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:

Existing law requires the State Board of Pharmacy and the Investigation Division of the Department of Public Safety to develop a computerized program to track each prescription for certain controlled substances filled by a pharmacy or dispensaries by a practitioner registered with the Board. The program is required to be designed to provide information regarding: (1) the inappropriate use by a patient of certain controlled substances to pharmacies, practitioners and appropriate state and local governmental agencies to prevent the improper or illegal use of such controlled substances; and (2) statistical data relating to the use of those controlled substances. (NRS 453.162) 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 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 to report certain information to his or her employer. Section 1 also requires the employer of the law enforcement officer to upload such reported information to the database of the program as soon as practicable after receiving the information unless the employer determines that uploading the information will interfere with an active criminal investigation, in which case the employer may postpone uploading the information until after the conclusion of the investigation. Section 1 further provides that each law enforcement officer or employer of a law enforcement officer who makes a good faith effort to comply with section 1, 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.

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 a new section to read as follows:

1. If a law enforcement officer, while acting in his or her official capacity:
   (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) 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 2.

2. A law enforcement officer who is required to report information pursuant to subsection 1 shall report to his or her employer the following information, to the extent such information is available and applicable:
   (a) The name of the person who:
       (1) Is suspected of violating this chapter;
       (2) Is believed to have experienced an overdose as a result of using a prescribed controlled substance;
       (3) Is believed to have died as a result of using a prescribed controlled substance; or
(4) 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 is 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), (b) or (c) of subsection 1 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.

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

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

5. Each law enforcement officer or employer of a law enforcement officer 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.

6. As used in this section, “law enforcement officer” has the meaning ascribed to it in NRS 453.165.

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 or IV 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 and IV 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 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) 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.
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 and 453.164 and section
1 of this act 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 453.164 is hereby amended to read as follows:
453.164 1. 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 controlled substances listed in
schedule II, III or IV.

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

3. The Board or the Division shall report any activity it
reasonably suspects may:
   (a) Be fraudulent or illegal 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
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. This paragraph shall not be
construed to require an occupational licensing board to conduct an
investigation or take any action against a practitioner upon receiving
information from the Board or the Division.

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

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

6. Each practitioner who is authorized to write prescriptions for
controlled substances listed in schedule II, III or IV 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 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.

7. 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 the request of a person about whom the information requested concerns or upon the request on behalf of that person by his or her attorney; or
(b) Upon the lawful order of a court of competent jurisdiction.

8. 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, and section 1 of this act, 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. 4. NRS 453.165 is hereby amended to read as follows:
453.165 1. Except as otherwise provided in this section, the Board shall allow a law enforcement officer to have Internet access to the database of the computerized program developed pursuant to NRS 453.162 if:
(a) The primary responsibility of the law enforcement officer is to conduct investigations of crimes relating to prescription drugs;
(b) The law enforcement officer has been approved by his or her employer to have such access;
(c) The law enforcement officer has completed the course of training developed pursuant to subsection 4 of NRS 453.164; and
(d) The employer of the law enforcement officer has submitted the certification required pursuant to subsection 2 to the Board.
2. Before a law enforcement officer may be given access to the database pursuant to subsection 1, the employer of the officer must certify to the Board that the law enforcement officer has been approved to be given 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 law enforcement officer accesses the database of the computerized program pursuant to this section, the officer must enter a unique user name assigned to the officer and, if applicable, the case number corresponding to the investigation being conducted by the officer.
4. A law enforcement officer who is given access to the database of the computerized program pursuant to subsection 1 may access the database for no other purpose than to:

(a) Investigate a crime related to prescription drugs; or

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

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

6. The Board or the Division may suspend or terminate access to the database of the computerized program pursuant to this section if a law enforcement officer or his or her employer violates any provision of 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. 5. NRS 453.552 is hereby amended to read as follows:

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

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

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