

Assembly Bill No. 49--Committee on
Health and Human Services

CHAPTER.....

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:

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

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

Existing law requires the Board to provide Internet access to the database of the program to: (1) certain occupational licensing boards for the purposes of investigating information that indicates fraudulent, illegal, unauthorized or otherwise inappropriate activity related to the prescribing, dispensing or use of a controlled substance; and (2) each practitioner who is authorized to write prescriptions for and each person who is authorized to dispense controlled substances for human consumption. (NRS 453.164) **Section 4** of this bill authorizes the Board to terminate the access of an occupational licensing board that accesses the database for an unauthorized purpose. **Section 6** of this bill authorizes the



Board to suspend or revoke the registration to dispense controlled substances of a practitioner who violates certain requirements concerning the program. Violations for which **section 6** authorizes such suspension or revocation include failure to: (1) comply with requirements relating to the program; or (2) obtain a patient utilization report from the program before issuing certain prescriptions. (NRS 639.23507) **Section 2** of this bill makes a conforming change.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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

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

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

2. A provider of health care who knows of, or provides services to, a person who has suffered or is suspected of having suffered a drug overdose shall report that fact *and the information required by the Board pursuant to NRS 441A.120* to the Chief Medical Officer or his or her designee in the manner prescribed by the regulations of the Board. *The Chief Medical Officer or his or her designee shall upload that information to the database of the program established pursuant to NRS 453.162 if the program allows for the upload of such information.*

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

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



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

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

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

(a) Be designed to provide information regarding:

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

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

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

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

(d) Include the contact information of each person who is required to access the database of the program pursuant to [subsection 7 of NRS 453.164](#), including, without limitation:

(1) The name of the person;

(2) The physical address of the person;

(3) The telephone number of the person; and

(4) If the person maintains an electronic mail address, the electronic mail address of the person.

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

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



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

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

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

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

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

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

2. The Board, the Division and each employee thereof are immune from civil and criminal liability for any action relating to the collection, maintenance and transmission of information pursuant to this section and NRS 453.163 to 453.1645, inclusive, if a good faith effort is made to comply with applicable laws and regulations.

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

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

453.1635 1. If a law enforcement ~~officer, while acting in his or her official capacity and in the regular course of an investigation: —(a) Encounters a situation in which the law enforcement officer has probable cause to believe that~~ **agency arrests a person for a**



violation of this chapter involving a prescription for a controlled substance ~~[is occurring or has occurred; or~~

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

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

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

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

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

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

~~— (a) The name of the person who:~~

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

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

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

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

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

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

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

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



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

3. If ~~{an employer of}~~ a law enforcement ~~{officer}~~ **agency** determines that uploading any information to the database of the program pursuant to subsection ~~{4}~~ **1** will interfere with an active criminal investigation, the ~~{employer}~~ **agency** may postpone uploading such information until after the conclusion of the investigation.

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

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

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

453.164 1. ~~{The}~~ **Except as otherwise provided in this subsection, the** Board shall provide Internet access to the database of the program established pursuant to NRS 453.162 to an occupational licensing board that licenses any practitioner who is authorized to write prescriptions for human consumption of controlled substances listed in schedule II, III, IV or V. An occupational licensing board that is provided access to the database pursuant to this section may access the database to investigate a complaint, report or other information that indicates fraudulent, illegal, unauthorized or otherwise inappropriate activity related to the prescribing, dispensing or use of a controlled substance. **The Board may terminate the access of an occupational licensing board that accesses the database for any other purpose.**



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

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

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

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

4. The Board or Division may withhold any report required by subsection 3 if the Board determines that doing so 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.

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

6. Each practitioner who is authorized to write prescriptions for and each person who is authorized to dispense controlled substances listed in schedule II, III, IV or V for human consumption shall complete the course of instruction described in subsection 5. The Board shall provide Internet access to the database to each such practitioner or other person who completes the course of instruction.



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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

Sec. 7. 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.

