

**Amendment No. 279**

Senate Amendment to Senate Bill No. 59	(BDR 40-386)
<b>Proposed by:</b> Senate Committee on Health and Human Services	
<b>Amends:</b> Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION		Initial and Date		SENATE ACTION		Initial and Date			
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

EWR/RBL



Date: 4/22/2017

S.B. No. 59—Requires the reporting of certain information to the database of the program to monitor prescriptions for certain controlled substances. (BDR 40-386)





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~~  
Revises provisions relating to 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 ~~to 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~~ the uploading of 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; authorizing a coroner, medical examiner or deputy thereof who meets certain requirements to access the database of the program; expanding the scope of the program to include certain additional controlled substances; requiring a practitioner to obtain a patient utilization report before prescribing 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 Division of the  
2 Department of Public Safety to develop a computerized program to track each prescription for  
3 ~~to certain~~ a controlled ~~substances~~ substance listed in schedule II, III or IV filled by a  
4 pharmacy or dispensed by a practitioner registered with the Board. The program is required to  
5 be designed to provide information regarding: (1) the inappropriate use by a patient of certain  
6 controlled substances to pharmacies, practitioners and appropriate state and local  
7 governmental agencies to prevent the improper or illegal use of such controlled substances;  
8 and (2) statistical data relating to the use of those controlled substances. (NRS 453.162)  
9 Sections 2-3 of this bill expand the scope of the program to also track each prescription  
10 for a controlled substance listed in schedule V.

Existing law requires the Board to allow certain law enforcement officers to have Internet access to the database of the program only for the purpose of investigating a crime related to prescription drugs. (NRS 453.165)

**Section ~~++~~ 1.3** of this bill requires a law enforcement officer who encounters certain situations involving prescribed controlled substances or who receives a report of a stolen prescription for a controlled substance while acting in his or her official capacity and in the regular course of an investigation to report certain information to his or her employer. **Section 1.3 requires a coroner, medical examiner or deputy thereof who determines, as the result of an investigation of the death of a person, that the person died as the result of using a prescribed controlled substance, to upload certain information to the database of the program or, if the coroner, medical examiner or deputy thereof does not have such access, report such information to a coroner, medical examiner or deputy thereof who has access to the database.** Section ~~++~~ 1.3 also requires the employer of the law enforcement officer or a coroner, medical examiner or deputy thereof to upload such reported information to the database of the program as soon as practicable after receiving the information ~~unless~~ except where the employer of a law enforcement officer determines that uploading the information will interfere with an active criminal investigation. ~~+, in which~~ In that case, the employer may postpone uploading the information until after the conclusion of the investigation. Section ~~++~~ 1.3 further provides that each law enforcement officer ~~or~~, employer of a law enforcement officer, coroner, medical examiner or deputy of a coroner or medical examiner who makes a good faith effort to comply with section ~~++~~ 1.3, 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 section ~~++~~ 1.3. **Section 1.6 of this bill authorizes a coroner, medical examiner or deputy thereof who meets certain requirements to access the database of the computerized program to: (1) upload information concerning the death of a person due to using a prescribed controlled substance; or (2) investigate the death of a person.**

Existing law requires a practitioner to obtain a patient utilization report from the computerized program before initiating a prescription for a controlled substance listed in schedule II, III or IV. Section 5.5 of this bill additionally requires a practitioner to obtain such a report before initiating a prescription for an opioid that is a controlled substance listed in schedule V.

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

**Section 1.** Chapter 453 of NRS is hereby amended by adding thereto ~~to new section to read as follows:~~ the provisions set forth as sections 1.3 and 1.6 of this act.

**Sec. 1.3. 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 reasonable suspicion that a violation of this chapter involving a prescription for a controlled substance is occurring or has occurred;

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

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

~~(d) (c) Receives a report of a stolen prescription for a controlled substance,~~  
the law enforcement officer shall report to his or her employer the information required by subsection ~~++~~ 3.

**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:**

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

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

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

13 (a) The name of the person who:

14 (1) Is suspected of violating this chapter;

15 (2) Is believed to have experienced an overdose as a result of using a  
 16 prescribed controlled substance;

17 (3) Is believed to have died as a result of using a prescribed controlled  
 18 substance; or

19 (4) Filed the report of a stolen prescription for a controlled substance.

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

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

26 (1) The name of the prescribing practitioner;

27 (2) The prescription number; and

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

30 ~~3.~~ 4. Except as otherwise provided in subsection ~~4~~ 5, an employer of a  
 31 law enforcement officer or a coroner, medical examiner or deputy thereof who  
 32 receives ~~information~~ a report pursuant to subsection ~~1~~ 1 or 2 shall, as soon as  
 33 practicable after receiving ~~such information~~ that report, upload to the database  
 34 of the program established pursuant to NRS 453.162 notice of the occurrence of  
 35 an event described in subsection 1 or 2, as applicable, and the information  
 36 received pursuant to subsection ~~2~~ 3. The employer of a law enforcement officer  
 37 or a coroner, medical examiner or deputy thereof shall ensure that only a ~~law~~  
 38 ~~enforcement officer~~ person who is authorized to access the database of the  
 39 program pursuant to NRS 453.165 or section 1.6 of this act uploads such  
 40 information.

41 ~~4.~~ 5. If an employer of a law enforcement officer determines that  
 42 uploading any information to the database of the program pursuant to subsection  
 43 ~~3~~ 4 will interfere with an active criminal investigation, the employer may  
 44 postpone uploading such information until after the conclusion of the  
 45 investigation.

46 ~~5.~~ 6. Each law enforcement officer or employer of a law enforcement  
 47 officer and each coroner, medical examiner and deputy thereof who makes a  
 48 good faith effort to comply with this section, or a regulation adopted pursuant  
 49 thereto, is immune from civil and criminal liability for any act or omission  
 50 relating to the transmission of information pursuant to this section.

51 ~~6.~~ 7. As used in this section, "law enforcement officer" has the meaning  
 52 ascribed to it in NRS 453.165.

1 Sec. 1.6. 1. Except as otherwise provided in this section, the Board shall  
 2 allow:

3 (a) A coroner or medical examiner to have Internet access to the database of  
 4 the computerized program developed pursuant to NRS 453.162 if the coroner or  
 5 medical examiner has completed the course of training developed pursuant to  
 6 subsection 4 of NRS 453.164.

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

9 (1) The deputy has completed the course of training developed pursuant  
 10 to subsection 4 of NRS 453.164; and

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

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

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

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

26 (a) Investigate the death of a person; or

27 (b) Upload information to the database pursuant to section 1.3 of this act.

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

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

32 453.162 1. The Board and the Division shall cooperatively develop a  
 33 computerized program to track each prescription for a controlled substance listed in  
 34 schedule II, III ~~and~~ IV or V that is filled by a pharmacy that is registered with the  
 35 Board or that is dispensed by a practitioner who is registered with the Board. The  
 36 program must:

37 (a) Be designed to provide information regarding:

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

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

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

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

1 (d) Include the contact information of each person who is required to access  
2 the database of the program pursuant to NRS 453.164, including, without  
3 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 electronic mail  
8 address of the person.

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

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

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

19 2. The Board, the Division and each employee thereof are immune from civil  
20 and criminal liability for any action relating to the collection, maintenance and  
21 transmission of information pursuant to this section and NRS 453.163 and 453.164  
22 ~~and section 1.3~~ **sections 1.3 and 1.6 of this act** if a good faith effort is made to  
23 comply with applicable laws and regulations.

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

27 **Sec. 2.5. NRS 453.163 is hereby amended to read as follows:**

28 453.163 1. Except as otherwise provided in this subsection, each person  
29 registered pursuant to this chapter to dispense a controlled substance listed in  
30 schedule II, III ~~to~~ **IV or V** shall, not later than the end of the next business day  
31 after dispensing a controlled substance, upload to the database of the program  
32 established pursuant to NRS 453.162 the information described in paragraph (d) of  
33 subsection 1 of NRS 453.162. The requirements of this subsection do not apply if  
34 the controlled substance is administered directly by a practitioner to a patient in a  
35 health care facility, as defined in NRS 439.960, a child who is a resident in a child  
36 care facility, as defined in NRS 432A.024, or a prisoner, as defined in NRS  
37 208.085. The Board shall establish by regulation and impose administrative  
38 penalties for the failure to upload information pursuant to this subsection.

39 2. The Board and the Division may cooperatively enter into a written  
40 agreement with an agency of any other state to provide, receive or exchange  
41 information obtained by the program with a program established in that state which  
42 is substantially similar to the program established pursuant to NRS 453.162,  
43 including, without limitation, providing such state access to the database of the  
44 program or transmitting information to and receiving information from such state.  
45 Any information provided, received or exchanged as part of an agreement made  
46 pursuant to this section may only be used in accordance with the provisions of this  
47 chapter.

48 3. A practitioner who is authorized to write prescriptions for and each person  
49 who is authorized to dispense controlled substances listed in schedule II, III ~~to~~ **IV or V**  
50 who makes a good faith effort to comply with applicable laws and  
51 regulations when transmitting to the Board or the Division a report or information  
52 required by this section or NRS 453.162 or 453.164, or a regulation adopted  
53 pursuant thereto, is immune from civil and criminal liability relating to such action.

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

2       453.164 1. The Board shall provide Internet access to the database of the  
3 program established pursuant to NRS 453.162 to an occupational licensing board  
4 that licenses any practitioner who is authorized to write prescriptions for controlled  
5 substances listed in schedule II, III ~~IV~~ IV or V.

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

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

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

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

27       4. The Board and the Division shall cooperatively develop a course of  
28 training for persons who are required or authorized to receive access to the  
29 database of the program pursuant to subsection 6 or NRS 453.165 and section 1.6  
30 of this act and require each such person to complete the course of training before  
31 the person is provided with Internet access to the database.

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

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

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

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

45       7. Information obtained from the program relating to a practitioner or a  
46 patient is confidential and, except as otherwise provided by this section and NRS  
47 239.0115, 453.162 and 453.163, must not be disclosed to any person. That  
48 information must be disclosed:

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

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



1 8. If the Board, the Division or a law enforcement agency determines that the  
2 database of the program has been intentionally accessed by a person or for a  
3 purpose not authorized pursuant to NRS 453.162 to 453.165, inclusive, *and*  
4 ~~section 4~~ *sections 1.3 and 1.6 of this act*, the Board, Division or law enforcement  
5 agency, as applicable, must notify any person whose information was accessed by  
6 an unauthorized person or for an unauthorized purpose.

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

8 453.165 1. Except as otherwise provided in this section, the Board shall  
9 allow a law enforcement officer to have Internet access to the database of the  
10 computerized program developed pursuant to NRS 453.162 if:

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

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

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

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

19 2. Before a law enforcement officer may be given access to the database  
20 pursuant to subsection 1, the employer of the officer must certify to the Board that  
21 the law enforcement officer has been approved to be given such access and meets  
22 the requirements of subsection 1. Such certification must be made on a form  
23 provided by the Board and renewed annually.

24 3. When a law enforcement officer accesses the database of the computerized  
25 program pursuant to this section, the officer must enter a unique user name assigned  
26 to the officer and, *if applicable*, the case number corresponding to the investigation  
27 being conducted by the officer.

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

31 (a) *Investigate* a crime related to prescription drugs ~~and for no other purpose~~;  
32 ; or

33 (b) *Upload information to the database pursuant to section 4* ~~1.3~~ *of this act.*

34 5. The employer of a law enforcement officer who is provided access to the  
35 database of the computerized program pursuant to this section shall monitor the use  
36 of the database by the law enforcement officer and establish appropriate  
37 disciplinary action to take against an officer who violates the provisions of this  
38 section.

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

42 7. As used in this section, "law enforcement officer" means any person upon  
43 whom some or all of the powers of a peace officer are conferred pursuant to NRS  
44 289.150 to 289.360, inclusive.

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

46 453.552 1. Any penalty imposed for violation of NRS 453.011 to 453.551,  
47 inclusive, *and section 4* *sections 1.3 and 1.6 of this act*, is in addition to, and not  
48 in lieu of, any civil or administrative penalty or sanction otherwise authorized by  
49 law.

50 2. Any violation of the provisions of NRS 453.011 to 453.551, inclusive, *and*  
51 *section 4* *sections 1.3 and 1.6 of this act*, where no other penalty is specifically  
52 provided, is a misdemeanor.

53 **Sec. 5.5.** NRS 639.23507 is hereby amended to read as follows:

1           639.23507 1. A practitioner shall, before initiating a prescription for a  
2 controlled substance listed in schedule II, III or IV ~~or~~ or an opioid that is a  
3 controlled substance listed in schedule V, obtain a patient utilization report  
4 regarding the patient from the computerized program established by the Board and  
5 the Investigation Division of the Department of Public Safety pursuant to NRS  
6 453.162 if:

7           (a) The patient is a new patient of the practitioner; or

8           (b) The prescription is for more than 7 days and is part of a new course of  
9 treatment for the patient.

10          ➤ The practitioner shall review the patient utilization report to assess whether the  
11 prescription for the controlled substance is medically necessary.

12          2. If a practitioner who attempts to obtain a patient utilization report as  
13 required by subsection 1 fails to do so because the computerized program is  
14 unresponsive or otherwise unavailable, the practitioner:

15           (a) Shall be deemed to have complied with subsection 1 if the practitioner  
16 documents the attempt and failure in the medical record of the patient.

17           (b) Is not liable for the failure.

18          3. The Board shall adopt regulations to provide alternative methods of  
19 compliance with subsection 1 for a physician while he or she is providing service in  
20 a hospital emergency department. The regulations must include, without limitation,  
21 provisions that allow a hospital to designate members of hospital staff to act as  
22 delegates for the purposes of accessing the database of the computerized program  
23 and obtaining patient utilization reports from the computerized program on behalf  
24 of such a physician.

25          4. A practitioner who violates subsection 1:

26           (a) Is not guilty of a misdemeanor.

27           (b) May be subject to professional discipline if the appropriate professional  
28 licensing board determines that the practitioner's violation was intentional.

29          5. As used in this section, "initiating a prescription" means originating a new  
30 prescription for a new patient of a practitioner or originating a new prescription to  
31 begin a new course of treatment for an existing patient of a practitioner. The term  
32 does not include any act concerning an ongoing prescription that is written to  
33 continue a course of treatment for an existing patient of a practitioner.

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