ASSEMBLY BILL NO. 164–ASSEMBLYMEN FLORES; CONSIDINE, DURAN, GONZÁLEZ, GORELOW, MARZOLA AND TORRES

FEBRUARY 22, 2021

Referred to Committee on Health and Human Services

SUMMARY—Establishes provisions relating to the dispensing of certain contraceptives. (BDR 40-239)

FISCAL NOTE: Effect on Local Government: No.
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 health care; requiring the Chief Medical Officer to issue a standing order authorizing a pharmacist to dispense a self-administered hormonal contraceptive to any patient; prohibiting certain providers of health care from requiring a screening for cervical cancer more frequently than recommended to receive a prescription for a self-administered hormonal contraceptive; authorizing a pharmacist to dispense a self-administered hormonal contraceptive to any patient; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a pharmacist to dispense up to a 12-month supply or an amount equivalent to the balance of the plan year if the patient is covered by a health care plan, whichever is less, of a contraceptive or its therapeutic equivalent pursuant to a valid prescription or order if certain conditions are met. (NRS 639.28075) **Section 1** of this bill requires: (1) the Chief Medical Officer or his or her designee to issue a standing order to allow a pharmacist to dispense a self-administered hormonal contraceptive to any patient; and (2) the State Board of Health, in consultation with the Chief Medical Officer, to prescribe by regulation a protocol for dispensing a self-administered hormonal contraceptive. **Section 7** of this bill authorizes a pharmacist to dispense a self-administered hormonal contraceptive under the standing order and establishes the procedures the pharmacist must follow to dispense such a contraceptive. **Section 7** requires a pharmacist to: (1) successfully complete a program of training on dispensing such contraceptives; (2) provide a risk assessment questionnaire prescribed by the State Board of Health pursuant to **section 1** upon the request of the patient before the pharmacist dispenses the self-administered hormonal contraceptive; (3) create a record of the dispensing of the self-administered hormonal contraceptive; (4)

provide the patient with a written record of the self-administered hormonal contraceptive dispensed and certain additional information; and (5) comply with the regulations adopted pursuant to **section 1** and any guidelines recommended by the manufacturer. **Section 7** additionally requires a pharmacist to provide a patient with a written record of a request for a self-administered hormonal contraceptive, regardless of whether the contraceptive is dispensed. **Sections 1 and 7** require the State Board of Pharmacy and the Division of Public and Behavioral Health of the Department of Health and Human Services to post on an Internet website a list of pharmacies that dispense self-administered hormonal contraceptives under the standing order.

Existing law defines the term "practice of pharmacy" for the purpose of determining which activities require a person to be registered and regulated by the State Board of Pharmacy as a pharmacist. (NRS 639.0124) **Section 9** of this bill provides that the practice of pharmacy includes the dispensing of self-administered hormonal contraceptives by a pharmacist in accordance with **section 7** and, thus, requires persons engaged in the dispensing of such contraceptives to be registered and regulated as pharmacists.

Existing law sets forth the procedures for renewing a certificate as a registered pharmacist. (NRS 639.180) Existing law further requires an applicant for the renewal of his or her certificate as a registered pharmacist to submit proof of the completion of a certain number of continuing education units. (NRS 639.2174) **Sections 10 and 12** of this bill require a pharmacist who dispenses self-administered hormonal contraceptives in accordance with **section 7** to successfully complete, once every 3 years, a program of training related to dispensing self-administered hormonal contraceptives before his or her registration as a pharmacist may be renewed.

Existing law authorizes the State Board of Pharmacy to suspend or revoke any certificate to practice as a registered pharmacist if the holder of or applicant for such a certificate commits certain acts. (NRS 639.210) **Section 11** of this bill authorizes the Board to suspend or revoke any certificate to practice as a registered pharmacist if the holder or applicant has dispensed self-administered hormonal contraceptives under the standing order issued pursuant to **section 1** without complying with the provisions of **section 7**.

Sections 2-4 of this bill prohibit certain providers of health care from requiring a screening for cervical cancer more often than recommended by the American College of Obstetricians and Gynecologists to receive a prescription for a self-administered hormonal contraceptive.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Chief Medical Officer or his or her designee shall issue a standing order to allow a pharmacist to dispense a self-administered hormonal contraceptive to any patient pursuant to section 7 of this act.

2. In consultation with the Chief Medical Officer, the State Board of Health shall prescribe by regulation a protocol for dispensing a self-administered hormonal contraceptive. The protocol must include, without limitation:

(a) Requirements concerning the information that must be included in a record of the dispensing of the self-administered hormonal contraceptive in addition to the information required by section 7 of this act; and

(b) The amount of time that such a record must be maintained by the dispensing pharmacist or his or her employer.

3. In consultation with the State Board of Pharmacy, the State Board of Health shall adopt regulations that prescribe:

(a) A risk assessment questionnaire that may be administered upon request to a patient who requests a self-administered hormonal contraceptive pursuant to section 7 of this act.

(b) Information that must be provided in writing to a patient to whom a self-administered hormonal contraceptive is dispensed pursuant to section 7 of this act, which may include, without limitation, information concerning:

(1) The importance of obtaining recommended tests and screening from a primary care provider or qualified provider of health care who specializes in women's health;

(2) The effectiveness of long-acting reversible contraceptives as an alternative to self-administered hormonal contraceptives;

(3) When to seek emergency medical services as a result of administering a self-administered hormonal contraceptive; and

(4) The risk of contracting a sexually transmitted infection and ways to reduce that risk.

4. The Division shall provide on an Internet website maintained by the Division an electronic link to the list of pharmacies maintained by the State Board of Pharmacy pursuant to section 7 of this act.

5. As used in this section:

(a) "Primary care provider" has the meaning ascribed to it in section 7 of this act.

(b) "Provider of health care" has the meaning ascribed to it in NRS 629.031.

(c) "Self-administered hormonal contraceptive" has the meaning ascribed to it in section 6 of this act.

Sec. 2. Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A physician or physician assistant shall not require a patient to undergo a screening for cervical cancer more frequently than recommended in the guidelines prescribed by the American College of Obstetricians and Gynecologists, or its successor organization, to receive a prescription for a self-administered hormonal contraceptive.

2. As used in this section, "self-administered hormonal contraceptive" has the meaning ascribed to it in section 6 of this act.

Sec. 3. Chapter 632 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An advanced practice registered nurse shall not require a patient to undergo a screening for cervical cancer more frequently than recommended in the guidelines prescribed by the American College of Obstetricians and Gynecologists, or its successor organization, to receive a prescription for a self-administered hormonal contraceptive.

2. As used in this section, "self-administered hormonal contraceptive" has the meaning ascribed to it in section 6 of this act.

Sec. 4. Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An osteopathic physician or physician assistant shall not require a patient to undergo a screening for cervical cancer more frequently than recommended in the guidelines prescribed by the American College of Obstetricians and Gynecologists, or its successor organization, to receive a prescription for a self-administered hormonal contraceptive.

2. As used in this section, "self-administered hormonal contraceptive" has the meaning ascribed to it in section 6 of this act.

Sec. 5. Chapter 639 of NRS is hereby amended by adding thereto the provisions set forth as sections 6 and 7 of this act.

Sec. 6. ***"Self-administered hormonal contraceptive" means a self-administered contraceptive that utilizes a hormone and is approved for use by the United States Food and Drug Administration to prevent pregnancy. The term includes, without limitation, an oral contraceptive, a vaginal contraceptive ring, a contraceptive patch and any other method of hormonal contraceptive identified by the standing order issued by the Chief Medical Officer or his or her designee pursuant to section 1 of this act.***

Sec. 7. ***1. A pharmacist may dispense a self-administered hormonal contraceptive under the standing order issued pursuant to section 1 of this act to a patient, regardless of whether the patient has obtained a prescription from a practitioner.***

2. Before dispensing a self-administered hormonal contraceptive under the standing order, a pharmacist must successfully complete a program of training related to dispensing self-administered hormonal contraceptives that is:

(a) Accredited by the Accreditation Council for Pharmacy Education or its successor organization; and

(b) Approved by the Board.

3. A pharmacist shall provide the risk assessment questionnaire prescribed by the State Board of Health pursuant to section 1 of this act to a patient who requests the questionnaire before dispensing a self-administered hormonal contraceptive to the patient. If such a questionnaire is provided and the results of the questionnaire indicate that it is unsafe to dispense the self-administered hormonal contraceptive to the patient, the pharmacist:

(a) Must not dispense the self-administered hormonal contraceptive; and

(b) Must refer the patient to a primary care provider or other qualified provider of health care.

4. A pharmacist who dispenses a self-administered hormonal contraceptive under the standing order shall:

(a) Create a record concerning the dispensing of the self-administered hormonal contraceptive which includes, without limitation, the name of the patient to whom the self-administered hormonal contraceptive was dispensed, the type of self-administered hormonal contraceptive dispensed and any other information required by the protocol prescribed pursuant to section 1 of this act. The pharmacist or his or her employer shall maintain the record for the amount of time prescribed in the protocol.

(b) Inform the patient to whom the self-administered hormonal contraceptive is dispensed concerning:

(1) Proper administration and storage of the self-administered hormonal contraceptive;

(2) Potential side effects of the self-administered hormonal contraceptive; and

(3) The need to use other methods of contraception, if appropriate.

(c) Provide to the patient to whom the self-administered hormonal contraceptive is dispensed:

(1) The written record required by subsection 5; and

(2) Any written information required by the regulations adopted pursuant to section 1 of this act.

(d) Comply with the regulations adopted pursuant to section 1 of this act and any guidelines for dispensing the self-administered hormonal contraceptive recommended by the manufacturer.

5. A pharmacist shall provide to any patient who requests a self-administered hormonal contraceptive under the standing order a written record of the request, regardless of whether the

self-administered hormonal contraceptive is dispensed to the patient. The record must include, without limitation:

(a) A copy of the risk assessment questionnaire if completed pursuant to subsection 3; and

(b) A written record of the self-administered hormonal contraceptive requested and any self-administered hormonal contraceptive dispensed.

6. Any pharmacy that wishes to dispense self-administered hormonal contraceptives under the standing order must notify the Board of that fact. The Board shall post on an Internet website maintained by the Board a list of the names, addresses and contact information of pharmacies that provide such notice.

7. As used in this section:

(a) "Primary care provider" means a physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS or advanced practice registered nurse who specializes in primary care, family medicine or internal medicine or obstetrics and gynecology or another provider of health care who provides or has provided care to the patient.

(b) "Provider of health care" has the meaning ascribed to it in NRS 629.031.

Sec. 8. NRS 639.001 is hereby amended to read as follows:

639.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 639.0015 to 639.016, inclusive, ***and section 6 of this act,*** have the meanings ascribed to them in those sections.

Sec. 9. NRS 639.0124 is hereby amended to read as follows:

639.0124 ***1.*** "Practice of pharmacy" includes, but is not limited to, the:

~~[1.]~~ ***(a)*** Performance or supervision of activities associated with manufacturing, compounding, labeling, dispensing and distributing of a drug, including the receipt, handling and storage of prescriptions and other confidential information relating to patients.

~~[2.]~~ ***(b)*** Interpretation and evaluation of prescriptions or orders for medicine.

~~[3.]~~ ***(c)*** Participation in drug evaluation and drug research.

~~[4.]~~ ***(d)*** Advising of the therapeutic value, reaction, drug interaction, hazard and use of a drug.

~~[5.]~~ ***(e)*** Selection of the source, storage and distribution of a drug.

~~[6.]~~ ***(f)*** Maintenance of proper documentation of the source, storage and distribution of a drug.

~~[7.]~~ ***(g)*** Interpretation of clinical data contained in a person's record of medication.

~~[~~8.~~]~~ ***(h)*** Development of written guidelines and protocols in collaboration with a practitioner which are intended for a patient in a licensed medical facility or in a setting that is affiliated with a medical facility where the patient is receiving care and which authorize collaborative drug therapy management. The written guidelines and protocols must comply with NRS 639.2629.

~~[~~9.~~]~~ ***(i)*** Implementation and modification of drug therapy, administering drugs and ordering and performing tests in accordance with a collaborative practice agreement.

(j) Dispensing a self-administered hormonal contraceptive pursuant to section 7 of this act.

~~[~~➥~~]~~

2. The term does not include the changing of a prescription by a pharmacist or practitioner without the consent of the prescribing practitioner, except as otherwise provided in NRS 639.2583 ~~[.]~~ ***and section 7 of this act.***

Sec. 10. NRS 639.180 is hereby amended to read as follows:

639.180 1. Except as otherwise provided in this subsection, a certificate, license or permit issued by the Board pursuant to this chapter expires on October 31 of each even-numbered year. A certificate of registration as a pharmacist expires on October 31 of each odd-numbered year.

2. Except as otherwise provided by NRS 639.137, 639.230 and 639.2328, each person to whom a certificate, license or permit has been issued may, if the certificate, license or permit has not been revoked, renew the certificate, license or permit biennially by:

(a) Filing an application for renewal;

(b) Paying the fee for renewal;

(c) Complying with the requirement of continuing professional education, if applicable;

(d) ***If the person is a pharmacist who dispenses self-administered hormonal contraceptives pursuant to section 7 of this act, submitting proof to the Board that, during the immediately preceding 3 years, the person successfully completed a program of training related to dispensing self-administered hormonal contraceptives that is accredited by the Accreditation Council for Pharmacy Education, or its successor organization, and approved by the Board;***

(e) If applicable, filing with the Board satisfactory evidence that his or her surety bond or other security required by NRS 639.515 is in full force; and

~~[(e)]~~ ***(f)*** Submitting all information required to complete the renewal.

3. The application for renewal, together with the fee for renewal, all required information and the evidence of compliance

with NRS 639.515 must be delivered to the Executive Secretary of the Board on or before the expiration date of the certificate, license or permit, or the current renewal receipt thereof.

4. If a certificate, license or permit is renewed, it must be delivered to the applicant within a reasonable time after receipt of the application for renewal and the fee for renewal.

5. The Board may refuse to renew a certificate, license or permit if the applicant has committed any act proscribed by NRS 639.210.

6. If the application for renewal, the fee for renewal, all required information and the evidence of compliance with NRS 639.515 are not postmarked on or before the expiration date of the certificate, license or permit, or the current renewal receipt thereof, the registration is automatically forfeited.

Sec. 11. NRS 639.210 is hereby amended to read as follows:

639.210 The Board may suspend or revoke any certificate, license, registration or permit issued pursuant to this chapter, and deny the application of any person for a certificate, license, registration or permit, if the holder or applicant:

1. Is not of good moral character;

2. Is guilty of habitual intemperance;

3. Becomes or is intoxicated or under the influence of liquor, any depressant drug or a controlled substance, unless taken pursuant to a lawfully issued prescription, while on duty in any establishment licensed by the Board;

4. Is guilty of unprofessional conduct or conduct contrary to the public interest;

5. Has a substance use disorder;

6. Has been convicted of a violation of any law or regulation of the Federal Government or of this or any other state related to controlled substances, dangerous drugs, drug samples, or the wholesale or retail distribution of drugs;

7. Has been convicted of:

(a) A felony relating to holding a certificate, license, registration or permit pursuant to this chapter;

(b) A felony pursuant to NRS 639.550 or 639.555; or

(c) Other crime involving moral turpitude, dishonesty or corruption;

8. Has been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

9. Has willfully made to the Board or its authorized representative any false statement which is material to the administration or enforcement of any of the provisions of this chapter;

10. Has obtained any certificate, certification, license or permit by the filing of an application, or any record, affidavit or other information in support thereof, which is false or fraudulent;

11. Has violated any provision of the Federal Food, Drug and Cosmetic Act or any other federal law or regulation relating to prescription drugs;

12. Has violated, attempted to violate, assisted or abetted in the violation of or conspired to violate any of the provisions of this chapter or any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy, or has knowingly permitted, allowed, condoned or failed to report a violation of any of the provisions of this chapter or any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy committed by the holder of a certificate, license, registration or permit;

13. Has failed to renew a certificate, license or permit by failing to submit the application for renewal or pay the renewal fee therefor;

14. Has had a certificate, license or permit suspended or revoked in another state on grounds which would cause suspension or revocation of a certificate, license or permit in this State;

15. Has, as a managing pharmacist, violated any provision of law or regulation concerning recordkeeping or inventory in a store over which he or she presides, or has knowingly allowed a violation of any provision of this chapter or other state or federal laws or regulations relating to the practice of pharmacy by personnel of the pharmacy under his or her supervision;

16. Has repeatedly been negligent, which may be evidenced by claims of malpractice settled against him or her;

17. Has failed to maintain and make available to a state or federal officer any records in accordance with the provisions of this chapter or chapter 453 or 454 of NRS;

18. Has failed to file or maintain a bond or other security if required by NRS 639.515; ~~[or]~~

19. ***Has dispensed self-administered hormonal contraceptives under the standing order issued pursuant to section 1 of this act without complying with section 7 of this act; or***

20. Has operated a medical facility, as defined in NRS 449.0151, at any time during which:

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

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

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

Sec. 12. NRS 639.2174 is hereby amended to read as follows:

639.2174 The Board shall not renew the certificate of any registered pharmacist until the applicant has submitted proof to the Board of ~~[the]~~ ***:***

1. The receipt of the required number of continuing education units, obtained through the satisfactory completion of an accredited program of continuing professional education during the period for which the certificate was issued.

2. If the person is a pharmacist who dispenses self-administered hormonal contraceptives pursuant to section 7 of this act, the successful completion within the immediately preceding 3 years of a program of training related to dispensing self-administered hormonal contraceptives that is accredited by the Accreditation Council for Pharmacy Education, or its successor organization, and approved by the Board.

Sec. 13. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 12, inclusive, of this act become effective:

(a) Upon passage and approval for the purposes of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2022, for all other purposes.

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