
SENATE BILL NO. 59—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 17, 2016

Referred to Committee on Health and Human Services

SUMMARY—Requires the reporting of certain information to the database of the program to monitor prescriptions for certain controlled substances. (BDR 40-386)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 a law enforcement officer who encounters certain situations relating to prescribed controlled substances or who receives a report of a stolen prescription for a controlled substance to report certain information to his or her employer; requiring the employer of such a law enforcement officer to upload such reported information to the database of the program developed by the State Board of Pharmacy and the Investigation Division of the Department of Public Safety to monitor prescriptions for certain controlled substances; providing a penalty; 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 develop a computerized program to
3 track each prescription for certain controlled substances filled by a pharmacy or
4 dispensed by a practitioner registered with the Board. The program is required to be
5 designed to provide information regarding: (1) the inappropriate use by a patient of
6 certain controlled substances to pharmacies, practitioners and appropriate state and
7 local governmental agencies to prevent the improper or illegal use of such
8 controlled substances; and (2) statistical data relating to the use of those controlled
9 substances. (NRS 453.162) Existing law requires the Board to allow certain law
10 enforcement officers to have Internet access to the database of the program only for
11 the purpose of investigating a crime related to prescription drugs. (NRS 453.165)



12 **Section 1** of this bill requires a law enforcement officer who encounters certain
13 situations involving prescribed controlled substances or who receives a report of a
14 stolen prescription for a controlled substance while acting in his or her official
15 capacity to report certain information to his or her employer. **Section 1** also
16 requires the employer of the law enforcement officer to upload such reported
17 information to the database of the program as soon as practicable after receiving the
18 information unless the employer determines that uploading the information will
19 interfere with an active criminal investigation, in which case the employer may
20 postpone uploading the information until after the conclusion of the investigation.
21 **Section 1** further provides that each law enforcement officer or employer of a law
22 enforcement officer who makes a good faith effort to comply with **section 1**, or a
23 regulation adopted pursuant thereto, is immune from civil and criminal liability
24 for any act or omission relating to the transmission of information pursuant to
25 **section 1**.

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

1 **Section 1.** Chapter 453 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *1. If a law enforcement officer, while acting in his or her*
4 *official capacity:*

5 *(a) Encounters a situation in which the law enforcement*
6 *officer has reasonable suspicion that a violation of this chapter*
7 *involving a prescription for a controlled substance is occurring or*
8 *has occurred;*

9 *(b) Encounters a person who the law enforcement officer*
10 *believes is experiencing or, immediately before the encounter, has*
11 *experienced an overdose as a result of using a prescribed*
12 *controlled substance;*

13 *(c) Encounters a deceased person who the law enforcement*
14 *officer believes died as a result of using a prescribed controlled*
15 *substance; or*

16 *(d) Receives a report of a stolen prescription for a controlled*
17 *substance,*

18 *↳ the law enforcement officer shall report to his or her employer*
19 *the information required by subsection 2.*

20 *2. A law enforcement officer who is required to report*
21 *information pursuant to subsection 1 shall report to his or her*
22 *employer the following information, to the extent such*
23 *information is available and applicable:*

24 *(a) The name of the person who:*

25 *(1) Is suspected of violating this chapter;*

26 *(2) Is believed to have experienced an overdose as a result*
27 *of using a prescribed controlled substance;*

28 *(3) Is believed to have died as a result of using a prescribed*
29 *controlled substance; or*



1 ***(4) Filed the report of a stolen prescription for a controlled***
2 ***substance.***

3 ***(b) The name of the person to whom the controlled substance***
4 ***involved in an event described in subsection 1 is prescribed.***

5 ***(c) If a prescription container for the controlled substance is***
6 ***found in the vicinity of the location of an event described in***
7 ***paragraph (a), (b) or (c) of subsection 1 or if a prescription for a***
8 ***controlled substance is reported stolen:***

9 ***(1) The name of the prescribing practitioner;***

10 ***(2) The prescription number; and***

11 ***(3) The name of the controlled substance as it appears on***
12 ***the prescription container or prescription order.***

13 ***3. Except as otherwise provided in subsection 4, an employer***
14 ***of a law enforcement officer who receives information pursuant to***
15 ***subsection 2 shall, as soon as practicable after receiving such***
16 ***information, upload to the database of the program established***
17 ***pursuant to NRS 453.162 notice of the occurrence of an event***
18 ***described in subsection 1 and the information received pursuant to***
19 ***subsection 2. The employer shall ensure that only a law***
20 ***enforcement officer who is authorized to access the database of***
21 ***the program pursuant to NRS 453.165 uploads such information.***

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

27 ***5. Each law enforcement officer or employer of a law***
28 ***enforcement officer who makes a good faith effort to comply with***
29 ***this section, or a regulation adopted pursuant thereto, is immune***
30 ***from civil and criminal liability for any act or omission relating to***
31 ***the transmission of information pursuant to this section.***

32 ***6. As used in this section, "law enforcement officer" has the***
33 ***meaning ascribed to it in NRS 453.165.***

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

35 453.162 1. The Board and the Division shall cooperatively
36 develop a computerized program to track each prescription for a
37 controlled substance listed in schedule II, III or IV that is filled by
38 a pharmacy that is registered with the Board or that is dispensed by
39 a practitioner who is registered with the Board. The program must:

40 (a) Be designed to provide information regarding:

41 (1) The inappropriate use by a patient of controlled
42 substances listed in schedules II, III and IV to pharmacies,
43 practitioners and appropriate state and local governmental agencies,
44 including, without limitation, law enforcement agencies and



1 occupational licensing boards, to prevent the improper or illegal use
2 of those controlled substances; and

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

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

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

13 (d) Include the contact information of each person who is
14 required to access the database of the program pursuant to NRS
15 453.164, including, without limitation:

16 (1) The name of the person;

17 (2) The physical address of the person;

18 (3) The telephone number of the person; and

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

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

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

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

34 2. The Board, the Division and each employee thereof are
35 immune from civil and criminal liability for any action relating to
36 the collection, maintenance and transmission of information
37 pursuant to this section and NRS 453.163 and 453.164 *and section*
38 *1 of this act* if a good faith effort is made to comply with applicable
39 laws and regulations.

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

43 **Sec. 3.** NRS 453.164 is hereby amended to read as follows:

44 453.164 1. The Board shall provide Internet access to the
45 database of the program established pursuant to NRS 453.162 to an



1 occupational licensing board that licenses any practitioner who is
2 authorized to write prescriptions for controlled substances listed in
3 schedule II, III or IV.

4 2. The Board and the Division must have access to the program
5 established pursuant to NRS 453.162 to identify any suspected
6 fraudulent or illegal activity related to the dispensing of controlled
7 substances.

8 3. The Board or the Division shall report any activity it
9 reasonably suspects may:

10 (a) Be fraudulent or illegal to the appropriate law enforcement
11 agency or occupational licensing board and provide the law
12 enforcement agency or occupational licensing board with the
13 relevant information obtained from the program for further
14 investigation.

15 (b) Indicate the inappropriate use by a patient of a controlled
16 substance to the occupational licensing board of each practitioner
17 who has prescribed the controlled substance to the patient. The
18 occupational licensing board may access the database of the
19 program established pursuant to NRS 453.162 to determine which
20 practitioners are prescribing the controlled substance to the patient.
21 The occupational licensing board may use this information for any
22 purpose it deems necessary, including, without limitation, alerting a
23 practitioner that a patient may be fraudulently obtaining a controlled
24 substance or determining whether a practitioner is engaged in
25 unlawful or unprofessional conduct. This paragraph shall not be
26 construed to require an occupational licensing board to conduct an
27 investigation or take any action against a practitioner upon receiving
28 information from the Board or the Division.

29 4. The Board and the Division shall cooperatively develop a
30 course of training for persons who are required to receive access to
31 the database of the program pursuant to subsection 6 and require
32 each such person to complete the course of training before the
33 person is provided with Internet access to the database.

34 5. Each practitioner who is authorized to write prescriptions for
35 and each person who is authorized to dispense controlled substances
36 listed in schedule II, III or IV shall complete the course of
37 instruction described in subsection 4. The Board shall provide
38 Internet access to the database to each such practitioner or other
39 person who completes the course of instruction.

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



1 (a) Review the information concerning the practitioner that is
2 listed in the database and notify the Board if any such information is
3 not correct; and

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

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

11 (a) Upon the request of a person about whom the information
12 requested concerns or upon the request on behalf of that person by
13 his or her attorney; or

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

15 8. If the Board, the Division or a law enforcement agency
16 determines that the database of the program has been intentionally
17 accessed by a person or for a purpose not authorized pursuant to
18 NRS 453.162 to 453.165, inclusive, *and section 1 of this act*, the
19 Board, Division or law enforcement agency, as applicable, must
20 notify any person whose information was accessed by an
21 unauthorized person or for an unauthorized purpose.

22 **Sec. 4.** NRS 453.165 is hereby amended to read as follows:

23 453.165 1. Except as otherwise provided in this section, the
24 Board shall allow a law enforcement officer to have Internet access
25 to the database of the computerized program developed pursuant to
26 NRS 453.162 if:

27 (a) The primary responsibility of the law enforcement officer is
28 to conduct investigations of crimes relating to prescription drugs;

29 (b) The law enforcement officer has been approved by his or her
30 employer to have such access;

31 (c) The law enforcement officer has completed the course of
32 training developed pursuant to subsection 4 of NRS 453.164; and

33 (d) The employer of the law enforcement officer has submitted
34 the certification required pursuant to subsection 2 to the Board.

35 2. Before a law enforcement officer may be given access to the
36 database pursuant to subsection 1, the employer of the officer must
37 certify to the Board that the law enforcement officer has been
38 approved to be given such access and meets the requirements of
39 subsection 1. Such certification must be made on a form provided
40 by the Board and renewed annually.

41 3. When a law enforcement officer accesses the database of the
42 computerized program pursuant to this section, the officer must
43 enter a unique user name assigned to the officer and *, if applicable*,
44 the case number corresponding to the investigation being conducted
45 by the officer.



1 4. A law enforcement officer who is given access to the
2 database of the computerized program pursuant to subsection 1 may
3 access the database *for no other purpose than to investigate* :

4 (a) *Investigate* a crime related to prescription drugs ~~and for no~~
5 ~~other purpose.~~ ; or

6 (b) *Upload information to the database pursuant to section 1*
7 *of this act.*

8 5. The employer of a law enforcement officer who is provided
9 access to the database of the computerized program pursuant to this
10 section shall monitor the use of the database by the law enforcement
11 officer and establish appropriate disciplinary action to take against
12 an officer who violates the provisions of this section.

13 6. The Board or the Division may suspend or terminate access
14 to the database of the computerized program pursuant to this section
15 if a law enforcement officer or his or her employer violates any
16 provision of this section.

17 7. As used in this section, "law enforcement officer" means
18 any person upon whom some or all of the powers of a peace officer
19 are conferred pursuant to NRS 289.150 to 289.360, inclusive.

20 **Sec. 5.** NRS 453.552 is hereby amended to read as follows:

21 453.552 1. Any penalty imposed for violation of NRS
22 453.011 to 453.551, inclusive, *and section 1 of this act*, is in
23 addition to, and not in lieu of, any civil or administrative penalty or
24 sanction otherwise authorized by law.

25 2. Any violation of the provisions of NRS 453.011 to 453.551,
26 inclusive, *and section 1 of this act*, where no other penalty is
27 specifically provided, is a misdemeanor.

28 **Sec. 6.** This act becomes effective on July 1, 2017.



