

SENATE BILL NO. 346—SENATOR HARDY

MARCH 20, 2017

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Clarifies provisions governing the prescribing, dispensing and administering of drugs. (BDR 54-676)

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 the healing arts; clarifying that certain providers of health care do not violate any applicable standard of care by prescribing, dispensing or administering a drug for a purpose that has not been approved by the United States Food and Drug Administration; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law prohibits various providers of health care from knowingly
2 procuring or administering a controlled substance or dangerous drug that is not
3 approved by the United States Food and Drug Administration except in certain
4 limited circumstances. (NRS 630.306, 631.3475, 632.347, 633.511, 635.130,
5 636.295) If the drug has been approved by the Food and Drug Administration for
6 any purpose and certain other conditions are met, this bill clarifies that such persons
7 and certain other professionals do not violate any applicable standard of care by
8 prescribing, dispensing or administering a drug for a purpose that has not been
9 approved by the Food and Drug Administration. This bill also provides that: (1) an
10 insurer or other third party is not required to cover any drug that is prescribed,
11 dispensed or administered for such a purpose; and (2) the third party is not liable in
12 any event for any injury sustained by the patient as a result of using the drug.



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

1 **Section 1.** Chapter 630 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *A person licensed under the provisions of this chapter does*
4 *not violate any applicable standard of care solely because the*
5 *person prescribes, dispenses or administers a drug for a purpose*
6 *that has not been approved by the United States Food and Drug*
7 *Administration if:*

8 (a) *The drug has been approved by the United States Food and*
9 *Drug Administration for any purpose;*

10 (b) *The drug has been proven safe and effective in peer-*
11 *reviewed scientific studies when used for the purpose for which it*
12 *is prescribed, dispensed or administered;*

13 (c) *Use of the drug for the purpose for which it is prescribed,*
14 *dispensed or administered is not prohibited by law; and*

15 (d) *Prescribing, dispensing or administering the drug, as*
16 *applicable, is within the scope of practice of the person.*

17 2. *The provisions of this section shall not be construed to*
18 *require a third party to cover a drug that is prescribed, dispensed or*
19 *administered for a purpose that has not been approved by the*
20 *United States Food and Drug Administration. The third party is*
21 *not liable in any event for any injury sustained by the patient as a*
22 *result of using the drug.*

23 3. *As used in this section, "third party" means:*

24 (a) *An insurer, as defined in NRS 679B.540;*

25 (b) *A health benefit plan, as defined in NRS 689A.540;*

26 (c) *A participating public agency, as defined in NRS*
27 *287.04052, and any other local government agency of this State*
28 *which provides a system of health insurance for the benefit of its*
29 *officers and employees, and the dependents of officers and*
30 *employees, pursuant to chapter 287 of NRS; or*

31 (d) *Any other insurer or organization providing health*
32 *coverage or benefits in accordance with state or federal law.*

33 **Sec. 2.** Chapter 631 of NRS is hereby amended by adding
34 thereto a new section to read as follows:

35 1. *A person licensed under the provisions of this chapter does*
36 *not violate any applicable standard of care solely because the*
37 *person prescribes, dispenses or administers a drug for a purpose*
38 *that has not been approved by the United States Food and Drug*
39 *Administration if:*

40 (a) *The drug has been approved by the United States Food and*
41 *Drug Administration for any purpose;*



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1 (b) *The drug has been proven safe and effective in peer-*
2 *reviewed scientific studies when used for the purpose for which it*
3 *is prescribed, dispensed or administered;*

4 (c) *Use of the drug for the purpose for which it is prescribed,*
5 *dispensed or administered is not prohibited by law; and*

6 (d) *Prescribing, dispensing or administering the drug, as*
7 *applicable, is within the scope of practice of the person.*

8 2. *The provisions of this section shall not be construed to*
9 *require a third party to cover a drug that is prescribed, dispensed*
10 *or administered for a purpose that has not been approved by the*
11 *United States Food and Drug Administration. The third party is*
12 *not liable in any event for any injury sustained by the patient as a*
13 *result of using the drug.*

14 3. *As used in this section, "third party" has the meaning*
15 *ascribed to it in section 1 of this act.*

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

18 1. *A person licensed or certified under the provisions of this*
19 *chapter does not violate any applicable standard of care solely*
20 *because the person prescribes, dispenses or administers a drug for*
21 *a purpose that has not been approved by the United States Food*
22 *and Drug Administration if:*

23 (a) *The drug has been approved by the United States Food and*
24 *Drug Administration for any purpose;*

25 (b) *The drug has been proven safe and effective in peer-*
26 *reviewed scientific studies when used for the purpose for which it*
27 *is prescribed, dispensed or administered;*

28 (c) *Use of the drug for the purpose for which it is prescribed,*
29 *dispensed or administered is not prohibited by law; and*

30 (d) *Prescribing, dispensing or administering the drug, as*
31 *applicable, is within the scope of practice of the person.*

32 2. *The provisions of this section shall not be construed to*
33 *require a third party to cover a drug that is prescribed, dispensed*
34 *or administered for a purpose that has not been approved by the*
35 *United States Food and Drug Administration. The third party is*
36 *not liable in any event for any injury sustained by the patient as a*
37 *result of using the drug.*

38 3. *As used in this section, "third party" has the meaning*
39 *ascribed to it in section 1 of this act.*

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

42 1. *A person licensed under the provisions of this chapter does*
43 *not violate any applicable standard of care solely because the*
44 *person prescribes, dispenses or administers a drug for a purpose*



1 *that has not been approved by the United States Food and Drug*
2 *Administration if:*

3 (a) *The drug has been approved by the United States Food and*
4 *Drug Administration for any purpose;*

5 (b) *The drug has been proven safe and effective in peer-*
6 *reviewed scientific studies when used for the purpose for which it*
7 *is prescribed, dispensed or administered;*

8 (c) *Use of the drug for the purpose for which it is prescribed,*
9 *dispensed or administered is not prohibited by law; and*

10 (d) *Prescribing, dispensing or administering the drug, as*
11 *applicable, is within the scope of practice of the person.*

12 2. *The provisions of this section shall not be construed to*
13 *require a third party to cover a drug that is prescribed, dispensed*
14 *or administered for a purpose that has not been approved by the*
15 *United States Food and Drug Administration. The third party is*
16 *not liable in any event for any injury sustained by the patient as a*
17 *result of using the drug.*

18 3. *As used in this section, "third party" has the meaning*
19 *ascribed to it in section 1 of this act.*

20 **Sec. 5.** Chapter 635 of NRS is hereby amended by adding
21 thereto a new section to read as follows:

22 1. *A person licensed under the provisions of this chapter does*
23 *not violate any applicable standard of care solely because the*
24 *person prescribes, dispenses or administers a drug for a purpose*
25 *that has not been approved by the United States Food and Drug*
26 *Administration if:*

27 (a) *The drug has been approved by the United States Food and*
28 *Drug Administration for any purpose;*

29 (b) *The drug has been proven safe and effective in peer-*
30 *reviewed scientific studies when used for the purpose for which it*
31 *is prescribed, dispensed or administered;*

32 (c) *Use of the drug for the purpose for which it is prescribed,*
33 *dispensed or administered is not prohibited by law; and*

34 (d) *Prescribing, dispensing or administering the drug, as*
35 *applicable, is within the scope of practice of the person.*

36 2. *The provisions of this section shall not be construed to*
37 *require a third party to cover a drug that is prescribed, dispensed*
38 *or administered for a purpose that has not been approved by the*
39 *United States Food and Drug Administration. The third party is*
40 *not liable in any event for any injury sustained by the patient as a*
41 *result of using the drug.*

42 3. *As used in this section, "third party" has the meaning*
43 *ascribed to it in section 1 of this act.*



1 **Sec. 6.** Chapter 636 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *An optometrist who is certified to administer and prescribe*
4 *therapeutic pharmaceutical agents pursuant to NRS 636.288 does*
5 *not violate any applicable standard of care solely because the*
6 *optometrist administers or prescribes a drug for a purpose that has*
7 *not been approved by the United States Food and Drug*
8 *Administration if:*

9 (a) *The drug has been approved by the United States Food and*
10 *Drug Administration for any purpose;*

11 (b) *The drug has been proven safe and effective in peer-*
12 *reviewed scientific studies when used for the purpose for which it*
13 *is administered or prescribed;*

14 (c) *Use of the drug for the purpose for which it is administered*
15 *or prescribed is not prohibited by law; and*

16 (d) *Administering or prescribing the drug, as applicable, is*
17 *within the scope of practice of the person.*

18 2. *The provisions of this section shall not be construed to*
19 *require a third party to cover a drug that is administered or*
20 *prescribed for a purpose that has not been approved by the United*
21 *States Food and Drug Administration. The third party is not liable*
22 *in any event for any injury sustained by the patient as a result of*
23 *using the drug.*

24 3. *As used in this section, "third party" has the meaning*
25 *ascribed to it in section 1 of this act.*

26 **Sec. 7.** Chapter 638 of NRS is hereby amended by adding
27 thereto a new section to read as follows:

28 *A person licensed under the provisions of this chapter does not*
29 *violate any applicable standard of care solely because the person*
30 *prescribes, dispenses or administers a drug for a purpose that has*
31 *not been approved by the United States Food and Drug*
32 *Administration if:*

33 1. *The drug has been approved by the United States Food and*
34 *Drug Administration for any purpose;*

35 2. *The drug has been proven safe and effective in peer-*
36 *reviewed scientific studies when used for the purpose for which it*
37 *is prescribed, dispensed or administered;*

38 3. *Use of the drug for the purpose for which it is prescribed,*
39 *dispensed or administered is not prohibited by law; and*

40 4. *Prescribing, dispensing or administering the drug, as*
41 *applicable, is within the scope of practice of the person.*

42 **Sec. 8.** Chapter 639 of NRS is hereby amended by adding
43 thereto a new section to read as follows:

44 1. *A person registered, licensed or certified under the*
45 *provisions of this chapter does not violate any applicable standard*



1 *of care solely because the person dispenses or administers a drug*
2 *for a purpose that has not been approved by the United States*
3 *Food and Drug Administration if:*

4 (a) *The drug has been approved by the United States Food and*
5 *Drug Administration for any purpose;*

6 (b) *The drug has been proven safe and effective in peer-*
7 *reviewed scientific studies when used for the purpose for which it*
8 *is dispensed or administered;*

9 (c) *Use of the drug for the purpose for which it is dispensed or*
10 *administered is not prohibited by law; and*

11 (d) *Dispensing or administering the drug, as applicable, is*
12 *within the scope of practice of the person.*

13 2. *The provisions of this section shall not be construed to*
14 *require a third party to cover a drug that is dispensed or*
15 *administered for a purpose that has not been approved by the*
16 *United States Food and Drug Administration. The third party is*
17 *not liable in any event for any injury sustained by the patient as a*
18 *result of using the drug.*

19 3. *As used in this section, "third party" has the meaning*
20 *ascribed to it in section 1 of this act.*



