SENATE BILL NO. 329–SENATORS BREEDEN AND WIENER

MARCH 21, 2011

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions governing prescriptions. (BDR 54-904)

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: No.

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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; authorizing certain education and training to be provided to practitioners concerning the management by a patient of medications of the patient; requiring practitioners to post a sign informing patients of the right to have the symptom or purpose for which a drug is prescribed be included on the label of the container of the drug; revising provisions relating to prescriptions for controlled substances included in schedule II; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes, but does not require, a practitioner to ask a patient if the patient wishes to have included on the label of a prescription the symptom or purpose for which the drug is dispensed and, if the patient so requests, requires the practitioner to include such information on the written prescription. (NRS 639.2352) **Section 2** of this bill requires practitioners to post signs in English and Spanish informing patients of the right to have certain information included on the label attached to the container of the drug. **Sections 1.3 and 1.7** of this bill require the Board of Medical Examiners and the State Board of Osteopathic Medicine to encourage physicians to obtain continuing education concerning methods of educating patients about how to effectively manage medications. **Section 6.5** of this bill authorizes the State Board of Pharmacy or the Investigation Division of the Department of Public Safety, in cooperation with the Health Division of the Department of Health and Human Services, to carry out education and training regarding the rights of patients to have the symptom or purpose of a medication printed on the label attached to the container for that medication.

Section 6.3 of this bill authorizes the issuance of an electronic prescription for a controlled substance included in schedule II if such an electronic prescription is

issued in compliance with any regulations adopted by the Board concerning electronic prescriptions.

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

Section 1. (Deleted by amendment.)

Sec. 1.3. NRS 630.253 is hereby amended to read as follows:

630.253 1. The Board shall, as a prerequisite for the:

(a) Renewal of a license as a physician assistant; or

(b) Biennial registration of the holder of a license to practice medicine,

➥ require each holder to comply with the requirements for continuing education adopted by the Board.

2. These requirements:

(a) May provide for the completion of one or more courses of instruction relating to risk management in the performance of medical services.

(b) Must provide for the completion of a course of instruction, within 2 years after initial licensure, relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction. The course must provide at least 4 hours of instruction that includes instruction in the following subjects:

(1) An overview of acts of terrorism and weapons of mass destruction;

(2) Personal protective equipment required for acts of terrorism;

(3) Common symptoms and methods of treatment associated with exposure to, or injuries caused by, chemical, biological, radioactive and nuclear agents;

(4) Syndromic surveillance and reporting procedures for acts of terrorism that involve biological agents; and

(5) An overview of the information available on, and the use of, the Health Alert Network.

➥ The Board may thereafter determine whether to include in a program of continuing education additional courses of instruction relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction.

3. The Board shall encourage each holder of a license who treats or cares for persons who are more than 60 years of age to receive, as a portion of their continuing education, education in geriatrics and gerontology, including such topics as:

(a) The skills and knowledge that the licensee needs to address aging issues;

(b) Approaches to providing health care to older persons, including both didactic and clinical approaches;

(c) The biological, behavioral, social and emotional aspects of the aging process; and

(d) The importance of maintenance of function and independence for older persons.

4. ***The Board shall encourage each holder of a license to practice medicine to receive, as a portion of his or her continuing education, training concerning methods for educating patients about how to effectively manage medications, including, without limitation, the ability of the patient to request to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of the drug.***

5. As used in this section:

(a) "Act of terrorism" has the meaning ascribed to it in NRS 202.4415.

(b) "Biological agent" has the meaning ascribed to it in NRS 202.442.

(c) "Chemical agent" has the meaning ascribed to it in NRS 202.4425.

(d) "Radioactive agent" has the meaning ascribed to it in NRS 202.4437.

(e) "Weapon of mass destruction" has the meaning ascribed to it in NRS 202.4445.

Sec. 1.7. NRS 633.471 is hereby amended to read as follows:

633.471 1. Except as otherwise provided in subsection ~~[4]~~ ***5*** and NRS 633.491, every holder of a license to practice osteopathic medicine issued under this chapter, except a temporary or a special license, may renew the license on or before January 1 of each calendar year after its issuance by:

(a) Applying for renewal on forms provided by the Board;

(b) Paying the annual license renewal fee specified in this chapter;

(c) Submitting a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against the holder during the previous year;

(d) Submitting an affidavit to the Board that in the year preceding the application for renewal the holder has attended courses or programs of continuing education approved by the Board totaling a number of hours established by the Board which must not be less than 35 hours nor more than that set in the requirements for continuing medical education of the American Osteopathic Association; and

(e) Submitting all information required to complete the renewal.

2. The Secretary of the Board shall notify each licensee of the practice of osteopathic medicine of the requirements for renewal not less than 30 days before the date of renewal.

3. The Board shall request submission of verified evidence of completion of the required number of hours of continuing medical education annually from no fewer than one-third of the applicants for renewal of a license to practice osteopathic medicine. Upon a request from the Board, an applicant for renewal of a license to practice osteopathic medicine shall submit verified evidence satisfactory to the Board that in the year preceding the application for renewal the applicant attended courses or programs of continuing medical education approved by the Board totaling the number of hours established by the Board.

4. ***The Board shall encourage each holder of a license to practice osteopathic medicine to receive, as a portion of his or her continuing education, training concerning methods for educating patients about how to effectively manage medications, including, without limitation, the ability of the patient to request to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of the drug.***

5. Members of the Armed Forces of the United States and the United States Public Health Service are exempt from payment of the annual license renewal fee during their active duty status.

Sec. 2. NRS 639.2352 is hereby amended to read as follows:

639.2352 ***1.*** Before issuing a prescription, a practitioner may ask the patient whether he or she wishes to have included on the label ~~[of the prescription]~~ ***attached to the container of the drug*** the symptom or purpose for which the drug is prescribed. If the patient requests that the information be included on the label, the practitioner shall include on the prescription the symptom or purpose for which the drug is prescribed.

2. Each practitioner shall post in a conspicuous location in each room used for the examination of a patient a sign which is not less than 8.5 inches wide and not less than 11 inches high and which contains, in at least 12-point boldface type, the following:

NOTICE TO PATIENTS

You have the right to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of your prescribed drug.

You have the right to ask the person writing your prescription to instruct the pharmacy to print this information on the label attached to the container of your prescribed drug.

Having the purpose or symptom printed on the label attached to the container of your drug may help you to properly use and track your prescribed drugs.

AVISO A LOS PACIENTES

Tiene derecho de que se imprima cierta información en la etiqueta de sus medicamentos. Específicamente, usted puede elegir que la etiqueta incluya los síntomas o el propósito para que el medicamento se prescribe.

Tiene derecho de pedirle a la person que prescriba su medicamento que dirija a la farmacia que imprima la información en la etiqueta.

Si se imprimen los síntomas o el propósito en la etiqueta de sus medicamentos, le puede ayudar a mantenerlos y usarlos apropriadamente.

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 6.3. NRS 453.256 is hereby amended to read as follows:

453.256 1. Except as otherwise provided in subsection 2, a substance included in schedule II must not be dispensed without the written prescription of a practitioner.

2. A controlled substance included in schedule II may be dispensed without the written prescription of a practitioner only:

(a) In an emergency, as defined by regulation of the Board, upon oral prescription of a practitioner, reduced to writing promptly and in any case within 72 hours, signed by the practitioner and filed by the pharmacy.

(b) ***Pursuant to an electronic prescription of a practitioner which complies with any regulations adopted by the Board concerning the use of electronic prescriptions.***

(c) Upon the use of a facsimile machine to transmit the prescription for a substance included in schedule II by a practitioner or a practitioner's agent to a pharmacy for:

(1) Direct administration to a patient by parenteral solution; or

(2) A resident of a facility for intermediate care or a facility for skilled nursing which is licensed as such by the Health Division of the Department.

➥ A prescription transmitted by a facsimile machine pursuant to this paragraph must be printed on paper which is capable of being retained for at least 2 years. For the purposes of this section, ~~[such a]~~ ***an electronic*** prescription ***or a prescription transmitted by facsimile machine*** constitutes a written prescription. The pharmacy shall keep prescriptions in conformity with the requirements of NRS 453.246. A prescription for a substance included in schedule II must not be refilled.

3. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a substance included in schedule III or IV which is a dangerous drug as determined under NRS 454.201, must not be dispensed without a written or oral prescription of a practitioner. The prescription must not be filled or refilled more than 6 months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

4. A substance included in schedule V may be distributed or dispensed only for a medical purpose, including medical treatment or authorized research.

5. A practitioner may dispense or deliver a controlled substance to or for a person or animal only for medical treatment or authorized research in the ordinary course of his or her profession.

6. No civil or criminal liability or administrative sanction may be imposed on a pharmacist for action taken in good faith in reliance on a reasonable belief that an order purporting to be a prescription was issued by a practitioner in the usual course of professional treatment or in authorized research.

7. An individual practitioner may not dispense a substance included in schedule II, III or IV for the practitioner's own personal use except in a medical emergency.

8. A person who violates this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

9. As used in this section:

(a) "Facsimile machine" means a device which sends or receives a reproduction or facsimile of a document or photograph which is transmitted electronically or telephonically by telecommunications lines.

(b) "Medical treatment" includes dispensing or administering a narcotic drug for pain, whether or not intractable.

(c) "Parenteral solution" has the meaning ascribed to it in NRS 639.0105.

Sec. 6.5. NRS 453.155 is hereby amended to read as follows:

453.155 1. The Board or Division, in cooperation with the Health Division of the Department, may carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with these programs the Board or Division may:

(a) Promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;

(b) Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;

(c) Consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(d) Evaluate procedures, projects, techniques and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances;

(e) Disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to alleviate them; ~~[and]~~

(f) Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances ~~[.]~~ ***; and***

(g) Carry out education and training for physicians, pharmacists and patients regarding the ability of the patient to request to have the symptom or purpose for which a controlled substance is prescribed included on the label attached to the container of the controlled substance.

2. The Board shall encourage research on misuse and abuse of controlled substances. In connection with the research, and in furtherance of the enforcement of the provisions of NRS 453.011 to 453.552, inclusive, it may:

(a) Establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse;

(b) Make studies and undertake programs of research to:

(1) Develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of such sections;

(2) Determine patterns of misuse and abuse of controlled substances and the social effects thereof; and

(3) Improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled substances; and

(c) Enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations or special projects which bear directly on misuse and abuse of controlled substances.

3. The Board may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subject of the research. A person who obtains this authorization is not compelled in any civil, criminal, administrative, legislative or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

4. The Board may authorize the possession and distribution of controlled substances by persons engaged in research. A person who obtains this authorization is exempt from state prosecution for possession and distribution of controlled substances to the extent of the authorization. The Board shall promptly notify the Division of any such authorization.

Sec. 7. (Deleted by amendment.)

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