
ASSEMBLY BILL NO. 310—ASSEMBLYMAN FRIERSON

MARCH 18, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions regarding the manner in which prescriptions are given to pharmacies. (BDR 54-885)

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: 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 prescriptions; requiring a prescription to be given to a pharmacy by electronic transmission in certain circumstances; providing certain exemptions; authorizing professional discipline against a practitioner who violates that requirement; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law prescribes the manner in which a prescription must be given.
2 (NRS 639.2353) **Section 7** of this bill requires a prescription to be given to a
3 pharmacy by electronic transmission, except in certain cases including: (1)
4 prescriptions issued by a veterinarian; (2) certain situations where an electronic
5 prescription is not practical or feasible or is prohibited by federal law; (3) when a
6 prescription is not issued to a specific person; and (4) pursuant to a waiver granted
7 by the State Board of Pharmacy under exceptional circumstances. **Sections 1-6** of
8 this bill authorize professional discipline to be taken against a practitioner who fails
9 to comply with the requirements of **section 7**. Additionally, because any violation
10 of the provisions of the chapter is a misdemeanor, violation of those requirements
11 would also be a misdemeanor. (NRS 639.310) **Sections 8-12** of this bill make
12 conforming changes.



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

1 **Section 1.** NRS 630.3062 is hereby amended to read as
2 follows:

3 630.3062 1. The following acts, among others, constitute
4 grounds for initiating disciplinary action or denying licensure:

5 (a) Failure to maintain timely, legible, accurate and complete
6 medical records relating to the diagnosis, treatment and care of a
7 patient.

8 (b) Altering medical records of a patient.

9 (c) Making or filing a report which the licensee knows to be
10 false, failing to file a record or report as required by law or
11 knowingly or willfully obstructing or inducing another to obstruct
12 such filing.

13 (d) Failure to make the medical records of a patient available for
14 inspection and copying as provided in NRS 629.061, if the licensee
15 is the custodian of health care records with respect to those records.

16 (e) Failure to comply with the requirements of NRS 630.3068.

17 (f) Failure to report any person the licensee knows, or has reason
18 to know, is in violation of the provisions of this chapter or the
19 regulations of the Board within 30 days after the date the licensee
20 knows or has reason to know of the violation.

21 (g) Failure to comply with the requirements of NRS 453.163,
22 453.164, 453.226, 639.23507 and 639.2391 to 639.23916, inclusive,
23 *and section 7 of this act* and any regulations adopted by the State
24 Board of Pharmacy pursuant thereto.

25 (h) Fraudulent, illegal, unauthorized or otherwise inappropriate
26 prescribing, administering or dispensing of a controlled substance
27 listed in schedule II, III or IV.

28 2. As used in this section, "custodian of health care records"
29 has the meaning ascribed to it in NRS 629.016.

30 **Sec. 2.** NRS 631.3475 is hereby amended to read as follows:

31 631.3475 The following acts, among others, constitute
32 unprofessional conduct:

33 1. Malpractice;

34 2. Professional incompetence;

35 3. Suspension or revocation of a license to practice dentistry,
36 the imposition of a fine or other disciplinary action by any agency of
37 another state authorized to regulate the practice of dentistry in that
38 state;

39 4. More than one act by the dentist or dental hygienist
40 constituting substandard care in the practice of dentistry or dental
41 hygiene;



1 5. Administering, dispensing or prescribing any controlled
2 substance or any dangerous drug as defined in chapter 454 of NRS,
3 if it is not required to treat the dentist's patient;

4 6. Knowingly procuring or administering a controlled
5 substance or a dangerous drug as defined in chapter 454 of NRS that
6 is not approved by the United States Food and Drug Administration,
7 unless the unapproved controlled substance or dangerous drug:

8 (a) Was procured through a retail pharmacy licensed pursuant to
9 chapter 639 of NRS;

10 (b) Was procured through a Canadian pharmacy which is
11 licensed pursuant to chapter 639 of NRS and which has been
12 recommended by the State Board of Pharmacy pursuant to
13 subsection 4 of NRS 639.2328; or

14 (c) Is marijuana being used for medical purposes in accordance
15 with chapter 453A of NRS;

16 7. Chronic or persistent inebriety or addiction to a controlled
17 substance, to such an extent as to render the person unsafe or
18 unreliable as a practitioner, or such gross immorality as tends to
19 bring reproach upon the dental profession;

20 8. Conviction of a felony or misdemeanor involving moral
21 turpitude or which relates to the practice of dentistry in this State, or
22 conviction of any criminal violation of this chapter;

23 9. Conviction of violating any of the provisions of NRS
24 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440,
25 inclusive;

26 10. Failure to comply with the provisions of NRS 453.163,
27 453.164, 453.226, 639.23507 and 639.2391 to 639.23916, inclusive,
28 *and section 7 of this act* and any regulations adopted by the State
29 Board of Pharmacy pursuant thereto.

30 11. Fraudulent, illegal, unauthorized or otherwise inappropriate
31 prescribing, administering or dispensing of a controlled substance
32 listed in schedule II, III or IV;

33 12. Failure to comply with the provisions of NRS 454.217 or
34 629.086;

35 13. Failure to obtain any training required by the Board
36 pursuant to NRS 631.344; or

37 14. Operation of a medical facility, as defined in NRS
38 449.0151, at any time during which:

39 (a) The license of the facility is suspended or revoked; or

40 (b) An act or omission occurs which results in the suspension or
41 revocation of the license pursuant to NRS 449.160.

42 ➔ This subsection applies to an owner or other principal responsible
43 for the operation of the facility.



1 **Sec. 3.** NRS 632.347 is hereby amended to read as follows:

2 632.347 1. The Board may deny, revoke or suspend any
3 license or certificate applied for or issued pursuant to this chapter, or
4 take other disciplinary action against a licensee or holder of a
5 certificate, upon determining that the licensee or certificate holder:

6 (a) Is guilty of fraud or deceit in procuring or attempting to
7 procure a license or certificate pursuant to this chapter.

8 (b) Is guilty of any offense:

9 (1) Involving moral turpitude; or

10 (2) Related to the qualifications, functions or duties of a
11 licensee or holder of a certificate,

12 ↳ in which case the record of conviction is conclusive evidence
13 thereof.

14 (c) Has been convicted of violating any of the provisions of
15 NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440,
16 inclusive.

17 (d) Is unfit or incompetent by reason of gross negligence or
18 recklessness in carrying out usual nursing functions.

19 (e) Uses any controlled substance, dangerous drug as defined in
20 chapter 454 of NRS, or intoxicating liquor to an extent or in a
21 manner which is dangerous or injurious to any other person or
22 which impairs his or her ability to conduct the practice authorized
23 by the license or certificate.

24 (f) Is a person with mental incompetence.

25 (g) Is guilty of unprofessional conduct, which includes, but is
26 not limited to, the following:

27 (1) Conviction of practicing medicine without a license in
28 violation of chapter 630 of NRS, in which case the record of
29 conviction is conclusive evidence thereof.

30 (2) Impersonating any applicant or acting as proxy for an
31 applicant in any examination required pursuant to this chapter for
32 the issuance of a license or certificate.

33 (3) Impersonating another licensed practitioner or holder of a
34 certificate.

35 (4) Permitting or allowing another person to use his or her
36 license or certificate to practice as a licensed practical nurse,
37 registered nurse, nursing assistant or medication aide - certified.

38 (5) Repeated malpractice, which may be evidenced by claims
39 of malpractice settled against the licensee or certificate holder.

40 (6) Physical, verbal or psychological abuse of a patient.

41 (7) Conviction for the use or unlawful possession of a
42 controlled substance or dangerous drug as defined in chapter 454 of
43 NRS.

44 (h) Has willfully or repeatedly violated the provisions of this
45 chapter. The voluntary surrender of a license or certificate issued



1 pursuant to this chapter is prima facie evidence that the licensee or
2 certificate holder has committed or expects to commit a violation of
3 this chapter.

4 (i) Is guilty of aiding or abetting any person in a violation of this
5 chapter.

6 (j) Has falsified an entry on a patient's medical chart concerning
7 a controlled substance.

8 (k) Has falsified information which was given to a physician,
9 pharmacist, podiatric physician or dentist to obtain a controlled
10 substance.

11 (l) Has knowingly procured or administered a controlled
12 substance or a dangerous drug as defined in chapter 454 of NRS that
13 is not approved by the United States Food and Drug Administration,
14 unless the unapproved controlled substance or dangerous drug:

15 (1) Was procured through a retail pharmacy licensed
16 pursuant to chapter 639 of NRS;

17 (2) Was procured through a Canadian pharmacy which is
18 licensed pursuant to chapter 639 of NRS and which has been
19 recommended by the State Board of Pharmacy pursuant to
20 subsection 4 of NRS 639.2328;

21 (3) Is marijuana being used for medical purposes in
22 accordance with chapter 453A of NRS; or

23 (4) Is an investigational drug or biological product prescribed
24 to a patient pursuant to NRS 630.3735 or 633.6945.

25 (m) Has been disciplined in another state in connection with a
26 license to practice nursing or a certificate to practice as a nursing
27 assistant or medication aide - certified, or has committed an act in
28 another state which would constitute a violation of this chapter.

29 (n) Has engaged in conduct likely to deceive, defraud or
30 endanger a patient or the general public.

31 (o) Has willfully failed to comply with a regulation, subpoena or
32 order of the Board.

33 (p) Has operated a medical facility at any time during which:

34 (1) The license of the facility was suspended or revoked; or

35 (2) An act or omission occurred which resulted in the
36 suspension or revocation of the license pursuant to NRS 449.160.

37 ➤ This paragraph applies to an owner or other principal responsible
38 for the operation of the facility.

39 (q) Is an advanced practice registered nurse who has failed to
40 obtain any training required by the Board pursuant to
41 NRS 632.2375.

42 (r) Is an advanced practice registered nurse who has failed to
43 comply with the provisions of NRS 453.163, 453.164, 453.226,
44 639.23507, 639.2391 to 639.23916, inclusive, *and section 7 of this*



1 **act** and any regulations adopted by the State Board of Pharmacy
2 pursuant thereto.

3 (s) Has engaged in the fraudulent, illegal, unauthorized or
4 otherwise inappropriate prescribing, administering or dispensing of
5 a controlled substance listed in schedule II, III or IV.

6 (t) Has violated the provisions of NRS 454.217 or 629.086.

7 2. For the purposes of this section, a plea or verdict of guilty or
8 guilty but mentally ill or a plea of nolo contendere constitutes a
9 conviction of an offense. The Board may take disciplinary action
10 pending the appeal of a conviction.

11 3. A licensee or certificate holder is not subject to disciplinary
12 action solely for administering auto-injectable epinephrine pursuant
13 to a valid order issued pursuant to NRS 630.374 or 633.707.

14 4. As used in this section, "investigational drug or biological
15 product" has the meaning ascribed to it in NRS 454.351.

16 **Sec. 4.** NRS 633.511 is hereby amended to read as follows:

17 633.511 1. The grounds for initiating disciplinary action
18 pursuant to this chapter are:

19 (a) Unprofessional conduct.

20 (b) Conviction of:

21 (1) A violation of any federal or state law regulating the
22 possession, distribution or use of any controlled substance or any
23 dangerous drug as defined in chapter 454 of NRS;

24 (2) A felony relating to the practice of osteopathic medicine
25 or practice as a physician assistant;

26 (3) A violation of any of the provisions of NRS 616D.200,
27 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

28 (4) Murder, voluntary manslaughter or mayhem;

29 (5) Any felony involving the use of a firearm or other deadly
30 weapon;

31 (6) Assault with intent to kill or to commit sexual assault or
32 mayhem;

33 (7) Sexual assault, statutory sexual seduction, incest,
34 lewdness, indecent exposure or any other sexually related crime;

35 (8) Abuse or neglect of a child or contributory delinquency;
36 or

37 (9) Any offense involving moral turpitude.

38 (c) The suspension of a license to practice osteopathic medicine
39 or to practice as a physician assistant by any other jurisdiction.

40 (d) Malpractice or gross malpractice, which may be evidenced
41 by a claim of malpractice settled against a licensee.

42 (e) Professional incompetence.

43 (f) Failure to comply with the requirements of NRS 633.527.

44 (g) Failure to comply with the requirements of subsection 3 of
45 NRS 633.471.



1 (h) Failure to comply with the provisions of NRS 633.694.

2 (i) Operation of a medical facility, as defined in NRS 449.0151,
3 at any time during which:

4 (1) The license of the facility is suspended or revoked; or

5 (2) An act or omission occurs which results in the suspension
6 or revocation of the license pursuant to NRS 449.160.

7 ➔ This paragraph applies to an owner or other principal responsible
8 for the operation of the facility.

9 (j) Failure to comply with the provisions of subsection 2 of
10 NRS 633.322.

11 (k) Signing a blank prescription form.

12 (l) Knowingly or willfully procuring or administering a
13 controlled substance or a dangerous drug as defined in chapter 454
14 of NRS that is not approved by the United States Food and Drug
15 Administration, unless the unapproved controlled substance or
16 dangerous drug:

17 (1) Was procured through a retail pharmacy licensed
18 pursuant to chapter 639 of NRS;

19 (2) Was procured through a Canadian pharmacy which is
20 licensed pursuant to chapter 639 of NRS and which has been
21 recommended by the State Board of Pharmacy pursuant to
22 subsection 4 of NRS 639.2328;

23 (3) Is marijuana being used for medical purposes in
24 accordance with chapter 453A of NRS; or

25 (4) Is an investigational drug or biological product prescribed
26 to a patient pursuant to NRS 630.3735 or 633.6945.

27 (m) Attempting, directly or indirectly, by intimidation, coercion
28 or deception, to obtain or retain a patient or to discourage the use of
29 a second opinion.

30 (n) Terminating the medical care of a patient without adequate
31 notice or without making other arrangements for the continued care
32 of the patient.

33 (o) In addition to the provisions of subsection 3 of NRS
34 633.524, making or filing a report which the licensee knows to be
35 false, failing to file a record or report that is required by law or
36 knowingly or willfully obstructing or inducing another to obstruct
37 the making or filing of such a record or report.

38 (p) Failure to report any person the licensee knows, or has
39 reason to know, is in violation of the provisions of this chapter or
40 the regulations of the Board within 30 days after the date the
41 licensee knows or has reason to know of the violation.

42 (q) Failure by a licensee or applicant to report in writing, within
43 30 days, any criminal action taken or conviction obtained against the
44 licensee or applicant, other than a minor traffic violation, in this
45 State or any other state or by the Federal Government, a branch of



1 the Armed Forces of the United States or any local or federal
2 jurisdiction of a foreign country.

3 (r) Engaging in any act that is unsafe in accordance with
4 regulations adopted by the Board.

5 (s) Failure to comply with the provisions of NRS 629.515.

6 (t) Failure to supervise adequately a medical assistant pursuant
7 to the regulations of the Board.

8 (u) Failure to obtain any training required by the Board pursuant
9 to NRS 633.473.

10 (v) Failure to comply with the provisions of NRS 633.6955.

11 (w) Failure to comply with the provisions of NRS 453.163,
12 453.164, 453.226, 639.23507, 639.2391 to 639.23916, inclusive,
13 **and section 7 of this act** and any regulations adopted by the State
14 Board of Pharmacy pursuant thereto.

15 (x) Fraudulent, illegal, unauthorized or otherwise inappropriate
16 prescribing, administering or dispensing of a controlled substance
17 listed in schedule II, III or IV.

18 (y) Failure to comply with the provisions of NRS 454.217 or
19 629.086.

20 2. As used in this section, "investigational drug or biological
21 product" has the meaning ascribed to it in NRS 454.351.

22 **Sec. 5.** NRS 635.130 is hereby amended to read as follows:

23 635.130 1. The Board, after notice and a hearing as required
24 by law, and upon any cause enumerated in subsection 2, may take
25 one or more of the following disciplinary actions:

26 (a) Deny an application for a license or refuse to renew a
27 license.

28 (b) Suspend or revoke a license.

29 (c) Place a licensee on probation.

30 (d) Impose a fine not to exceed \$5,000.

31 2. The Board may take disciplinary action against a licensee for
32 any of the following causes:

33 (a) The making of a false statement in any affidavit required of
34 the applicant for application, examination or licensure pursuant to
35 the provisions of this chapter.

36 (b) Lending the use of the holder's name to an unlicensed
37 person.

38 (c) If the holder is a podiatric physician, permitting an
39 unlicensed person in his or her employ to practice as a podiatry
40 hygienist.

41 (d) Habitual indulgence in the use of alcohol or any controlled
42 substance which impairs the intellect and judgment to such an extent
43 as in the opinion of the Board incapacitates the holder in the
44 performance of his or her professional duties.

45 (e) Conviction of a crime involving moral turpitude.



1 (f) Conviction of violating any of the provisions of NRS
2 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440,
3 inclusive.

4 (g) Conduct which in the opinion of the Board disqualifies the
5 licensee to practice with safety to the public.

6 (h) The commission of fraud by or on behalf of the licensee
7 regarding his or her license or practice.

8 (i) Gross incompetency.

9 (j) Affliction of the licensee with any mental or physical
10 disorder which seriously impairs his or her competence as a
11 podiatric physician or podiatry hygienist.

12 (k) False representation by or on behalf of the licensee regarding
13 his or her practice.

14 (l) Unethical or unprofessional conduct.

15 (m) Failure to comply with the requirements of subsection 1 of
16 NRS 635.118.

17 (n) Willful or repeated violations of this chapter or regulations
18 adopted by the Board.

19 (o) Willful violation of the regulations adopted by the State
20 Board of Pharmacy.

21 (p) Knowingly procuring or administering a controlled
22 substance or a dangerous drug as defined in chapter 454 of NRS that
23 is not approved by the United States Food and Drug Administration,
24 unless the unapproved controlled substance or dangerous drug:

25 (1) Was procured through a retail pharmacy licensed
26 pursuant to chapter 639 of NRS;

27 (2) Was procured through a Canadian pharmacy which is
28 licensed pursuant to chapter 639 of NRS and which has been
29 recommended by the State Board of Pharmacy pursuant to
30 subsection 4 of NRS 639.2328; or

31 (3) Is marijuana being used for medical purposes in
32 accordance with chapter 453A of NRS.

33 (q) Operation of a medical facility, as defined in NRS 449.0151,
34 at any time during which:

35 (1) The license of the facility is suspended or revoked; or

36 (2) An act or omission occurs which results in the suspension
37 or revocation of the license pursuant to NRS 449.160.

38 ➤ This paragraph applies to an owner or other principal responsible
39 for the operation of the facility.

40 (r) Failure to obtain any training required by the Board pursuant
41 to NRS 635.116.

42 (s) Failure to comply with the provisions of NRS 453.163,
43 453.164, 453.226, 639.23507 and 639.2391 to 639.23916, inclusive,
44 **and section 7 of this act** and any regulations adopted by the State
45 Board of Pharmacy pursuant thereto.



1 (t) Fraudulent, illegal, unauthorized or otherwise inappropriate
2 prescribing, administering or dispensing of a controlled substance
3 listed in schedule II, III or IV.

4 (u) Failure to comply with the provisions of NRS 454.217 or
5 629.086.

6 **Sec. 6.** NRS 636.295 is hereby amended to read as follows:

7 636.295 The following acts, conduct, omissions, or mental or
8 physical conditions, or any of them, committed, engaged in,
9 omitted, or being suffered by a licensee, constitute sufficient cause
10 for disciplinary action:

11 1. Affliction of the licensee with any communicable disease
12 likely to be communicated to other persons.

13 2. Commission by the licensee of a felony relating to the
14 practice of optometry or a gross misdemeanor involving moral
15 turpitude of which the licensee has been convicted and from which
16 he or she has been sentenced by a final judgment of a federal or
17 state court in this or any other state, the judgment not having been
18 reversed or vacated by a competent appellate court and the offense
19 not having been pardoned by executive authority.

20 3. Conviction of any of the provisions of NRS 616D.200,
21 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

22 4. Commission of fraud by or on behalf of the licensee in
23 obtaining a license or a renewal thereof, or in practicing optometry
24 thereunder.

25 5. Habitual drunkenness or addiction to any controlled
26 substance.

27 6. Gross incompetency.

28 7. Affliction with any mental or physical disorder or
29 disturbance seriously impairing his or her competency as an
30 optometrist.

31 8. Making false or misleading representations, by or on behalf
32 of the licensee, with respect to optometric materials or services.

33 9. Practice by the licensee, or attempting or offering so to do,
34 while in an intoxicated condition.

35 10. Perpetration of unethical or unprofessional conduct in the
36 practice of optometry.

37 11. Knowingly procuring or administering a controlled
38 substance or a dangerous drug as defined in chapter 454 of NRS that
39 is not approved by the United States Food and Drug Administration,
40 unless the unapproved controlled substance or dangerous drug:

41 (a) Was procured through a retail pharmacy licensed pursuant to
42 chapter 639 of NRS;

43 (b) Was procured through a Canadian pharmacy which is
44 licensed pursuant to chapter 639 of NRS and which has been



1 recommended by the State Board of Pharmacy pursuant to
2 subsection 4 of NRS 639.2328; or

3 (c) Is marijuana being used for medical purposes in accordance
4 with chapter 453A of NRS.

5 12. Any violation of the provisions of this chapter or any
6 regulations adopted pursuant thereto.

7 13. Operation of a medical facility, as defined in
8 NRS 449.0151, at any time during which:

9 (a) The license of the facility is suspended or revoked; or

10 (b) An act or omission occurs which results in the suspension or
11 revocation of the license pursuant to NRS 449.160.

12 ➔ This subsection applies to an owner or other principal responsible
13 for the operation of the facility.

14 14. Failure to obtain any training required by the Board
15 pursuant to NRS 636.2881.

16 15. Failure to comply with the provisions of NRS 453.163,
17 453.164, 453.226, 639.23507, 639.2391 to 639.23916, inclusive,
18 **and section 7 of this act** and any regulations adopted by the State
19 Board of Pharmacy pursuant thereto.

20 16. Fraudulent, illegal, unauthorized or otherwise inappropriate
21 prescribing, administering or dispensing of a controlled substance
22 listed in schedule II, III or IV.

23 **Sec. 7.** Chapter 639 of NRS is hereby amended by adding
24 thereto a new section to read as follows:

25 ***1. Except as otherwise provided in this subsection, a***
26 ***prescription must be given to a pharmacy by electronic***
27 ***transmission in accordance with the regulations adopted by the***
28 ***Board. The requirements of this subsection do not apply to a***
29 ***prescription:***

30 (a) ***Issued by a veterinarian;***

31 (b) ***Issued under circumstances prescribed by regulation of the***
32 ***Board where:***

33 (1) ***Electronic transmission is unavailable due to***
34 ***technologic or electronic failure; or***

35 (2) ***The drug will be dispensed at a pharmacy located***
36 ***outside of this State;***

37 (c) ***Issued by a practitioner who will also dispense the drug;***

38 (d) ***That includes, without limitation, information that is not***
39 ***supported by the program for electronically transmitting***
40 ***prescriptions prescribed by the National Council for Prescription***
41 ***Drug Programs or its successor organization or, if that entity***
42 ***ceases to exist, a program designated by the Board;***

43 (e) ***For which electronic prescribing is prohibited by federal***
44 ***law;***

45 (f) ***That is not issued for a specific patient;***



- 1 (g) Issued pursuant to a protocol for research;
- 2 (h) Issued by a practitioner who has received a waiver from
- 3 the Board pursuant to subsection 2; or
- 4 (i) Issued under circumstances in which the practitioner
- 5 determines that:

6 (1) The patient is unable to obtain the drug in a timely

7 manner if the prescription is given by electronic transmission; and

8 (2) Delay will adversely affect the patient's medical

9 condition.

10 2. The Board may exempt a practitioner from the

11 requirements of subsection 1 for not more than 1 year if the Board

12 determines that the practitioner is unable to give a prescription to

13 a pharmacy by electronic transmission because of economic

14 hardship, technological limitations that are not within the control

15 of the practitioner or other exceptional circumstances.

16 3. A prescription given to a pharmacy by a means other than

17 electronic transmission under the conditions prescribed in

18 subsection 1 or 2 must be given:

- 19 (a) Directly from the practitioner to a pharmacist;
- 20 (b) Indirectly by means of an order signed by the practitioner;
- 21 (c) By an order transmitted orally by an agent of the
- 22 practitioner; or
- 23 (d) By transmission using a facsimile machine.

24 4. This section must not be construed to require a pharmacist

25 to verify that a prescription that is given by means other than

26 electronic transmission meets the requirements of subsection 1.

27 **Sec. 8.** NRS 639.2353 is hereby amended to read as follows:

28 639.2353 Except as otherwise provided in a regulation adopted

29 pursuant to NRS 453.385 or 639.2357:

- 30 1. ~~[A prescription must be given:~~
- 31 ~~—(a) Directly from the practitioner to a pharmacist;~~
- 32 ~~—(b) Indirectly by means of an order signed by the practitioner;~~
- 33 ~~—(c) By an oral order transmitted by an agent of the practitioner;~~
- 34 ~~or~~
- 35 ~~—(d) Except as otherwise provided in subsection 5, by electronic~~
- 36 ~~transmission or transmission by a facsimile machine, including,~~
- 37 ~~without limitation, transmissions made from a facsimile machine to~~
- 38 ~~another facsimile machine, a computer equipped with a facsimile~~
- 39 ~~modem to a facsimile machine or a computer to another computer,~~
- 40 ~~pursuant to the regulations of the Board.~~

41 ~~—2.]~~ A written prescription must contain:

42 (a) Except as otherwise provided in this section, the name and

43 signature of the practitioner, the registration number issued to the

44 practitioner by the Drug Enforcement Administration and the



1 address of the practitioner if that address is not immediately
2 available to the pharmacist;

3 (b) The classification of his or her license;

4 (c) The name and date of birth of the patient, and the address of
5 the patient if not immediately available to the pharmacist;

6 (d) The name, strength and quantity of the drug prescribed and
7 the number of days that the drug is to be used, beginning on the day
8 on which the prescription is filled;

9 (e) The symptom or purpose for which the drug is prescribed, if
10 included by the practitioner pursuant to NRS 639.2352;

11 (f) Directions for use, including, without limitation, the dose of
12 the drug prescribed, the route of administration and the number of
13 refills authorized, if applicable;

14 (g) The code established in the International Classification of
15 Diseases, Tenth Revision, Clinical Modification, adopted by the
16 National Center for Health Statistics and the Centers for Medicare
17 and Medicaid Services, or the code used in any successor
18 classification system adopted by the National Center for Health
19 Statistics and the Centers for Medicare and Medicaid Services, that
20 corresponds to the diagnosis for which the controlled substance was
21 prescribed; and

22 (h) The date of issue.

23 ~~3.] 2.~~ The directions for use must be specific in that they
24 indicate the portion of the body to which the medication is to be
25 applied or, if to be taken into the body by means other than orally,
26 the orifice or canal of the body into which the medication is to be
27 inserted or injected.

28 ~~4.] 3.~~ Each written prescription must be written in such a
29 manner that any registered pharmacist would be able to dispense it.
30 A prescription must be written in Latin or English and may include
31 any character, figure, cipher or abbreviation which is generally used
32 by pharmacists and practitioners in the writing of prescriptions.

33 ~~5.— A prescription for a controlled substance must not be given~~
34 ~~by electronic transmission or transmission by a facsimile machine~~
35 ~~unless authorized by federal law and NRS 439.581 to 439.595,~~
36 ~~inclusive, and the regulations adopted pursuant thereto.~~

37 ~~6.] 4.~~ A prescription that is given by electronic transmission is
38 not required to contain the signature of the practitioner if:

39 (a) It contains a facsimile signature, security code or other mark
40 that uniquely identifies the practitioner;

41 (b) A voice recognition system, biometric identification
42 technique or other security system approved by the Board is used to
43 identify the practitioner; or

44 (c) It complies with the provisions of NRS 439.581 to 439.595,
45 inclusive, and the regulations adopted pursuant thereto.



1 **Sec. 9.** NRS 639.2583 is hereby amended to read as follows:

2 639.2583 1. Except as otherwise provided in this section, if a
3 practitioner has prescribed a:

4 (a) Drug by brand name and the practitioner has not indicated,
5 by a method set forth in subsection 5, that a substitution is
6 prohibited, the pharmacist who fills or refills the prescription shall
7 dispense, in substitution, another drug which is available to him or
8 her if the other drug:

9 (1) Is less expensive than the drug prescribed by brand name;

10 (2) Is biologically equivalent to the drug prescribed by brand
11 name;

12 (3) Has the same active ingredient or ingredients of the same
13 strength, quantity and form of dosage as the drug prescribed by
14 brand name; and

15 (4) Is of the same generic type as the drug prescribed by
16 brand name.

17 (b) Biological product and the practitioner has not indicated, by
18 a method set forth in subsection 5, that a substitution is prohibited,
19 the pharmacist who fills or refills the prescription shall dispense, in
20 substitution, another biological product which is available to him or
21 her if the other biological product:

22 (1) Is an interchangeable biological product for the biological
23 product prescribed; and

24 (2) Is less expensive than the biological product prescribed
25 by brand name.

26 2. If the pharmacist has available to him or her more than one
27 drug or interchangeable biological product that may be substituted
28 for the drug prescribed by brand name or biological product
29 prescribed, the pharmacist shall dispense, in substitution, the least
30 expensive of the drugs or interchangeable biological products that
31 are available to him or her for substitution.

32 3. Before a pharmacist dispenses a drug or biological product
33 in substitution for a drug prescribed by brand name or biological
34 product prescribed, the pharmacist shall:

35 (a) Advise the person who presents the prescription that the
36 pharmacist intends to dispense a drug or biological product in
37 substitution; and

38 (b) Advise the person that he or she may refuse to accept the
39 drug or biological product that the pharmacist intends to dispense in
40 substitution, unless the pharmacist is being paid for the drug by a
41 governmental agency.

42 4. If a person refuses to accept the drug or biological product
43 that the pharmacist intends to dispense in substitution, the
44 pharmacist shall dispense the drug prescribed by brand name or
45 biological product prescribed, unless the pharmacist is being paid



1 for the drug or biological product by a governmental agency, in
2 which case the pharmacist shall dispense the drug or biological
3 product in substitution.

4 5. A pharmacist shall not dispense a drug or biological product
5 in substitution for a drug prescribed by brand name or biological
6 product prescribed if the practitioner has indicated that a substitution
7 is prohibited using one or more of the following methods:

8 (a) By oral communication to the pharmacist at any time before
9 the drug or biological product is dispensed.

10 (b) By handwriting the words "Dispense as Written" on the form
11 used for the prescription, including, without limitation, any form
12 used for transmitting the prescription from a facsimile machine to
13 another facsimile machine. The pharmacist shall disregard the words
14 "Dispense as Written" if they have been placed on the form used for
15 the prescription by preprinting or other mechanical process or by
16 any method other than handwriting.

17 (c) By including the words "Dispense as Written" in any
18 prescription that is given to the pharmacist by electronic
19 transmission pursuant to *section 7 of this act and* the regulations of
20 the Board or in accordance with NRS 439.581 to 439.595, inclusive,
21 and the regulations adopted pursuant thereto, including, without
22 limitation, an electronic transmission from a computer equipped
23 with a facsimile modem to a facsimile machine or from a computer
24 to another computer pursuant to the regulations of the Board.

25 6. The provisions of this section also apply to a prescription
26 issued to a person by a practitioner from outside this State if the
27 practitioner has not indicated, by a method set forth in subsection 5,
28 that a substitution is prohibited.

29 7. The provisions of this section do not apply to:

30 (a) A prescription drug or biological product that is dispensed to
31 any inpatient of a hospital by an inpatient pharmacy which is
32 associated with that hospital;

33 (b) A prescription drug that is dispensed to any person by mail
34 order or other common carrier by an Internet pharmacy which is
35 certified by the Board pursuant to NRS 639.23288 and authorized to
36 provide service by mail order or other common carrier pursuant to
37 the provisions of this chapter; or

38 (c) A prescription drug or biological product that is dispensed to
39 any person by a pharmacist if the substitution:

40 (1) Would violate the terms of a health care plan that
41 maintains a mandatory, exclusive or closed formulary for its
42 coverage for prescription drugs and biological products; or

43 (2) Would otherwise make the transaction ineligible for
44 reimbursement by a third party.



1 **Sec. 10.** NRS 453.256 is hereby amended to read as follows:

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

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

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

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

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

17 ~~—(1) Direct administration to a patient by parenteral solution;~~
18 ~~or~~

19 ~~—(2) A resident of a facility for intermediate care or a facility~~
20 ~~for skilled nursing which is licensed as such by the Division of~~
21 ~~Public and Behavioral Health of the Department.~~

22 ~~→ A prescription transmitted by a facsimile machine pursuant to~~
23 ~~this paragraph must be printed on paper which is capable of being~~
24 ~~retained for at least 2 years. For the purposes of this section, an~~
25 ~~electronic prescription or a prescription transmitted by facsimile~~
26 ~~machine constitutes a written prescription. The pharmacy shall keep~~
27 ~~prescriptions in conformity with the requirements of NRS 453.246.]~~

28 *A prescription for a controlled substance must be given to a*
29 *pharmacy in compliance with section 7 of this act.* A prescription
30 for a substance included in schedule II must not be refilled.

31 ~~{3. Except when dispensed directly by a practitioner, other than~~
32 ~~a pharmacy, to an ultimate user, a substance included in schedule III~~
33 ~~or IV which is a dangerous drug as determined under NRS 454.201,~~
34 ~~must not be dispensed without a written or oral prescription of a~~
35 ~~practitioner. The} *A prescription for a substance included in*~~
36 *schedule III or IV which is a dangerous drug as determined under*
37 *NRS 454.201* must not be filled or refilled more than 6 months after
38 the date thereof or be refilled more than five times, unless renewed
39 by the practitioner.

40 ~~{4.} 2. A substance included in schedule V may be distributed~~
41 ~~or dispensed only for a medical purpose, including medical~~
42 ~~treatment or authorized research.~~

43 ~~{5.} 3. A practitioner may dispense or deliver a controlled~~
44 ~~substance to or for a person or animal only for medical treatment or~~
45 ~~authorized research in the ordinary course of his or her profession.~~



1 ~~[6.]~~ 4. No civil or criminal liability or administrative sanction
2 may be imposed on a pharmacist for action taken in good faith in
3 reliance on a reasonable belief that an order purporting to be a
4 prescription was issued by a practitioner in the usual course of
5 professional treatment or in authorized research.

6 ~~[7.]~~ 5. An individual practitioner may not dispense a substance
7 included in schedule II, III or IV for the practitioner's own personal
8 use except in a medical emergency.

9 ~~[8.]~~ 6. A person who violates this section is guilty of a
10 category E felony and shall be punished as provided in
11 NRS 193.130.

12 ~~[9.]~~ 7. As used in this section ~~[-~~

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

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

19 ~~[(c) "Parenteral solution" has the meaning ascribed to it in~~
20 ~~NRS 639.0105.]~~

21 **Sec. 11.** NRS 453.385 is hereby amended to read as follows:

22 453.385 1. Each prescription for a controlled substance must
23 comply with the regulations of the Board adopted pursuant to
24 subsection 2.

25 2. The Board shall, by regulation, adopt requirements for:

26 (a) The form and content of a prescription for a controlled
27 substance. The requirements may vary depending upon the schedule
28 of the controlled substance.

29 (b) Transmitting a prescription for a controlled substance to a
30 pharmacy. The requirements may vary depending upon the schedule
31 of the controlled substance.

32 (c) The form and contents of an order for a controlled substance
33 given for a patient in a medical facility and the requirements for
34 keeping records of such orders.

35 3. Except as otherwise provided in this subsection, the
36 regulations adopted pursuant to subsection 2 must:

37 (a) Ensure compliance with, but may be more stringent than
38 required by, applicable federal law governing controlled substances
39 and the rules, regulations and orders of any federal agency
40 administering such law. The regulations adopted pursuant to
41 paragraph (b) of subsection 2 for the electronic transmission or
42 transmission by a facsimile machine of a prescription for a
43 controlled substance must not be more stringent than federal law
44 governing the electronic transmission or transmission by a facsimile
45 machine of a prescription for a controlled substance or the rules,



1 regulations or orders of any federal agency administering such law;
2 and

3 (b) Be consistent with the provisions of NRS 439.581 to
4 439.595, inclusive, *and section 7 of this act* and the regulations
5 adopted pursuant thereto.

6 **Sec. 12.** NRS 454.223 is hereby amended to read as follows:

7 454.223 1. ~~Except as otherwise provided in subsection 4,~~
8 ~~each~~ *Each* prescription for a dangerous drug must ~~be written on a~~
9 ~~prescription blank or as an order on the chart of a patient. A chart of~~
10 ~~a patient may be used to order multiple prescriptions for that~~
11 ~~patient.]~~ *comply with section 7 of this act and the regulations*
12 *adopted pursuant to subsection 4, if applicable.*

13 2. A written prescription must contain:

14 (a) The name of the practitioner, the signature of the practitioner
15 if the prescription was not transmitted orally and the address of the
16 practitioner if not immediately available to the pharmacist;

17 (b) The classification of his or her license;

18 (c) The name of the patient, and the address of the patient if not
19 immediately available to the pharmacist;

20 (d) The name, strength and quantity of the drug or drugs
21 prescribed;

22 (e) The symptom or purpose for which the drug is prescribed, if
23 included by the practitioner pursuant to NRS 639.2352;

24 (f) Directions for use; and

25 (g) The date of issue.

26 3. Directions for use must be specific in that they must indicate
27 the portion of the body to which the medication is to be applied, or,
28 if to be taken into the body by means other than orally, the orifice or
29 canal of the body into which the medication is to be inserted
30 or injected.

31 4. The Board shall adopt regulations concerning the electronic
32 transmission of a prescription for a dangerous drug, which must be
33 consistent with federal law and the provisions of NRS 439.581 to
34 439.595, inclusive, *and section 7 of this act* and the regulations
35 adopted pursuant thereto.

36 **Sec. 13.** This act becomes effective:

37 1. Upon passage and approval for the purpose of adopting any
38 regulations and performing any other preparatory administrative
39 tasks necessary to carry out the provisions of this act; and

40 2. On January 1, 2020, for all other purposes.

