43 6. Each practitioner who is authorized to write prescriptions for
44 and each person who is authorized to dispense controlled substances
45 listed in schedule II, III, IV or V for human consumption shall



1 complete the course of instruction described in subsection 5. The
2 Board shall provide Internet access to the database to each such
3 practitioner or other person who completes the course of instruction.

4 7. Each practitioner who is authorized to write prescriptions for
5 human consumption of controlled substances listed in schedule II,
6 III, IV or V shall, to the extent the program allows, access the
7 database of the program established pursuant to NRS 453.162 at
8 least once each 6 months to:

9 (a) Review the information concerning the practitioner that is
10 listed in the database, including, without limitation, information
11 concerning prescriptions issued by the practitioner, and notify the
12 Board if any such information is not correct; and

13 (b) Verify to the Board that he or she continues to have access to
14 and has accessed the database as required by this subsection.

15 8. Information obtained from the program relating to a
16 practitioner or a patient is confidential and, except as otherwise
17 provided by this section and NRS 239.0115, 453.162 and 453.163,
18 must not be disclosed to any person. That information must be
19 disclosed:

20 (a) Upon a request made on a notarized form prescribed by the
21 Board by a person about whom the information requested concerns
22 or upon such a request on behalf of that person by his or her
23 attorney; or

24 (b) Upon the lawful order of a court of competent jurisdiction.

25 9. If the Board, the Division or a law enforcement agency
26 determines that the database of the program has been intentionally
27 accessed by a person or for a purpose not authorized pursuant to
28 NRS 453.162 to 453.165, inclusive, the Board, Division or law
29 enforcement agency, as applicable, must notify any person whose
30 information was accessed by an unauthorized person or for an
31 unauthorized purpose.

32 **Sec. 5.** NRS 453.1645 is hereby amended to read as follows:

33 453.1645 1. Except as otherwise provided in this section, the
34 Board shall allow:

35 (a) A coroner or medical examiner to have Internet access to the
36 database of the computerized program developed pursuant to NRS
37 453.162 if the coroner or medical examiner has completed the
38 course of training developed pursuant to subsection 5 of
39 NRS 453.164.

40 (b) A deputy of a coroner or medical examiner to have Internet
41 access to the database of the computerized program developed
42 pursuant to NRS 453.162 if:

43 (1) The deputy has completed the course of training
44 developed pursuant to subsection 5 of NRS 453.164; and



1 (2) The coroner or medical examiner who employs the
2 deputy has submitted the certification required pursuant to
3 subsection 2 to the Board.

4 2. Before the deputy of a coroner or medical examiner may be
5 given access to the database pursuant to subsection 1, the coroner or
6 medical examiner who employs the deputy must certify to the Board
7 that the deputy has been approved to have such access and meets the
8 requirements of subsection 1. Such certification must be made on a
9 form provided by the Board and renewed annually.

10 3. When a coroner, medical examiner or deputy thereof
11 accesses the database of the computerized program pursuant to this
12 section, the coroner, medical examiner or deputy thereof must enter
13 a unique user name assigned to the coroner, medical examiner or
14 deputy thereof and, if applicable, the case number corresponding to
15 the investigation being conducted by the coroner, medical examiner
16 or deputy thereof.

17 4. A coroner, medical examiner or deputy thereof who has
18 access to the database of the computerized program pursuant to
19 subsection 1 may access the database only to ~~f:~~

20 ~~— (a) Investigate] investigate~~ the death of a person. ~~]; or~~
21 ~~— (b) Upload information to the database pursuant to~~
22 ~~NRS 453.1635.]~~

23 5. The Board or the Division may suspend or terminate access
24 to the database of the computerized program pursuant to this section
25 if a coroner, medical examiner or deputy thereof violates any
26 provision of this section.

27 **Sec. 6.** NRS 453.236 is hereby amended to read as follows:

28 453.236 1. The Board may suspend or revoke a registration
29 pursuant to NRS 453.231 to dispense a controlled substance upon a
30 finding that the registrant has:

31 (a) Furnished false or fraudulent material information in an
32 application filed pursuant to NRS 453.011 to 453.552, inclusive;

33 (b) Been convicted of a felony under a state or federal law
34 relating to a controlled substance;

35 (c) Had his or her federal registration to dispense controlled
36 substances suspended or revoked and is no longer authorized by
37 federal law to dispense those substances; ~~for]~~

38 (d) *Violated any provision of NRS 453.162 to 453.165,*
39 *inclusive, or 639.23507; or*

40 (e) Committed an act that would render registration under NRS
41 453.231 inconsistent with the public interest as determined pursuant
42 to that section.

43 2. The Board may limit revocation or suspension of a
44 registration to the particular controlled substance with respect to
45 which grounds for revocation or suspension exist.



1 3. If a registration is suspended or revoked, the Board may
2 place under seal all controlled substances owned or possessed by the
3 registrant at the time of suspension or the effective date of the
4 revocation. No disposition may be made of substances under seal
5 until the time for taking an appeal has elapsed or until all appeals
6 have been concluded unless a court, upon application therefor,
7 orders the sale of perishable substances and the deposit of the
8 proceeds of the sale with the court. When a revocation becomes
9 final, the court may order the controlled substances forfeited to the
10 State.

11 4. The Board may seize or place under seal any controlled
12 substance owned or possessed by a registrant whose registration has
13 expired or who has ceased to practice or do business in the manner
14 permitted by the registration. The controlled substance must be held
15 for the benefit of the registrant or the registrant's successor in
16 interest. The Board shall notify a registrant, or the registrant's
17 successor in interest, whose controlled substance is seized or placed
18 under seal, of the procedures to be followed to secure the return of
19 the controlled substance and the conditions under which it will be
20 returned. The Board may not dispose of a controlled substance
21 seized or placed under seal under this subsection until the expiration
22 of 180 days after the controlled substance was seized or placed
23 under seal. The Board may recover costs it incurred in seizing,
24 placing under seal, maintaining custody and disposing of any
25 controlled substance under this subsection from the registrant, from
26 any proceeds obtained from the disposition of the controlled
27 substance, or from both. The Board shall pay to the registrant or the
28 registrant's successor in interest any balance of the proceeds of any
29 disposition remaining after the costs have been recovered.

30 5. The Board shall promptly notify the Drug Enforcement
31 Administration and the Division of all orders suspending or
32 revoking registration and the Division shall promptly notify the
33 Drug Enforcement Administration and the Board of all forfeitures of
34 controlled substances.

35 6. A registrant shall not employ as his or her agent or employee
36 in any premises where controlled substances are sold, dispensed,
37 stored or held for sale any person whose pharmacist's certificate has
38 been suspended or revoked.

39 **Sec. 7.** This act becomes effective:

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

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

