

Assembly Bill No. 107–Committee
on Commerce and Labor

CHAPTER.....

AN ACT relating to pharmacy; requiring a pharmacist who is employed by an off-site pharmaceutical service provider and provides certain services to a hospital or correctional institution in this State to be registered to practice pharmacy in this State; revising provisions governing certain pharmacies located outside this State; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the State Board of Pharmacy to adopt regulations governing the practice of pharmacy in this State. (NRS 639.070) Existing regulations require a pharmacist who is employed by an off-site pharmaceutical service provider to provide remote chart order processing services to a hospital or correctional institution in this State to be registered to practice in this State. (NAC 639.4916) **Section 1** of this bill: (1) codifies that requirement in statute; and (2) requires an off-site pharmaceutical service provider to ensure compliance with that requirement.

Existing law requires any pharmacy located outside this State to be licensed by the Board if that pharmacy provides mail order or Internet service to or solicits or advertises for orders for drugs available with a prescription from a resident of this State. (NRS 639.23279, 639.2328) Existing law requires such a pharmacy to submit to inspection by the Board and provide to the Board certain information concerning each prescription for a drug that is shipped, mailed or delivered to a resident of this State. Existing law additionally prohibits certain Canadian pharmacies that provide mail order service to a resident of this State from selling, distributing or furnishing to a resident of this State a controlled substance, a prescription drug that is not currently approved by the federal Food and Drug Administration or more than a 3-month supply of any drug at one time. (NRS 639.23284) Existing law also: (1) authorizes a pharmacy located outside this State that provides mail order service to a resident of this State to substitute drugs in accordance with the applicable laws and regulations of the jurisdiction where the pharmacy is located; and (2) requires such a pharmacy to provide a toll-free telephone service for its customers to a pharmacist who has access to the records of the customers from Nevada. (NRS 639.23286) **Sections 3-7** of this bill revise those provisions to apply to a pharmacy outside this State that dispenses prescriptions to patients located in this State, thereby removing the applicability of those provisions to a pharmacy that solicits, advertises or offers to sell drugs in this State but does not dispense prescriptions to patients located in this State. **Section 4** of this bill also requires a pharmacy located outside this State that dispenses prescriptions to patients located in this State, as part of its application for the issuance or renewal of a license, to provide to the Board the name of at least one pharmacist registered in this State who practices at the pharmacy and who will be responsible for: (1) any prescription dispensed to a patient in this State; and (2) any act or omission of pharmacy personnel who are not registered with the Board. **Sections 2, 8 and 9** of this bill make conforming changes to ensure the consistency of language used to refer to pharmacies located outside Nevada that dispense prescriptions to patients located in Nevada.



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

Section 1. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A pharmacist who is employed by an off-site pharmaceutical service provider to provide remote chart order processing services to a hospital or correctional institution must be registered to practice pharmacy in this State.

2. An off-site pharmaceutical service provider shall ensure that any remote chart order processing services that are provided to a hospital or correctional institution in this State are provided by a pharmacist who complies with the requirements of subsection 1.

3. As used in this section:

(a) “Chart order processing services” means nondispensary pharmaceutical services that are provided by a pharmacy to a hospital or correctional institution, including, without limitation:

(1) Receiving, interpreting and clarifying a chart order received from a hospital or correctional institution;

(2) Entering information regarding a chart order into the computerized data system of a hospital or correctional institution;

(3) Interpreting clinical data regarding a patient of a hospital or correctional institution;

(4) Performing therapeutic interventions regarding a patient of a hospital or correctional institution;

(5) Providing information to the appropriate staff of a hospital or correctional institution regarding a chart order submitted by the hospital or correctional institution; and

(6) Providing information regarding the treatment of a patient of a hospital or correctional institution.

(b) “Correctional institution” means any penal facility used for confinement of persons or any facility used for detention of juveniles, which is operated by or under the supervision of a subdivision of the State. The term includes a jail.

(c) “Off-site pharmaceutical service provider” means a pharmacy that provides remote chart order processing services to a hospital or correctional institution that is owned by the same entity as the pharmacy or with which the pharmacy has contracted to provide remote chart order processing services.



(d) “Remote chart order processing services” means chart order processing services provided by an off-site pharmaceutical service provider to a hospital or correctional institution, including, without limitation, transferring information regarding a chart order from the off-site pharmaceutical service provider to members of the staff of the hospital or correctional institution that submitted the chart order.

Sec. 2. NRS 639.230 is hereby amended to read as follows:

639.230 1. A person operating a business in this State shall not use the word “drug” or “drugs,” “prescription” or “pharmacy,” or similar words or words of similar import, without first having secured a license from the Board. A person operating a business in this State which is not otherwise subject to the provisions of this chapter shall not use the letters “Rx” or “RX” without the approval of the Board. The Board may deny approval of the use of the letters “Rx” or “RX” by any person if the Board determines that:

(a) The person is subject to the provisions of this chapter but has not secured a license from the Board; or

(b) The use of the letters “Rx” or “RX” by the person is confusing or misleading to or threatens the health or safety of the residents of this State.

2. Each license must be issued to a specific person and for a specific location and is not transferable. The original license must be displayed on the licensed premises as provided in NRS 639.150. The original license and the fee required for reissuance of a license must be submitted to the Board before the reissuance of the license.

3. If the owner of a pharmacy is a partnership or corporation, any change of partners or corporate officers must be reported to the Board at such a time as is required by a regulation of the Board.

4. Except as otherwise provided in subsection 6, in addition to the requirements for renewal set forth in NRS 639.180, every person holding a license to operate a pharmacy must satisfy the Board that the pharmacy is conducted according to law.

5. Any violation of any of the provisions of this chapter by a managing pharmacist or by personnel of the pharmacy under the supervision of the managing pharmacist is cause for the suspension or revocation of the license of the pharmacy by the Board.

6. The provisions of this section do not prohibit:

(a) A Canadian pharmacy which is licensed by the Board and which has been recommended by the Board pursuant to subsection 4 of NRS 639.2328 for inclusion on the Internet website established and maintained pursuant to paragraph (i) of subsection 1 of NRS 232.459 from ~~providing prescription drugs through mail order~~



~~service to residents of~~ *dispensing prescriptions to patients located in* Nevada in the manner set forth in NRS 639.2328 to 639.23286, inclusive; or

(b) A registered pharmacist or practitioner from collaborating in a collaborative practice agreement.

Sec. 3. NRS 639.23279 is hereby amended to read as follows:

639.23279 For the purposes of NRS 639.23279 to 639.23286, inclusive, a “pharmacy located outside Nevada that ~~provides mail order service~~ *dispenses prescriptions* to ~~a resident of~~ *patients located in* Nevada” includes any person who sells ~~for offers to sell~~ drugs to persons in this State via the Internet.

Sec. 4. NRS 639.2328 is hereby amended to read as follows:

639.2328 1. Every pharmacy located outside Nevada that ~~provides mail order service~~ *dispenses prescriptions* to ~~for solicits or advertises for orders for drugs available with a prescription from a resident of~~ *patients located in* Nevada must be licensed by the Board.

2. To be licensed or to renew a license, such a pharmacy must:

(a) Be licensed as a pharmacy, or the equivalent, by the state or country in which its dispensing facilities are located.

(b) Comply with all applicable federal laws, regulations and standards.

(c) Submit an application in the form furnished by the Board.

(d) Provide the following information to the Board:

(1) The name and address of the owner;

(2) The location of the pharmacy;

(3) The name of the *registered* pharmacist who is the managing pharmacist; ~~and~~

(4) *The name of at least one registered pharmacist who practices at the pharmacy, who may be the managing pharmacist or another pharmacist, who will be responsible for any prescription dispensed to a patient located in Nevada and responsible for any acts or omissions of pharmacy personnel who are not registered with the Board; and*

(5) Any other information the Board deems necessary.

(e) Pay the fee required by regulation of the Board.

(f) Submit evidence satisfactory to the Board that the facility, records and operation of the pharmacy comply with the laws and regulations of the state or country in which the pharmacy is located.

(g) Submit certification satisfactory to the Board that the pharmacy complies with all lawful requests and directions from the regulatory board or licensing authority of the state or country in



which the pharmacy is located relating to the shipment, mailing or delivery of drugs.

(h) Be certified by the Board pursuant to NRS 639.23288 if the pharmacy operates an Internet pharmacy.

3. In addition to the requirements of subsection 2, the Board may require such a pharmacy to be inspected by the Board.

4. The Board shall notify the Office for Consumer Health Assistance of the Department of Health and Human Services each time the Board licenses a Canadian pharmacy pursuant to this section and recommend that the Office for Consumer Health Assistance include each such pharmacy on the Internet website established and maintained pursuant to paragraph (i) of subsection 1 of NRS 232.459.

Sec. 5. NRS 639.23282 is hereby amended to read as follows:

639.23282 Before issuing a license to a pharmacy located outside Nevada that ~~provides mail order service~~ *dispenses prescriptions* to ~~a resident of~~ *patients located in* Nevada, the Board shall consider:

1. The qualifications and credentials of the applicant; and
2. Any suspension or revocation of a license or restriction on a license held by the applicant.

Sec. 6. NRS 639.23284 is hereby amended to read as follows:

639.23284 1. Every pharmacy located outside Nevada that ~~provides mail order service~~ *dispenses prescriptions* to ~~a resident of~~ *patients located in* Nevada:

(a) Shall report to the Board any change of information that appears on its license and pay the fee required by regulation of the Board.

(b) Shall make available for inspection all pertinent records, reports, documents or other material or information required by the Board.

(c) As required by the Board, must be inspected by the Board or:

- (1) The regulatory board or licensing authority of the state or country in which the pharmacy is located; or
- (2) The Drug Enforcement Administration.

(d) As required by the Board, shall provide the following information concerning each prescription for a drug that is shipped, mailed or delivered to a ~~resident of~~ *patient located in* Nevada:

- (1) The name of the patient;
- (2) The name of the prescriber;
- (3) The number of the prescription;
- (4) The date of the prescription;
- (5) The name of the drug;



(6) The symptom or purpose for which the drug is prescribed, if requested by the patient pursuant to NRS 639.2352; and

(7) The strength and quantity of the dose.

2. In addition to complying with the requirements of subsection 1, every Canadian pharmacy which is licensed by the Board and which has been recommended by the Board pursuant to subsection 4 of NRS 639.2328 for inclusion on the Internet website established and maintained pursuant to paragraph (i) of subsection 1 of NRS 232.459 that ~~[provides mail-order service]~~ *dispenses prescriptions* to a ~~[resident of]~~ *patient located in* Nevada shall not sell, distribute or furnish to a ~~[resident of]~~ *patient located in* this State:

(a) A controlled substance;

(b) A prescription drug that has not been approved by the federal Food and Drug Administration;

(c) A generic prescription drug that has not been approved by the federal Food and Drug Administration;

(d) A prescription drug for which the federal Food and Drug Administration has withdrawn or suspended its approval; or

(e) A quantity of prescription drugs at one time that includes more drugs than are prescribed to the patient as a 3-month supply of the drugs.

Sec. 7. NRS 639.23286 is hereby amended to read as follows:

639.23286 A pharmacy located outside Nevada that ~~[provides mail-order service]~~ *dispenses prescriptions* to ~~[a resident of]~~ *patients located in* Nevada:

1. May substitute a drug if the substitution is made in accordance with the provisions of the laws and regulations of the state or country in which the pharmacy is located.

2. Shall provide a toll-free telephone service for its customers to a pharmacist who has access to the records of the customers from Nevada. The telephone service must be available for not less than 5 days per week and for at least 40 hours per week. The telephone number must be disclosed on the label attached to each container of drugs dispensed to a ~~[resident of]~~ *patient located in* Nevada.

Sec. 8. NRS 639.2583 is hereby amended to read as follows:

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

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



- (1) Is less expensive than the drug prescribed by brand name;
- (2) Is biologically equivalent to the drug prescribed by brand name;
- (3) Has the same active ingredient or ingredients of the same strength, quantity and form of dosage as the drug prescribed by brand name; and
- (4) Is of the same generic type as the drug prescribed by brand name.

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

- (1) Is an interchangeable biological product for the biological product prescribed; and
- (2) Is less expensive than the biological product prescribed by brand name.

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

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

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

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

4. If a person refuses to accept the drug or biological product that the pharmacist intends to dispense in substitution, the pharmacist shall dispense the drug prescribed by brand name or biological product prescribed, unless the pharmacist is being paid for the drug or biological product by a governmental agency, in which case the pharmacist shall dispense the drug or biological product in substitution.

5. A pharmacist shall not dispense a drug or biological product in substitution for a drug prescribed by brand name or biological



product prescribed if the practitioner has indicated that a substitution is prohibited using one or more of the following methods:

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

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

(c) By including the words "Dispense as Written" in any prescription that is given to the pharmacist by electronic transmission pursuant to NRS 639.23535 and the regulations of the Board or in accordance with NRS 439.581 to 439.595, inclusive, and the regulations adopted pursuant thereto, including, without limitation, an electronic transmission from a computer equipped with a facsimile modem to a facsimile machine or from a computer to another computer pursuant to the regulations of the Board.

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

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

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

(b) A prescription drug that is dispensed to any person by mail order or other common carrier by an Internet pharmacy which is certified by the Board pursuant to NRS 639.23288 and authorized to ~~provide service by mail order or other common carrier~~ *dispense prescriptions to patients located in Nevada* pursuant to the provisions of this chapter; or

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

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

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



Sec. 9. NRS 453.3639 is hereby amended to read as follows:

453.3639 1. Except as otherwise provided in subsection 3, a person who is located within or outside this State shall not, via the Internet, fill or refill a prescription drug if:

- (a) The person has reasonable cause to believe that the prescription is being filled or refilled for a person in this State; and
- (b) The prescription drug has not been lawfully imported into the United States.

2. Except as otherwise provided in subsection 3, a person who is located within or outside this State shall not, via the Internet, fill or refill a prescription drug if:

- (a) The person has reasonable cause to believe that the prescription is being filled or refilled for a person in this State; and
- (b) The prescription was not delivered to the person in accordance with all applicable state and federal laws, regulations and standards.

3. The provisions of this section do not prohibit a Canadian pharmacy which is licensed by the Board and which has been recommended by the Board pursuant to subsection 4 of NRS 639.2328 for inclusion on the Internet website established and maintained pursuant to paragraph (i) of subsection 1 of NRS 232.459 from ~~providing prescription drugs through mail order service to residents of~~ *dispensing prescriptions to patients located in* Nevada in the manner set forth in NRS 639.2328 to 639.23286, inclusive.

4. A person shall not knowingly aid another person in any act or transaction that violates any provision of this section.

5. Except as otherwise provided in subsection 6, a person who violates any provision of this section is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. A person who violates any provision of this section is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$100,000, if the substance or drug involved:

- (a) Is classified in schedule I; or
- (b) Proximately causes substantial bodily harm to or the death of the intended recipient of the substance or drug or any other person.

7. The court shall not grant probation to or suspend the sentence of a person punished pursuant to subsection 6.

8. A person may be prosecuted, convicted and punished for a violation of this section whether or not the person is prosecuted,



convicted or punished for violating any other specific statute based upon the same act or transaction.

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