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Health and Welfare; pharmacists—prescriptions and purchasing

NEV. REV. STAT. §§ 453.740, 453.750, 453.760, 453.770, 453.780, 453.790, 453.800, 453.810 (repealed); §§ 453.____, 639.____ (new); §§ 453.085, 453.141, 453.251, 453.331, 453.510, 454.001, 454.007, 454.213, 454.279, 454.286, 639.001, 639.050, 639.2351, 639.2445, 639.247 (amended).

AB 695 (Committee on Commerce); 1987 STAT. Ch 417

SB 256 (Committee on Human Resources and Facilities); 1987 STAT. Ch 447

Existing law permits the State Board of Pharmacy¹ (Board) to order a certificate² holder to submit to a physical or psychiatric examination if the Board determines the holder to be incompetent to practice pharmacy by reason of a physical or mental injury, illness or disability, or chronic or excessive use of alcohol or drugs.³ The Board must order an immediate suspension of the holder's right to practice pharmacy if they determine that the holder is not competent to practice.⁴ With the enactment of Chapter 417, the Board may place a certificate holder who is not competent to practice by reason of excessive drug or alcohol use on probation if the holder voluntarily enters and completes a program of treatment.⁵ In addition, Chapter 417 provides that the Board or other person who initiates or assists, without malicious intent, in any lawful investigation or administrative proceeding⁶ concerning the discipline of a pharmacist is immune from any civil liability.⁷

1. See NEV. REV. STAT. § 639.002 (definition of State Board of Pharmacy).

2. See *id.* § 639.003 (certificate means a certificate of registration as a pharmacist).

3. *Id.* § 639.2445 1 (amended by 1987 Nev. Stat. ch. 417, sec. 7, at ___) (the Board must pay for the examination). The Board must conduct a hearing after receiving the findings of the examining physician or psychiatrist to determine whether the certificate holder is competent. *Id.* § 639.2445 3 (amended by 1987 Nev. Stat. ch. 417, sec. 7, at ___). Any hearing to suspend or revoke a certificate, certification, license, or permit must be recorded by (1) an official court reporter, (2) any other qualified person, or (3) an electronic recording device. 1987 Nev. Stat. ch. 417, sec. 8, at ___ (amending NEV. REV. STAT. § 639.247 1).

4. NEV. REV. STAT. § 639.2445 3 (amended by 1987 Nev. Stat. ch. 417, sec. 7, at ___).

5. 1987 Nev. Stat. ch. 417, sec. 7, at ___ (enacting NEV. REV. STAT. § 639.2445 4) (the Board must approve the treatment program and the holder must comply with any other conditions).

6. See NEV. REV. STAT. § 639.241 (administrative proceeding is initiated by the filing of an accusation by the Board).

7. 1987 Nev. Stat. ch. 417, sec. 3, at ___ (enacting NEV. REV. STAT. § 639.____).

Existing law permits a hospital⁸ pharmacy⁹ or a designated pharmacy¹⁰ to sell a controlled substance¹¹ to the holder of a permit authorizing the operation of an ambulance, air ambulance, or vehicle of a firefighting agency at the scene of an accident.¹² The hospital pharmacy or designated pharmacy may sell controlled substances to replenish the stock of an ambulance or other authorized vehicle if certain requirements are met.¹³ Chapter 417 permits a controlled substance to be sold in this situation by an oral order of the permit holder.¹⁴ Chapter 417 also allows a practitioner to purchase controlled substances from a pharmacy by an oral order or by an oral or written order transmitted through their agent.¹⁵ Under prior law a practitioner could only purchase supplies of poisons,¹⁶ dangerous drugs,¹⁷ and devices from a pharmacy by presenting a signed written order.¹⁸ Additionally, a hospital pharmacy or a designated pharmacy could sell to the permit holder dangerous drugs to stock or replenish the stock of an ambulance or other authorized vehicle if: (1) The purchase order was countersigned by a physician; and (2) the intermediate or advanced emergency medical technician, or registered nurse in charge of the controlled substances and dangerous drugs was appropriately certified or licensed.¹⁹ Chapter 447 provides that

8. Hospital means any facility which is licensed by the Department of Human Resources as a hospital and which provides care and treatment for human illness or other abnormal physical or mental conditions on an inpatient basis, including any such facility operated by the state or a political subdivision. 1987 Nev. Stat. ch. 417, sec. 9, at ___(amending NEV. REV. STAT. § 453.085).

9. See NEV. REV. STAT. § 453.117 (definition of pharmacy).

10. The district health officer is authorized to designate which pharmacies may sell controlled substances to permit holders. NEV. REV. STAT. § 453.510 2 (amended by 1987 Nev. Stat. ch. 417, sec. 13, at ___).

11. See NEV. REV. STAT. § 453.041 (definition of controlled substance); NEV. ADMIN. CODE ch. 453, §§ .510, .520, .530, .540, .550 (1987) (schedules of controlled substances).

12. *Id.* § 453.510 2 (amended by 1987 Nev. Stat. ch. 417, sec. 13, at ___). See *id.* §§ 450B.200, 450B.210 (permit and provisional permit requirements for ambulances and vehicles of firefighting agencies).

13. NEV. REV. STAT. § 453.510 2 (amended by 1987 Nev. Stat. ch. 417, sec. 13, at ___) (the purchase order must be countersigned by a physician, and the advanced emergency medical technician or registered nurse in charge of the controlled substances must be appropriately certified or licensed).

14. *Id.* sec. 13, at ___ (amending NEV. REV. STAT. § 453.510 2(b)) (controlled substances from schedule II cannot be purchased by making an oral order). See NEV. REV. STAT. § 453.176 (provides tests to determine if a substance should be categorized as schedule II).

15. *Id.* sec. 13, at ___ (amending NEV. REV. STAT. § 453.510 1) (controlled substances from schedule II listed in Nevada Administrative Code chapter 453 cannot be purchased by making an oral order).

16. See NEV. REV. STAT. § 454.010 (definition of poison).

17. See *id.* § 454.201 (definition of dangerous drug).

18. 1985 Nev. Stat. ch. 558, sec. 23, at 1701-02 (amending NEV. REV. STAT. § 454.279).

19. *Id.*

poisons, dangerous drugs and devices may be purchased from a pharmacy by a practitioner or the holder of a permit.²⁰ Under Chapter 447 the pharmacy or hospital pharmacy selling these supplies must maintain a record of each sale which contains: (1) The date of sale; (2) the name, address, and signature of the purchaser or the person receiving the delivery; (3) the name of the dispensing pharmacist; (4) the name and address of the authorizing practitioner; and (5) the name, strength and quantity of each drug sold.²¹

Existing law allows the following people to possess and administer drugs or medicines: (1) A practitioner; (2) a registered nurse; (3) a physician's assistant; (4) an advanced emergency medical technician; (5) a respiratory therapist; (6) a medical student or student nurse; (7) a medical intern; or (8) any person designated by the head of a correctional institution.²² Chapter 417 also allows ultimate users²³ to possess and administer a controlled substance.²⁴

Prior law established a program to research the therapeutic effects of marihuana when administered to persons suffering from cancer and undergoing chemotherapy, or any other class of persons the state board of health determines would benefit from the program.²⁵ Certified physicians and pharmacists were authorized to prescribe and fill prescriptions for marihuana.²⁶ With the enactment of Chapter 417, this program and all references to applicable code sections are repealed.²⁷

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20. 1987 Nev. Stat. ch. 447, sec. 1, at ___ (amending NEV. REV. STAT. § 454.279 1, 2).

21. *Id.* sec. 1, at ___ (enacting NEV. REV. STAT. § 454.279).

22. NEV. REV. STAT. § 454.213 (amended by 1987 Nev. Stat. ch. 417, sec. 17, at ___) (drugs and medicines referred to in Nevada Revised Statutes sections 454.181 to 454.371).

23. Ultimate user means a person who lawfully possesses a controlled substance for his own use, the use of a member of his household, the use of any person for whom he is caring, or for administering to any animal owned by him or by a member of his household. 1987 Nev. Stat. ch. 417, sec. 10, at ___ (amending NEV. REV. STAT. § 453.141).

24. 1987 Nev. Stat. ch. 417, sec. 17, at ___ (enacting NEV. REV. STAT. § 454.213 10).

25. 1979 Nev. Stat. ch. 610, at 1316-18.

26. *Id.*

27. 1987 Nev. Stat. ch. 417, sec. 19, at ___ (repealing NEV. REV. STAT. §§ 453.740, 453.750, 453.760, 453.770, 453.780, 453.790, 453.800, 453.810); *see id.* sec. 11, at ___ (amending NEV. REV. STAT. § 453.251); *id.* sec. 12, at ___ (amending NEV. REV. STAT. § 453.331).