SENATE BILL NO. 187–SENATORS PICKARD, HARDY, HAMMOND, OHRENSCHALL; DENIS, GOICOECHEA, D. HARRIS AND SETTELMEYER

FEBRUARY 18, 2019

JOINT SPONSORS: ASSEMBLYMEN TITUS; AND ROBERTS

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing prescriptions for controlled substances by a dentist, optometrist or physician for the treatment of pain. (BDR 54-39)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 prescription drugs; revising requirements concerning the issuance of certain prescriptions for a controlled substance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a practitioner, other than a veterinarian, to obtain and review a medical history of a patient and perform an evaluation and risk assessment of the patient before issuing an initial prescription to the patient for a controlled substance listed in schedule II, III or IV for the treatment of pain. (NRS 639.23911) **Section 2** of this bill requires a practitioner to perform these actions in a manner that is within the scope of practice of the practitioner and to the extent deemed appropriate by the practitioner.

Existing law requires a practitioner, before issuing an initial prescription for certain controlled substances and at least once every 90 days thereafter, to obtain and review a patient utilization report from the computerized program established to track prescriptions for controlled substances. (NRS 639.23507) **Section 2** includes this review of a patient utilization report in the required evaluation and risk assessment.

Existing law requires an evaluation and risk assessment to include a physical examination and a good faith effort to obtain and review the medical records of the patient from any other provider of health care who has provided care to the patient. (NRS 639.23912) If the prescription is for the treatment of acute pain for less than 7 days, **section 2** authorizes a dentist or optometrist to forego the review of medical

records. If the prescription is for less than 14 days, **section 2** similarly authorizes a physician to forego the review of medical records. **Section 2** also authorizes a physician to renew such a prescription without conducting a full physical examination or a review of medical records if the physician determines the renewal is medically appropriate. **Section 2** additionally provides that a practitioner is only required to make a good faith effort to obtain and review the medical records of the patient from a provider of health care who has a similar scope of practice to the practitioner. **Section 1** of this bill makes conforming changes.

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

Section 1. NRS 639.23911 is hereby amended to read as follows:

639.23911 1. Before issuing an initial prescription for a controlled substance listed in schedule II, III or IV for the treatment of pain, a practitioner, other than a veterinarian, must:

(a) Have established a bona fide relationship, as described in subsection 4 of NRS 639.235, with the patient;

(b) Perform an evaluation and risk assessment of the patient that meets the requirements of ~~[subsection 1 of]~~ NRS 639.23912;

(c) Establish a preliminary diagnosis of the patient and a treatment plan tailored toward treating the pain of the patient and the cause of that pain;

(d) Document in the medical record of the patient the reasons for prescribing the controlled substance instead of an alternative treatment that does not require the use of a controlled substance; and

(e) Obtain informed written consent to the use of the controlled substance that meets the requirements of subsection ~~[2]~~ ***4*** of NRS 639.23912 from:

(1) The patient, if the patient is 18 years of age or older or legally emancipated and has the capacity to give such consent;

(2) The parent or guardian of a patient who is less than 18 years of age and not legally emancipated; or

(3) The legal guardian of a patient of any age who has been adjudicated mentally incapacitated.

2. If a practitioner, other than a veterinarian, prescribes a controlled substance listed in schedule II, III or IV for the treatment of pain, the practitioner shall not issue more than one additional prescription that increases the dose of the controlled substance unless the practitioner meets with the patient, in person or using telehealth, to reevaluate the treatment plan established pursuant to paragraph (c) of subsection 1.

Sec. 2. NRS 639.23912 is hereby amended to read as follows:

639.23912 1. ~~[An]~~ ***Except as otherwise provided in subsections 2 and 3, an*** evaluation and risk assessment of a patient

conducted pursuant to paragraph (b) of subsection 1 of NRS 639.23911 must include, without limitation:

(a) Obtaining and reviewing a medical history of the patient ~~[.]~~ ***in a manner that is within the scope of practice of the practitioner and to the extent deemed appropriate by the practitioner.***

(b) Conducting a physical examination of the patient ~~[.]~~ ***in a manner that is within the scope of practice of the practitioner and to the extent deemed appropriate by the practitioner.***

(c) Making a good faith effort to obtain and review the medical records of the patient from any other provider of health care who has ***a similar scope of practice to the scope of practice of the practitioner and has*** provided care to the patient. The practitioner shall document efforts to obtain such medical records and the conclusions from reviewing any such medical records in the medical record of the patient.

(d) Assessing the mental health and risk of abuse, dependency and addiction of the patient using methods supported by peer-reviewed scientific research and validated by a nationally recognized organization.

(e) Complying with the requirements of NRS 639.23507.

2. ***A dentist or optometrist who conducts an evaluation and risk assessment of a patient pursuant to paragraph (b) of subsection 1 of NRS 639.23911 for a prescription for a controlled substance listed in schedule II, III or IV for the treatment of acute pain which is for less than 7 days is not required to comply with the provisions of paragraph (c) of subsection 1.***

3. A physician who conducts an evaluation and risk assessment of a patient pursuant to paragraph (b) of subsection 1 of NRS 639.23911 for a prescription for a controlled substance listed in schedule II, III or IV for the treatment of pain which is for less than 14 days is not required to comply with the provisions of paragraph (c) of subsection 1. A physician may renew a prescription issued pursuant to this subsection for any length of time if the physician determines that the renewal is medically appropriate and complies with the requirements of NRS 639.23913 and 639.23914, to the extent appropriate.

4. The informed written consent obtained pursuant to paragraph (e) of subsection 1 of NRS 639.23911 must include, without limitation, information concerning:

(a) The potential risks and benefits of treatment using the controlled substance, including if a form of the controlled substance that is designed to deter abuse is available, the risks and benefits of using that form;

(b) Proper use of the controlled substance;

(c) Any alternative means of treating the symptoms of the patient and the cause of such symptoms;

(d) The important provisions of the treatment plan established for the patient pursuant to paragraph (c) of subsection 1 of NRS 639.23911 in a clear and simple manner;

(e) The risks of dependency, addiction and overdose during treatment using the controlled substance;

(f) Methods to safely store and legally dispose of the controlled substance;

(g) The manner in which the practitioner will address requests for refills of the prescription, including, without limitation, an explanation of the provisions of NRS 639.23913, if applicable;

(h) If the patient is a woman between 15 and 45 years of age, the risk to a fetus of chronic exposure to controlled substances during pregnancy, including, without limitation, the risks of fetal dependency on the controlled substance and neonatal abstinence syndrome;

(i) If the controlled substance is an opioid, the availability of an opioid antagonist, as defined in NRS 453C.040, without a prescription; and

(j) If the patient is an unemancipated minor, the risks that the minor will abuse or misuse the controlled substance or divert the controlled substance for use by another person and ways to detect such abuse, misuse or diversion.

Sec. 3. This act becomes effective on July 1, 2019.

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