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GENERAL PROVISIONS

SECTION 453.005 Applicability of chapter to medical use of marijuana. The provisions of this chapter do not apply to the extent that they are inconsistent with the provisions of chapter 453A of SECTION.

UNIFORM CONTROLLED SUBSTANCES ACT

General Provisions

SECTION 453.011 Short title; purpose.

1. SECTION 453.011 to 453.348, inclusive, may be cited as the Uniform Controlled Substances Act.
2. The Uniform Controlled Substances Act (1990) is substituted in a continuing way for the provisions of SECTION 453.011 to 453.348, inclusive, except as those provisions are specifically amended.

SECTION 453.013 Uniformity of interpretation. SECTION 453.011 to 453.348, inclusive, shall be so applied and construed as to effectuate its general purpose and to make uniform the law with respect to the subject of such sections among those STATES which enact it.

SECTION 453.016 Definitions. As used in this chapter, the words and terms defined in SECTION 453.021 to 453.141, inclusive, have the meanings ascribed to them in those sections except in instances where the context clearly indicates a different meaning.

SECTION 453.021 "Administer" defined. "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

1. A practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or
2. The patient or research subject at the direction and in the presence of the practitioner.

SECTION 453.023 "Advanced practitioner of nursing" defined. "Advanced practitioner of nursing" means a registered nurse who holds a valid certificate of recognition as an advanced practitioner of nursing issued by the State Board of Nursing.

SECTION 453.026 "Agent" defined. "Agent" means a pharmacist, licensed practical nurse or registered nurse who cares for a patient of a prescribing practitioner in a medical facility or an authorized person who acts on behalf of or at the direction of and is employed by a manufacturer, distributor, dispenser or prescribing practitioner. The term does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.

SECTION 453.031 "Board" defined. "Board" means the State Board of Pharmacy.

SECTION 453.039 "Compound" and "compounding" defined. "Compound" or "compounding" means to form or make up a composite product by combining two or more different ingredients.

SECTION 453.043 "Controlled substance analog" defined.

1. "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance placed in schedule I or II and:

- (a) Which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance placed in schedule I or II pursuant to SECTION 453.166 or 453.176; or
- (b) With respect to a particular person, which he represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II.

2. The term does not include:

- (a) A controlled substance;
- (b) A substance for which there is an approved new drug application;
- (c) A substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) to the extent conduct with respect to the substance is permitted by the exemption; or

(d) Any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

SECTION 453.046 "Counterfeit substance" defined. "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

SECTION 453.051 "Deliver" and "delivery" defined. "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

SECTION 453.053 "Department" defined. "Department" means the Department of Health and Human Services.

SECTION 453.056 "Dispense" defined.

1. Except as limited by subsection 2, "dispense" means to deliver a controlled substance to an ultimate user, patient or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for that delivery.

2. The term does not include the furnishing of a controlled substance by a hospital pharmacy for inpatients.

SECTION 453.061 "Dispenser" defined. "Dispenser" means a practitioner who dispenses.

SECTION 453.066 "Distribute" defined. "Distribute" means to deliver other than by administering or dispensing a controlled substance. The term includes wholesale distribution as defined in SECTION 639.0155.

SECTION 453.071 "Distributor" defined. "Distributor" means a person who distributes. The term includes a wholesaler as defined in SECTION 639.016.

SECTION 453.076 "Division" defined. "Division" means the Investigation Division of the Department of Public Safety.

SECTION 453.081 "Drug" defined.

1. "Drug" means substances:

(a) Recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(b) Intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals;

(c) Other than food, intended to affect the structure or any function of the body of man or animals; and

(d) Intended for use as a component of any article specified in paragraph (a), (b) or (c).

2. "Drug" does not include devices or their components, parts or accessories.

SECTION 453.082 "Drug Enforcement Administration" defined. "Drug Enforcement Administration" means the Drug Enforcement Administration of the United States Department of Justice, or its successor agency.

SECTION 453.083 "Fill" defined. "Fill" means the counting, measuring, compounding, pouring, packaging and labeling required to prepare a drug for either direct or indirect delivery to a patient.

SECTION 453.085 "Hospital" defined. "Hospital" means any facility which is licensed by the Department as a hospital and which provides care and treatment of human illness or other abnormal physical or mental conditions on an inpatient basis, including any such facility operated by this Tribe or a political subdivision of this Tribe.

SECTION 453.086 "Immediate precursor" defined. "Immediate precursor" means a substance:

1. Which the Board has found to be and by regulation has designated to be the principal compound commonly used or produced primarily for use in the manufacture of a controlled substance; and

2. Which is a chemical intermediary used or likely to be used in the manufacture of the controlled substance or the control of which is necessary to prevent, curtail or limit the manufacture of the controlled substance.

SECTION 453.087 "Institutional pharmacy" defined. "Institutional pharmacy" means a pharmacy or other storage place as defined by regulations adopted by the Board which is a part of or operated in conjunction with a medical facility as that term is defined in SECTION 449.0151. The term includes:

1. A pharmacy on the premises of the medical facility which provides a system of distributing and supplying medication to the facility, whether or not operated by the facility; and

2. A pharmacy off the premises of the medical facility which provides services only to the patients of the facility and provides a system of distributing medication based upon chart orders from the medical facility.

SECTION 453.0875 "Isomer" defined. "Isomer" means an optical isomer, but in subsection 5 of SECTION 453.101 the term includes a geometric isomer.

SECTION 453.091 "Manufacture" defined.

1. "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

2. "Manufacture" does not include the preparation, compounding, packaging or labeling of a substance by a pharmacist, physician, physician assistant, dentist, podiatric physician, advanced practitioner of nursing or veterinarian:

(a) As an incident to his administering or dispensing of a substance in the course of his professional practice; or

(b) By his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

SECTION 453.096 "Marijuana" defined.

1. "Marijuana" means:

(a) All parts of any plant of the genus Cannabis, whether growing or not;

(b) The seeds thereof;

(c) The resin extracted from any part of the plant; and

(d) Every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin.

2. "Marijuana" does not include the mature stems of the plant, fiber produced from the stems, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stems (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

SECTION 453.098 "Narcotic addict" defined. "Narcotic addict" means a person of any age who has developed a compulsion to continue taking or who has developed a psychic or physical dependence on the effects of a narcotic drug.

SECTION 453.099 "Narcotic addiction" defined. "Narcotic addiction" means compulsion to continue taking or psychic or physical dependence on the effects of a narcotic drug.

SECTION 453.101 "Narcotic drug" defined. "Narcotic drug" means any of the following, however manufactured:

1. Opium, opium derivative, and any derivative of either, including their salts, isomers and salts of isomers but not including isoquinoline alkaloids of opium;
2. Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers;
3. Poppy straw and concentrate of poppy straw;
4. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
5. Cocaine, or any salt, isomer or salt of isomer of cocaine;
6. Cocaine base;
7. Ecgonine, or any derivative, salt, isomer or salt of isomer of ecgonine; and
8. A compound, mixture or preparation containing any quantity of a substance listed in this section.

SECTION 453.106 "Opiate" defined.

1. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability, including opium, opium derivatives and synthetic opiates.
2. "Opiate" does not include, unless specifically designated as controlled, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan) but includes the racemic and levorotatory forms of dextromethorphan.

SECTION 453.111 "Opium poppy" defined. "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

SECTION 453.113 "Person" defined. "Person" includes a government or a governmental subdivision or agency.

SECTION 453.117 "Pharmacy" defined.

1. "Pharmacy" means every store or shop licensed by the Board where drugs, controlled substances, poisons, medicines or chemicals are stored or possessed, or dispensed or sold at retail, or displayed for sale at retail, or where prescriptions are compounded or dispensed.
2. "Pharmacy" includes pharmacies owned or operated by the State of Nevada and political subdivisions and municipal corporations therein.

SECTION 453.118 "Pharmacy in a correctional institution" defined. "Pharmacy in a correctional institution" means a pharmacy or other storage place for medicines, controlled substances and dangerous drugs which is a part of or is operated in conjunction with a correctional facility, including a jail and facility for the detention of juveniles.

SECTION 453.121 "Poppy straw" defined. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

SECTION 453.126 "Practitioner" defined. "Practitioner" means:

1. A physician, dentist, veterinarian or podiatric physician who holds a license to practice his profession in this State and is registered pursuant to this chapter.

2. An advanced practitioner of nursing who holds a certificate from the State Board of Nursing and a certificate from the State Board of Pharmacy authorizing him to dispense or to prescribe and dispense controlled substances.

3. A scientific investigator or a pharmacy, hospital or other institution licensed, registered or otherwise authorized in this State to distribute, dispense, conduct research with respect to, to administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

4. A euthanasia technician who is licensed by the Nevada State Board of Veterinary Medical Examiners and registered pursuant to this chapter, while he possesses or administers sodium pentobarbital pursuant to his license and registration.

5. A physician assistant who:

(a) Holds a license from the Board of Medical Examiners; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances under the supervision of a physician as required by chapter 630 of SECTION.

6. An osteopathic physician's assistant who:

(a) Holds a certificate from the State Board of Osteopathic Medicine; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances under the supervision of an osteopathic physician as required by chapter 633 of NRS.

7. An optometrist who is certified by the Nevada State Board of Optometry to prescribe and administer therapeutic pharmaceutical agents pursuant to SECTION 636.288, when he prescribes or administers therapeutic pharmaceutical agents within the scope of his certification.

SECTION 453.128 "Prescription" defined.

1. "Prescription" means:

(a) An order given individually for the person for whom prescribed, directly from a physician, osteopathic physician's assistant, physician assistant, dentist, podiatric physician, optometrist, advanced practitioner of nursing or veterinarian, or his agent, to a pharmacist or indirectly by means of an order signed by the practitioner or an electronic transmission from the practitioner to a pharmacist; or

(b) A chart order written for an inpatient specifying drugs which he is to take home upon his discharge.

2. The term does not include a chart order written for an inpatient for use while he is an inpatient.

SECTION 453.131 "Production" defined. "Production" includes the manufacturing of a controlled substance and the planting, cultivation, growing or harvesting of a plant from which a controlled substance is derived.

SECTION 453.134 "Refill" defined. "Refill" means to fill again.

SECTION 453.135 "Tribe" defined. The Ely Shoshone Tribe is an Indian Organization, as defined under the Indian Reorganization Act of June 18, 1934, as amended, to exercise certain rights of home rule and to be responsible for the promotion of economic and social welfare of its tribal membership, and governs its affairs under the Revised Tribal Constitution of May 8, 1990, and the amendments of November 8, 1999.

SECTION 453.136 "State" defined. "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a territory or insular possession subject to the jurisdiction of the United States.

SECTION 453.137 "Steroid" defined. "Steroid" means any of the compounds that contain a hydrogenated cyclopentanophenanthrene-ring system, and includes the sterols.

SECTION 453.141 "Ultimate user" defined. "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or the use of a member of his household or for administering to any animal owned by him or by a member of his household. The term includes the guardian of an ultimate user or any other person authorized in a durable power of attorney to act on the behalf of the ultimate user. The term does not include a patient in or an employee of a medical facility, as defined in NRS 449.0151, who is not statutorily authorized to administer drugs.

SECTION 453.157 Confidentiality of information concerning research or medical practice. A practitioner engaged in medical practice or research is not required or compelled to furnish the name or identity of a patient or research subject to the Board, nor may he be compelled in any State or local civil, criminal, administrative, legislative or other proceeding to furnish the name or identity of an individual that the practitioner is obligated to keep confidential.

REGULATIONS

SECTION 453.251 Order forms. Controlled substances listed in schedules I and II may be distributed by a registrant or licensed pharmacy to another registrant or licensed pharmacy only pursuant to an order form and may be received by a registrant only pursuant to an order form. Compliance with the provisions of federal law respecting order forms shall be deemed compliance with this section.

SECTION 453.256 Prescriptions; requirements for dispensing certain substances; penalty.

1. Except as otherwise provided in subsection 2, a substance included in schedule II must not be dispensed without the written prescription of a practitioner.

2. A controlled substance included in schedule II may be dispensed without the written prescription of a practitioner only:

(a) In an emergency, as defined by regulation of the Board, upon oral prescription of a practitioner, reduced to writing promptly and in any case within 72 hours, signed by the practitioner and filed by the pharmacy.

(b) Upon the use of a facsimile machine to transmit the prescription for a substance included in schedule II by a practitioner or a practitioner's agent to a pharmacy for:

(1) Direct administration to a patient by parenteral solution; or

(2) A resident of a facility for intermediate care or a facility for skilled nursing which is licensed as such by the Health Division of the Department. A prescription transmitted by a facsimile machine pursuant to this paragraph must be printed on paper which is capable of being retained for at least 2 years. For the purposes of this section, such a prescription constitutes a written prescription. The pharmacy shall keep prescriptions in conformity with the requirements of NRS 453.246. A prescription for a substance included in schedule II must not be refilled.

3. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a substance included in schedule III or IV which is a dangerous drug as determined under NRS 454.201, must not be dispensed without a written or oral prescription of a practitioner. The prescription must not be filled or refilled more than 6 months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

4. A substance included in schedule V may be distributed or dispensed only for a medical purpose, including medical treatment or authorized research.

5. A practitioner may dispense or deliver a controlled substance to or for a person or animal only for medical treatment or authorized research in the ordinary course of his profession.

6. No civil or criminal liability or administrative sanction may be imposed on a pharmacist for action taken in good faith in reliance on a reasonable belief that an order purporting to be a prescription was issued by a practitioner in the usual course of professional treatment or in authorized research.

7. An individual practitioner may not dispense a substance included in schedule II, III or IV for his own personal use except in a medical emergency.

8. A person who violates this section is guilty of a **Category A offense**.

9. As used in this section:

(a) "Facsimile machine" means a device which sends or receives a reproduction or facsimile of a document or photograph which is transmitted electronically or telephonically by telecommunications lines.

(b) "Medical treatment" includes dispensing or administering a narcotic drug for pain, whether or not intractable.

(c) "Parenteral solution" has the meaning ascribed to it in NRS 639.0105.

SECTION 453.257 Filling second or subsequent prescriptions. A pharmacist shall not fill a second or subsequent prescription for a controlled substance listed in schedule II for the same patient unless the frequency of prescriptions is in conformity with the directions for use. The need for any increased amount shall be verified by the practitioner in writing or personally by telephone.

FORFEITURES

SECTION 453.301 Property subject to forfeiture. The following are subject to forfeiture pursuant to NRS 179.1156 to 179.119, inclusive:

1. All controlled substances which have been manufactured, distributed, dispensed or acquired in violation of the provisions of SECTION 453.011 to 453.552, inclusive, or a law of any other jurisdiction which prohibits the same or similar conduct.

2. All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing or exporting any controlled substance in violation of the provisions

of SECTION 453.011 to 453.552, inclusive, or a law of any other jurisdiction which prohibits the same or similar conduct.

3. All property which is used, or intended for use, as a container for property described in subsections 1 and 2.

4. All books, records and research products and materials, including formulas, microfilm, tapes and data, which are used, or intended for use, in violation of the provisions of SECTION 453.011 to 453.552, inclusive, or a law of any other jurisdiction which prohibits the same or similar conduct.

5. All conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, concealment, manufacture or protection, for the purpose of sale, possession for sale or receipt of property described in subsection 1 or 2.

6. All drug paraphernalia as defined by SECTION 453.554 which are used in violation of SECTION 453.560, 453.562 or 453.566 or a law of any other jurisdiction which prohibits the same or similar conduct, or of an injunction issued pursuant to SECTION 453.558.

7. All imitation controlled substances which have been manufactured, distributed or dispensed in violation of the provisions of SECTION 453.332 or 453.3611 to 453.3648, inclusive, or a law of any other jurisdiction which prohibits the same or similar conduct.

8. All real property and mobile homes used or intended to be used by any owner or tenant of the property or mobile home to facilitate a violation of the provisions of SECTION 453.011 to 453.552, inclusive, except SECTION 453.336, or used or intended to be used to facilitate a violation of a law of any other jurisdiction which prohibits the same or similar conduct as prohibited in SECTION 453.011 to 453.552, inclusive, except SECTION 453.336. As used in this subsection, "tenant" means any person entitled, under a written or oral rental agreement, to occupy real property or a mobile home to the exclusion of others.

9. Everything of value furnished or intended to be furnished in exchange for a controlled substance in violation of the provisions of SECTION 453.011 to 453.552, inclusive, or a law of any other jurisdiction which prohibits the same or similar conduct, all proceeds traceable to such an exchange, and all other property used or intended to be used to facilitate a violation of the provisions of SECTION 453.011 to 453.552, inclusive, except SECTION 453.336, or used or intended to be used to facilitate a violation of a law of any other jurisdiction which prohibits the same or similar conduct as prohibited in SECTION 453.011 to 453.552, inclusive, except SECTION 453.336. If an amount of cash which exceeds \$300 is found in the possession of a person who is arrested for a violation of SECTION 453.337 or 453.338, then there is a rebuttable presumption that the cash is traceable to an exchange for a controlled substance and is subject to forfeiture pursuant to this subsection.

10. All firearms, as defined by SECTION 202.253, which are in the actual or constructive possession of a person who possesses or is consuming, manufacturing, transporting, selling or under the influence of any controlled substance in violation of the provisions of SECTION 453.011 to 453.552, inclusive, or a law of any other jurisdiction which prohibits the same or similar conduct.

11. All computer hardware, equipment, accessories, software and programs that are in the actual or constructive possession of a person who owns, operates, controls, profits from or is employed or paid by an illegal Internet pharmacy and who violates the provisions of SECTION 453.3611 to 453.3648, inclusive, or a law of any other jurisdiction which prohibits the same or similar conduct.

SECTION 453.305 Forfeiture of real property or mobile home: Notices to owner.

1. Whenever a person is arrested for violating any of the provisions of SECTION 453.011 to 453.552, inclusive, except SECTION 453.336, and real property

or a mobile home occupied by him as a tenant has been used to facilitate the violation, the prosecuting attorney responsible for the case shall cause to be delivered to the owner of the property or mobile home a written notice of the arrest.

2. Whenever a person is convicted of violating any of the provisions of SECTION 453.011 to 453.552, inclusive, except SECTION 453.336, and real property or a mobile home occupied by him as a tenant has been used to facilitate the violation, the prosecuting attorney responsible for the case shall cause to be delivered to the owner of the property or mobile home a written notice of the conviction.

3. The notices required by this section must:

(a) Be written in language which is easily understood;
(b) Be sent by certified or registered mail, return receipt requested, to the owner at his last known address;

(c) Be sent within 15 days after the arrest occurs or judgment of conviction is entered against the tenant, as the case may be;

(d) Identify the tenant involved and the offense for which he has been arrested or convicted; and

(e) Advise the owner that:

(1) The property or mobile home is subject to forfeiture pursuant to NRS 179.1156 to 179.119, inclusive, and 453.301 unless the tenant, if convicted, is evicted;

(2) Any similar violation by the same tenant in the future may also result in the forfeiture of the property unless the tenant has been evicted;

(3) In any proceeding for forfeiture based upon such a violation he will, by reason of the notice, be deemed to have known of and consented to the unlawful use of the property or mobile home; and

(4) The provisions of NES 40.2514 and 40.254 authorize the supplemental remedy of summary eviction to facilitate his recovery of the property or mobile home upon such a violation and provide for the recovery of any reasonable attorney's fees he incurs in doing so.

4. Nothing in this section shall be deemed to preclude the commencement of a proceeding for forfeiture or the forfeiture of the property or mobile home, whether or not the notices required by this section are given as required, if the proceeding and forfeiture are otherwise authorized pursuant to NRS 179.1156 to 179.119, inclusive, and 453.301.

5. As used in this section, "tenant" means any person entitled under a written or oral rental agreement to occupy real property or a mobile home to the exclusion of others.

SECTION 453.311 Controlled substances; plants; seizure and forfeiture.

1. Controlled substances listed in schedule I:

(a) That are possessed, transferred, sold or offered for sale in violation of the provisions of SECTION 453.011 to 453.552, inclusive, are contraband and must be seized and summarily forfeited to the Tribe.

(b) Which are seized or come into the possession of the Tribe, the owners of which are unknown, are contraband and must be summarily forfeited to the Tribe.

2. Species of plants from which controlled substances in schedules I and II may be derived which have been planted or cultivated in violation of the provisions of SECTION 453.011 to 453.552, inclusive, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the Tribe.

3. The failure, upon demand by the Tribal Police or other law enforcement agency, or the authorized agent of either, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the

holder thereof, constitutes authority for the seizure and forfeiture of the plants.

OFFENSES AND PENALTIES

SECTION 453.316 Opening or maintaining of place for unlawful sale, gift or use of controlled substance prohibited; penalties; prohibition against probation or suspension of sentence for certain repeat offenders.

1. A person who opens or maintains any place for the purpose of unlawfully selling, giving away or using any controlled substance is guilty of a **Category A Offense**.

(a) It shall be unlawful for any person to loiter upon any street, alleyway, business or occupies or unoccupied house or building for the sale of drugs or drug related activity. Violation of this Section is a **Category D offense**.

2. If a person convicted of violating this section has previously been convicted of violating this section, or if, in the case of a first conviction of violating this section, he has been convicted of an offense under the laws of the United States or any Tribe, territory or district which, if committed in this Tribe, would amount to a felony or equivalent offense under this section, he is guilty of a **Category A offense**. The court shall not grant probation to or suspend the sentence of a person convicted of violating this section if he has been previously convicted under this section or of any other offense described in this subsection.

3. This section does not apply to any rehabilitation clinic established or licensed by the Health Division of the Department.

SECTION 453.321 Offer, attempt or commission of unauthorized act relating to controlled or counterfeit substance unlawful; penalties; prohibition against probation or suspension of sentence for certain repeat offenders.

1. Except as authorized by the provisions of SECTION 453.011 to 453.552, inclusive, it is unlawful for a person to:

(a) Import, transport, sell, exchange, barter, supply, prescribe, dispense, give away or administer a controlled or counterfeit substance;

(b) Manufacture or compound a counterfeit substance; or

(c) Offer or attempt to do any act set forth in paragraph (a) or (b).

2. If a person violates subsection 1 and the controlled substance is classified in schedule I or II, he is guilty of a **Category A offense**.

SECTION 453.322 Offer, attempt or commission of unauthorized act relating to manufacture or compounding of certain controlled substances unlawful; penalty; prohibition against probation of offenders.

1. Except as authorized by the provisions of SECTION 453.011 to 453.552, inclusive, it is unlawful for a person to knowingly or intentionally:

(a) Manufacture or compound a controlled substance other than marijuana.

(b) Possess, with the intent to manufacture or compound a controlled substance other than marijuana:

(1) Any chemical identified in subsection 4; or

(2) Any other chemical which is proven by expert testimony to be commonly used in manufacturing or compounding a controlled substance other than marijuana. The prosecuting attorney may present expert testimony to provide a prima facie case that any chemical, whether or not it is a chemical identified in subsection 4, is commonly used in manufacturing or compounding such a controlled substance.

The provisions of this paragraph do not apply to a person who, without the intent to commit an unlawful act, possesses any chemical at a laboratory that is licensed to store the chemical.

(c) Offer or attempt to do any act set forth in paragraph (a) or (b).

2. A person who violates any provision of subsection 1 is guilty of a **Category A offense.**

3. The court shall not grant probation to a person convicted pursuant to this section.

4. The following chemicals are identified for the purposes of subsection 1:

- (a) Acetic anhydride.
- (b) Acetone.
- (c) N-Acetylanthranilic acid, its esters and its salts.
- (d) Anthranilic acid, its esters and its salts.
- (e) Benzaldehyde, its salts, isomers and salts of isomers.
- (f) Benzyl chloride.
- (g) Benzyl cyanide.
- (h) 1,4-Butanediol.
- (i) 2-Butanone (or methyl ethyl ketone or MEK).
- (j) Ephedrine, its salts, isomers and salts of isomers.
- (k) Ergonovine and its salts.
- (l) Ergotamine and its salts.
- (m) Ethylamine, its salts, isomers and salts of isomers.
- (n) Ethyl ether.
- (o) Gamma butyrolactone.
- (p) Hydriodic acid, its salts, isomers and salts of isomers.
- (q) Hydrochloric gas.
- (r) Iodine.
- (s) Isosafrole, its salts, isomers and salts of isomers.
- (t) Methylamine, its salts, isomers and salts of isomers.
- (u) 3,4-Methylenedioxy-phenyl-2-propanone.
- (v) N-Methylephedrine, its salts, isomers and salts of isomers.
- (w) Methyl isobutyl ketone (MIBK).
- (x) N-Methylpseudoephedrine, its salts, isomers and salts of isomers.
- (y) Nitroethane, its salts, isomers and salts of isomers.
- (z) Norpseudoephedrine, its salts, isomers and salts of isomers.
- (aa) Phenylacetic acid, its esters and its salts.
- (bb) Phenylpropanolamine, its salts, isomers and salts of isomers.
- (cc) Piperidine and its salts.
- (dd) Piperonal, its salts, isomers and salts of isomers.
- (ee) Potassium permanganate.
- (ff) Propionic anhydride, its salts, isomers and salts of isomers.
- (gg) Pseudoephedrine, its salts, isomers and salts of isomers.
- (hh) Red phosphorous.
- (ii) Safrole, its salts, isomers and salts of isomers.
- (jj) Sulfuric acid.
- (kk) Toluene.

SECTION 453.331 Unlawful acts relating to distribution of certain controlled substances by registrants, use of unauthorized registration number and possession of signed blank prescription forms; certain fraudulent acts prohibited; penalty.

1. It is unlawful for a person knowingly or intentionally to:

(a) Distribute as a registrant a controlled substance classified in schedule I or II, except pursuant to an order form as required by SECTION 453.251;

(b) Use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended or issued to another person;

(c) Assume falsely the title of or represent himself as a registrant or

other person authorized to possess controlled substances;

(d) Acquire or obtain or attempt to acquire or obtain possession of a controlled substance or a prescription for a controlled substance by misrepresentation, fraud, forgery, deception, subterfuge or alteration;

(e) Furnish false or fraudulent material information in, or omit any material information from, any application, report or other document required to be kept or filed under the provisions of SECTION 453.011 to 453.552, inclusive, or any record required to be kept by those sections;

(f) Sign the name of a fictitious person or of another person on any prescription for a controlled substance or falsely make, alter, forge, utter, publish or pass, as genuine, any prescription for a controlled substance;

(g) Make, distribute or possess any punch, die, plate, stone or other thing designed to print, imprint or reproduce the trademark, trade name or other identifying mark, imprint or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance;

(h) Possess prescription blanks which have been signed before being filled out; or

(i) Make a false representation to a pharmacist for the purpose of obtaining a controlled substance for which a prescription is required.

2. A person who violates this section is guilty of a **Category A offense**.

SECTION 453.332 Unlawful acts relating to imitation controlled substances; penalties.

1. Except as otherwise provided in subsection 6, it is unlawful for a person to manufacture, distribute, sell or possess with the intent to distribute or sell an imitation controlled substance.

2. Except as otherwise provided in subsection 3, a person who violates subsection 1 is guilty of a **Category C offense**.

3. A person who is 18 years of age or older who distributes or sells an imitation controlled substance to a person who is under the age of 18 years is guilty of a **Category A offense**. In addition to any other penalty, the court may order the convicted person to pay restitution for any reasonable costs incurred for the participation of the person to whom he distributed or sold the imitation controlled substance in a program for the treatment of the abuse of controlled substances. If the court orders the convicted person to make such restitution, the court shall notify the parent, guardian or other person legally responsible for the person to whom the imitation controlled substance was distributed or sold that such restitution has been ordered.

4. A person who:

(a) Uses or possesses with the intent to use an imitation controlled substance; or

(b) Advertises or solicits in any manner with reasonable knowledge that the advertisement or solicitation is to promote the distribution of an imitation controlled substance, is guilty of a **Category B offense** upon his first and second convictions, and upon a third or any further conviction, is guilty of a **Category A offense**.

5. For the purposes of this section:

(a) "Distribute" means the actual, constructive or attempted transfer, delivery or dispensing to another of an imitation controlled substance.

(b) "Imitation controlled substance" means a substance, not a controlled substance, which:

(1) In the form distributed is shaped, marked or colored so as to lead a reasonable person to believe it is a controlled substance; or

(2) Is represented to be a controlled substance. In determining whether such a representation was made, the court shall consider, in addition to all other logically relevant factors:

(I) Statements made by the defendant regarding the nature of the substance, its use or effect.

(II) Statements made by the defendant regarding the recipient's ability to resell the substance at a substantially higher price than is customary for the substance.

(III) Whether the substance is packaged in a manner normally used for illicit controlled substances.

6. This section does not apply to the manufacture, distribution, sale or possession of an imitation controlled substance for use as a placebo by a practitioner in the course of his professional practice or research.

SECTION 453.3325 Unlawful to allow child to be present during commission of certain violations which involve controlled substances other than marijuana; penalties; probation or suspended sentence prohibited.

1. A person shall not intentionally allow a child to be present in any conveyance or upon any premises wherein a controlled substance other than marijuana:

(a) Is being used in violation of the provisions of SECTION 453.011 to 453.552, inclusive, if the person in any manner knowingly engages in or conspires with, aids or abets another person to engage in such activity;

(b) Is being sold, exchanged, bartered, supplied, prescribed, dispensed, given away or administered in violation of the provisions of SECTION 453.011 to 453.552, inclusive, if the person in any manner knowingly engages in or conspires with, aids or abets another person to engage in such activity; or

(c) Is being or has been manufactured or compounded in violation of the provisions of SECTION 453.011 to 453.552, inclusive, if the person in any manner knowingly engages in or conspires with, aids or abets another person to engage in such activity.

2. A person who violates the provisions of paragraph (a) of subsection 1: If the violation does not proximately cause substantial bodily harm or death to the child, is guilty of a **Category A offense**.

3. Except as otherwise provided in SECTION 453.3363, the court shall not grant probation to or suspend the sentence of a person convicted pursuant to this section.

4. As used in this section:

(a) "Child" means a person who is less than 18 years of age.

(b) "Conveyance" means any vessel, boat, vehicle, airplane, glider, house trailer, travel trailer, motor home or railroad car, or other means of conveyance.

(c) "Premises" means any temporary or permanent structure, including, without limitation, any building, house, room, apartment, tenement, shed, carport, garage, shop, warehouse, store, mill, barn, stable, outhouse or tent, whether located aboveground or underground and whether inhabited or not.

SECTION 453.333 Penalties for making available controlled substance which causes death. If the death of a person is proximately caused by a controlled substance which was sold, given, traded or otherwise made available to him by another person in violation of this chapter, the person who sold, gave or traded or otherwise made the substance available to him is guilty of murder.

SECTION 453.3335 Additional penalty for failing to render or seek medical assistance for person injured or killed by use of controlled substance under certain circumstances.

1. Except as otherwise provided in NRS 193.169, a defendant who is found guilty of violating SECTION 453.321 or 453.333 where:

(a) The use of the controlled substance by a person resulted in death or substantial bodily harm to the person;

(b) The defendant was in the presence of the injured person when he manifested an adverse physical reaction to the controlled substance; and

2. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

SECTION 453.336 Unlawful possession not for purpose of sale: Prohibition; penalties.

1. A person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a prescription or order of a physician, osteopathic physician's assistant, physician assistant, dentist, podiatric physician, optometrist, advanced practitioner of nursing or veterinarian while acting in the course of his professional practice, or except as otherwise authorized by the provisions of SECTION 453.005 to 453.552, inclusive.

2. Except as otherwise provided in subsections 3 and 4 and in SECTION 453.3363, and unless a greater penalty is provided in NRS 212.160, SECTION 453.3385, 453.339 or 453.3395, a person who violates this section shall be punished:

(a) For the first or second offense, if the controlled substance is listed in schedule I, II, III or IV, for a **Category A offense**.

(b) For a third or subsequent offense, if the controlled substance is listed in schedule I, II, III or IV, or if the offender has previously been convicted two or more times in the aggregate of any violation of the law of the United States or of any Tribe, territory or district relating to a controlled substance, for a **Category A offense**.

(c) For the first offense, if the controlled substance is listed in schedule V, for a **Category A offense**.

(d) For a second or subsequent offense, if the controlled substance is listed in schedule V, for a **Category A offense**.

4. Unless a greater penalty is provided pursuant to NRS 212.160, a person who is convicted of the possession of 1 ounce or less of marijuana:

(a) For the first offense, is guilty of a **Category D offense**; or

(2) Examined by an approved facility for the treatment of abuse of drugs to determine whether he is a drug addict and is likely to be rehabilitated through treatment and, if the examination reveals that he is a drug addict and is likely to be rehabilitated through treatment, assigned to a program of treatment and rehabilitation pursuant to SECTION 453.580.

(b) For the second offense, is guilty of a **Category C offense**; or

(2) Assigned to a program of treatment and rehabilitation pursuant to SECTION 453.580.

(c) For the third offense, is guilty of a **Category B offense**.

(d) For a fourth or subsequent offense, is guilty of a **Category A offense**.

5. As used in this section, "controlled substance" includes flunitrazepam, gamma-hydroxybutyrate and each substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor.

SECTION 453.3361 Unlawful possession not for purpose of sale.

1. Money collected from violation of this chapter must be evenly allocated in accordance with subsection 2.

2. Money collected from fines imposed by the Tribal Court for a violation of this ordinance must be evenly allocated among Alcohol and Drug, Tribal Police, and Tribal Court.

SECTION 453.3363 Suspension of proceedings and probation of accused under certain conditions; effect of discharge and dismissal.

1. If a person who has not previously been convicted of any offense pursuant to SECTION 453.011 to 453.552, inclusive, or pursuant to any statute of the United States or of any Tribe relating to narcotic drugs, marijuana, or stimulant, depressant or hallucinogenic substances tenders a plea of guilty, nolo contendere or similar plea to a charge pursuant to subparagraph (1) of paragraph (a) of subsection 2 of SECTION 453.3325, subsection 2 or 3 of SECTION 453.336, SECTION 453.411 or 454.351, or is found guilty of one of those charges, the court, without entering a judgment of conviction and with the consent of the accused, may suspend further proceedings and place him on probation upon terms and conditions that must include attendance and successful completion of an educational program or, in the case of a person dependent upon drugs, of a program of treatment and rehabilitation pursuant to SECTION 453.580.

2. Upon violation of a term or condition, the court may enter a judgment of conviction and proceed as provided in the section pursuant to which the accused was charged.

3. Upon fulfillment of the terms and conditions, the court shall discharge the accused and dismiss the proceedings against him.

4. Except as otherwise provided in subsection 5, discharge and dismissal under this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the person discharged, in the contemplation of the law, to the status occupied before the arrest, indictment or information. He may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, complaint or trial in response to an inquiry made of him for any purpose. Discharge and dismissal under this section may occur only once with respect to any person.

5. A professional licensing board may consider a proceeding under this section in determining suitability for a license or liability to discipline for misconduct. Such a board is entitled for those purposes to a truthful answer from the applicant or licensee concerning any such proceeding with respect to him.

SECTION 453.3365 Sealing of record of person convicted of possession of controlled substance not for purpose of sale; conditions.

1. Three years after a person is convicted and sentenced pursuant to subsection 3 of SECTION 453.336, the court may order sealed all documents, papers and exhibits in that person's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order, if the:

(a) Person fulfills the terms and conditions imposed by the court and the parole and probation officer; and

(b) Court, after a hearing, is satisfied that the person is rehabilitated.

2. Except as limited by subsection 4, 3 years after an accused is discharged from probation pursuant to SECTION 453.3363, the court shall order sealed all documents, papers and exhibits in that person's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order if the person fulfills the terms and conditions imposed by the court and the Tribal Probation Department. The court shall order those records sealed without a hearing unless the Tribal Probation Department petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.

3. If the court orders sealed the record of a person discharged pursuant to SECTION 453.3363, it shall send a copy of the order to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.

4. A professional licensing board is entitled, for the purpose of determining suitability for a license or liability to discipline for misconduct, to inspect and to copy from a record sealed pursuant to this section.

SECTION 453.337 Unlawful possession for sale of flunitrazepam, gamma-hydroxybutyrate and schedule I or II substances; penalties.

1. Except as otherwise authorized by the provisions of SECTION 453.011 to 453.552, inclusive, it is unlawful for a person to possess for the purpose of sale flunitrazepam, gamma-hydroxybutyrate, any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor or any controlled substance classified in schedule I or II.

2. Unless a greater penalty is provided a person who violates this section shall be guilty of a **Category A offense**.

3. The Court shall not grant probation to or suspend the sentence of a person convicted of violating this section or any subsequent offenses.

SECTION 453.338 Unlawful possession for sale of substances classified in schedule III, IV or V; penalties.

1. Except as authorized by the provisions of SECTION 453.011 to 453.552, inclusive, it is unlawful for a person to possess for the purpose of sale any controlled substance classified in schedule III, IV or V.

2. A person who violates this section shall be punished:

(a) For the first and second offense, for a **Category A offense**.

(b) For a third or subsequent offense, or if the offender has been previously convicted two or more times of a felony under the Uniform Controlled Substances Act or of any offense under the laws of the United States or any Tribe, territory or district which, if committed in this Reservation, would amount to a **Category A offense**.

3. The Court shall not grant probation to or suspend the sentence of a person convicted of violating this section or any other subsequent offense.

SECTION 453.3383 Determination of weight of controlled substance for purposes of SECTION 453.3385, 453.339 and 453.3395. For the purposes of SECTION 453.3385, 453.339 and 453.3395, the weight of the controlled substance as represented by the person selling or delivering it is determinative if the weight as represented is greater than the actual weight of the controlled substance.

SECTION 453.3385 Trafficking in controlled substances: Flunitrazepam, gamma-hydroxybutyrate and schedule I substances, except marijuana. Except as otherwise authorized by the provisions of SECTION 453.011 to 453.552, inclusive, a person who knowingly or intentionally sells, manufactures, delivers or brings onto this Reservation or who is knowingly or intentionally in actual or constructive possession of flunitrazepam, gamma-hydroxybutyrate, any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor or any controlled substance which is listed in schedule I, except marijuana, or any mixture which contains any such controlled substance, shall be punished for any quantity for a **Category A offense**.

SECTION 453.339 Trafficking in controlled substances: Marijuana.

1. Except as otherwise provided in SECTION 453.011 to 453.552, inclusive, a person who knowingly or intentionally sells, manufactures, delivers or brings

into this Reservation or who is knowingly or intentionally in actual or constructive

possession of marijuana shall be punished, if the quantity involved:

(a) Is 100 pounds or more, but less than 2,000 pounds, for a **Category A offense**.

(b) Is 2,000 pounds or more, but less than 10,000 pounds, for a **Category A offense**.

(c) Is 10,000 pounds or more, for a **Category A offense**.

2. For the purposes of this section:

(a) "Marijuana" means all parts of any plant of the genus Cannabis, whether growing or not.

(b) The weight of marijuana is its weight when seized or as soon as practicable thereafter.

SECTION 453.3395 Trafficking in controlled substances: Schedule II substances.

Except as otherwise provided in SECTION 453.011 to 453.552, inclusive, a person who knowingly or intentionally sells, manufactures, delivers or brings into this Reservation or who is knowingly or intentionally in actual or constructive possession

of any controlled substance which is listed in schedule II or any mixture which contains any such controlled substance shall be punished, unless a greater penalty is provided pursuant to SECTION 453.322, if the quantity involved:

1. Is 28 grams or more, but less than 200 grams, for a **Category A offense**.

2. Is 200 grams or more, but less than 400 grams, for a **Category A offense**.

3. Is 400 grams or more, for a **Category A offense**.

SECTION 453.3405 Trafficking in controlled substances: Suspended sentence limited; reduction or suspension of sentence of person assisting in identification, arrest or conviction.

1. Except as provided in subsection 2, the adjudication of guilt and imposition of sentence of a person found guilty of trafficking in a controlled substance in violation of SECTION 453.3385, 453.339 or 453.3395 must not be suspended.

2. The judge, upon an appropriate motion, may reduce or suspend the sentence of any person convicted of violating any of the provisions of SECTION 453.3385, 453.339 or 453.3395 if he finds that the convicted person rendered substantial assistance in the identification, arrest or conviction of any of his accomplices, accessories, coconspirators or principals or of any other person involved in trafficking in a controlled substance in violation of SECTION 453.3385, 453.339 or 453.3395. The arresting agency must be given an opportunity to be heard before the motion is granted.

SECTION 453.348 Previous convictions. In any proceeding brought under SECTION 453.316, 453.321, 453.322, 453.333, 453.334, 453.337, 453.338 or 453.401, any previous convictions of the offender for a **Category A offense** relating to controlled substances must be alleged in the complaint charging the primary offense, but the conviction may not be alluded to on the trial of the primary offense nor may any evidence of the previous offense be produced in the presence of the jury except as otherwise prescribed by law. If the offender pleads guilty to or is convicted of the primary offense but denies any previous conviction charged, the court shall determine the issue after hearing all relevant evidence. A certified copy of a conviction of a **Category A offense** is prima facie evidence of the conviction.

ILLEGAL INTERNET PHARMACIES

SECTION 453.3628 "Prescription drug" defined. "Prescription drug" means:

1. A controlled substance or dangerous drug that may be dispensed to an ultimate user only pursuant to a lawful prescription; and
2. Any other substance or drug substituted for such a controlled substance or dangerous drug.

FURTHER REGULATION AND PROHIBITIONS

SECTION 453.371 Definitions. As used in SECTION 453.371 to 453.552, inclusive:

1. "Advanced practitioner of nursing" means a person who holds a certificate of recognition granted pursuant to NRS 632.237 and is registered with the Board.
2. "Medical intern" means a medical graduate acting as an assistant in a hospital for the purpose of clinical training.
3. "Pharmacist" means a person who holds a certificate of registration issued pursuant to NRS 639.127 and is registered with the Board.
4. "Physician," "dentist," "podiatric physician," "veterinarian" and "euthanasia technician" mean persons authorized by a license to practice their respective professions in this state who are registered with the Board.
5. "Physician assistant" means a person who is registered with the Board and:
 - (a) Holds a license issued pursuant to NRS 630.273; or
 - (b) Holds a certificate issued pursuant to NRS 633.451.

SECTION 453.375 Authority to possess and administer controlled substances. A controlled substance may be possessed and administered by the following persons:

1. A practitioner.
2. A registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a physician, physician assistant, dentist, podiatric physician or advanced practitioner of nursing, or pursuant to a chart order, for administration to a patient at another location.
3. An advanced emergency medical technician:
 - (a) As authorized by regulation of:
 - (1) The State Board of Health.
4. A respiratory therapist, at the direction of a physician or physician assistant.
5. A medical student, student in training to become a physician assistant or student nurse in the course of his studies at an approved college of medicine or school of professional or practical nursing, at the direction of a physician or physician assistant and:
 - (a) In the presence of a physician, physician assistant or a registered nurse; or
 - (b) Under the supervision of a physician, physician assistant or a registered nurse if the student is authorized by the college or school to administer the substance outside the presence of a physician, physician assistant or nurse. A medical student or student nurse may administer a controlled substance in the presence or under the supervision of a registered nurse alone only if the circumstances are such that the registered nurse would be authorized to administer it personally.
6. An ultimate user or any person whom the ultimate user designates pursuant to a written agreement.
7. Any person designated by the head of a correctional institution.
8. A veterinary technician at the direction of his supervising veterinarian.

9. In accordance with applicable regulations of the Tribe, an employee of a residential facility for groups, as defined in NRS 449.017, pursuant to a written agreement entered into by the ultimate user.

10. In accordance with applicable regulations of the State Board of Pharmacy, an animal control officer, a wildlife biologist or an employee designated by a federal, Tribal or local governmental agency whose duties include the control of domestic, wild and predatory animals.

11. A person who is enrolled in a training program to become an advanced emergency medical technician, respiratory therapist or veterinary technician if the person possesses and administers the controlled substance in the same manner and under the same conditions that apply, respectively, to an advanced emergency medical technician, respiratory therapist or veterinary technician who may possess and administer the controlled substance, and under the direct supervision of a person licensed or registered to perform the respective medical art or a supervisor of such a person.

SECTION 453.377 Authority to dispense controlled substances. A controlled substance may be dispensed by:

1. A registered pharmacist upon a legal prescription from a practitioner or to a pharmacy in a correctional institution upon the written order of the prescribing practitioner in charge.

2. A pharmacy in a correctional institution, in case of emergency, upon a written order signed by the chief medical officer.

3. A practitioner.

4. A registered nurse, when the Tribe, state, county, city or district health officer has declared a state of emergency.

5. A medical intern in the course of his internship.

SECTION 453.381 Limitations on prescribing, possessing, administering, transporting and dispensing controlled substances.

1. In addition to the limitations imposed by SECTION 453.256 and 453.3611 to 453.3648, inclusive, a physician, physician assistant, dentist, advanced practitioner of nursing or podiatric physician may prescribe or administer controlled substances only for a legitimate medical purpose and in the usual course of his professional practice, and he shall not prescribe, administer or dispense a controlled substance listed in schedule II for himself, his spouse or his children except in cases of emergency.

2. A veterinarian, in the course of his professional practice only, and not for use by a human being, may prescribe, possess and administer controlled substances, and he may cause them to be administered by a veterinary technician under his direction and supervision.

3. A euthanasia technician, within the scope of his license, and not for use by a human being, may possess and administer sodium pentobarbital.

4. A pharmacist shall not fill an order which purports to be a prescription if he has reason to believe that it was not issued in the usual course of the professional practice of a physician, physician assistant, dentist, advanced practitioner of nursing, podiatric physician or veterinarian.

5. Any person who has obtained from a physician, physician assistant, dentist, advanced practitioner of nursing, podiatric physician or veterinarian any controlled substance for administration to a patient during the absence of the physician, physician assistant, dentist, advanced practitioner of nursing, podiatric physician or veterinarian shall return to him any unused portion of the substance when it is no longer required by the patient.

6. A manufacturer, wholesale supplier or other person legally able to furnish or sell any controlled substance listed in schedule II shall not provide samples of such a controlled substance to registrants.

7. A salesman of any manufacturer or wholesaler of pharmaceuticals shall not possess, transport or furnish any controlled substance listed in schedule

II.

8. A person shall not dispense a controlled substance in violation of a regulation adopted by the Board.

SECTION 453.385 Adoption of regulations governing prescriptions for controlled substances; compliance with federal law.

1. Each prescription for a controlled substance must comply with the regulations of the Board adopted pursuant to subsection 2.

2. The Board shall, by regulation, adopt requirements for:

(a) The form and content of a prescription for a controlled substance. The requirements may vary depending upon the schedule of the controlled substance.

(b) Transmitting a prescription for a controlled substance to a pharmacy. The requirements may vary depending upon the schedule of the controlled substance.

(c) The form and contents of an order for a controlled substance given for a patient in a medical facility and the requirements for keeping records of such orders.

3. Except as otherwise provided in this subsection, the regulations adopted pursuant to subsection 2 must ensure compliance with, but may be more stringent than required by, applicable federal law governing controlled substances and the rules, regulations and orders of any federal agency administering such law. The regulations adopted pursuant to paragraph (b) of subsection 2 for the electronic transmission or transmission by a facsimile machine of a prescription for a controlled substance must not be more stringent than federal law governing the electronic transmission or transmission by a facsimile machine of a prescription for a controlled substance or the rules, regulations or orders of any federal agency administering such law.

SECTION 453.391 Unlawful taking or obtaining of controlled substance or prescription. A person shall not:

1. Unlawfully take, obtain or attempt to take or obtain a controlled substance or a prescription for a controlled substance from a manufacturer, wholesaler, pharmacist, physician, physician assistant, dentist, advanced practitioner of nursing, veterinarian or any other person authorized to administer, dispense or possess controlled substances.

2. While undergoing treatment and being supplied with any controlled substance or a prescription for any controlled substance from one practitioner, knowingly obtain any controlled substance or a prescription for a controlled substance from another practitioner without disclosing this fact to the second practitioner.

SECTION 453.411 Unlawful use of controlled substance; penalties.

1. It is unlawful for a person knowingly to use or be under the influence of a controlled substance except in accordance with a lawfully issued prescription.

2. It is unlawful for a person knowingly to use or be under the influence of a controlled substance except when administered to the person at a rehabilitation clinic established or licensed by the Health Division of the Department, or a hospital certified by the Department.

3. Unless a greater penalty is provided in NRS 212.160, a person who violates this section shall be punished:

(a) If the controlled substance is listed in schedule I, II, III, or IV for a **Category A offense**.

- (b) If the controlled substance is listed in schedule V, for a **Category B offense**.

SECTION 453.421 Penalty for violation of SECTION 453.371 to 453.391, inclusive.

A person who violates any provision of SECTION 453.371 to 453.391, inclusive, is guilty of a **Category A offense**.

SECTION 453.431 Unlawful acts relating to filling and refilling prescriptions and obtaining controlled substance or prescription; authorization to request proper identification from person requesting controlled substance.

1. A pharmacist shall not knowingly fill or refill any prescription for a controlled substance for use by a person other than the person for whom the prescription was originally issued.

2. A person shall not furnish a false name or address while attempting to obtain a controlled substance or a prescription for a controlled substance. A person prescribing, administering or dispensing a controlled substance may request proper identification from a person requesting controlled substances.

3. A pharmacist shall not fill a prescription for a controlled substance if the prescription shows evidence of alteration, erasure or addition, unless he obtains approval of the practitioner who issued the prescription.

4. A pharmacist shall not fill a prescription for a controlled substance classified in schedule II unless it is tendered on or before the 14th day after the date of issue. This subsection does not prohibit a practitioner from issuing a prescription on which he indicates that the prescription may not be filled until the date indicated on the prescription, which must not be later than 6 months after the date the prescription is issued.

5. A person who violates this section is guilty of a **Category A offense**.

SECTION 453.505 Controlled substance for which prescription is not required:

Violation of regulation by pharmacist; misrepresentation to pharmacist to obtain controlled substance; penalties.

1. Any pharmacist who violates any regulation of the Board regulating the dispensing of a controlled substance for which a prescription is not required is guilty of a **Category B offense**.

2. Any person who knowingly or intentionally makes a false representation to a pharmacist for the purpose of obtaining a controlled substance for which a prescription is not required is guilty of a **Category B offense**.

SECTION 453.521 Unlawful possession or sale of nasal inhaler; exception. It is unlawful for any person within this Tribe to possess, sell, offer to sell or hold for the purpose of sale or resale any nasal inhaler which contains any controlled substance capable of causing stimulation to the central nervous system unless:

1. The product contains a denaturant in sufficient quantity to render it unfit for internal use; and

2. The product is among such products listed as approved by the Board in the regulations officially adopted by the Board.

SECTION 453.541 Sacramental use of peyote permitted. The criminal sanction provided in SECTION 453.011 to 453.552, inclusive, does not apply to that plant of the genus *Lophophora* commonly known as peyote when such drug is used as the sacrament in religious rites of any bona fide religious organization.

SECTION 453.551 Immunity for acts in performance of official duties. All agents or peace officers, and the prosecuting attorney while investigating violations of section 453.011 to 453.552 inclusive, in performance of their

official duties, and any person working under their immediate direction, supervision or instruction are immune from prosecution under the provisions of such sections for acts which would otherwise be unlawful under such provisions but which are reasonably necessary in the performance of their official duties.

SECTION 453.552 Criminal penalties additional to civil penalties or sanctions.

1. Any penalty imposed for violation of SECTION 453.011 to 453.551, inclusive, is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.

2. Any violation of the provisions of SECTION 453.011 to 453.551, inclusive, where no other penalty is specifically provided, is a **Category C offense**.

CIVIL PENALTIES

SECTION 453.553 Action to recover civil penalty: Persons liable for civil penalty; action to be brought by tribal prosecutor;

1. In addition to any criminal penalty imposed for a violation of the provisions of SECTION 453.011 to 453.552, inclusive, any person who unlawfully sells, manufactures, delivers or brings into this Reservation, possesses for sale or participates in any way in a sale of a controlled substance listed in schedule I, II or III or who engages in any act or transaction in violation of the provisions of SECTION 453.3611 to 453.3648, inclusive, is subject to a civil penalty for each violation. This penalty must be recovered in a civil action, brought in the name of the Tribe by the Prosecuting Attorney.

2. As used in this section and SECTION 453.5531, 453.5532 and 453.5533:

(a) "Each violation" includes a continuous or repetitive violation arising out of the same act.

(b) "Sell" includes exchange, barter, solicitation or receipt of an order, transfer to another for sale or resale and any other transfer for any consideration or a promise obtained directly or indirectly.

(c) "Substitute" means a substance which:

(1) Was manufactured by a person who at the time was not currently registered with the Secretary of Health and Human Services; and

(2) Is an imitation of or intended for use as a substitute for a substance listed in schedule I, II or III.

DRUG PARAPHERNALIA

SECTION 453.554 "Drug paraphernalia" defined. As used in SECTION 453.554 to 453.566, inclusive, unless the context otherwise requires, "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this chapter. The term includes, but is not limited to:

1. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

2. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing or preparing controlled substances;

3. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

4. Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled

substances;

5. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

7. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

8. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

9. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

10. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances; and

11. Objects used, intended for use, or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

(a) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

(b) Water pipes;

(c) Smoking masks;

(d) Roach clips, which are objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

(e) Cocaine spoons and cocaine vials;

(f) Carburetor pipes and carburetion tubes and devices;

(g) Chamber pipes;

(h) Electric pipes;

(i) Air-driven pipes;

(j) Chillums;

(k) Bongos; and

(l) Ice pipes or chillers.

SECTION 453.556 Factors for identifying object as item of drug paraphernalia.

In determining whether an object is an item of drug paraphernalia, a court or other authority, as the case may be, shall consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;

2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any Tribal or federal law relating to any controlled substance;

3. The proximity of the object, in time and space, to a direct violation of this chapter;

4. The proximity of the object to controlled substances;

5. The existence of any residue of controlled substances on the object;

6. Direct or circumstantial evidence of the intent of any owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter;

7. Instructions, oral or written, provided with the object concerning its use;

8. Descriptive materials accompanying the object which explain or depict its use;

9. National and local advertising concerning its use;

10. The manner in which the object is displayed for sale;

11. Direct or circumstantial evidence of the ratio of sales of the object

to the total sales of the business enterprise; and

12. Expert testimony concerning its use. The innocence of an owner or of anyone in control of the object as to a direct violation of this chapter does not prevent a finding that the object is intended for use or designed for use as an item of drug paraphernalia.

SECTION 453.558 Injunctions. The tribal prosecutor may file a complaint in the tribal court seeking to enjoin the possessor and owner of the drug paraphernalia from delivering or selling, or possessing with intent to deliver or sell, any drug paraphernalia.

SECTION 453.560 Unlawful delivery, sale, possession or manufacture. Unless a greater penalty is provided in NRS 212.160, a person who delivers or sells, possesses with the intent to deliver or sell, or manufactures with the intent to deliver or sell any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this chapter is guilty of a **Category A offense**.

SECTION 453.562 Unlawful delivery to minor. A person 18 years of age or older who violates SECTION 453.560 by delivering drug paraphernalia to a person under 18 years of age who is at least 3 years his junior is guilty of a **Category A offense**. In addition to any other penalty, the court may order the convicted person to pay restitution for any reasonable costs incurred for the participation of the person to whom he delivered the paraphernalia in a program for the treatment of the abuse of controlled substances. If the court orders the convicted person to make such restitution, the court shall notify the parent, guardian or other person legally responsible for the person to whom the paraphernalia was delivered that such restitution has been ordered.

SECTION 453.564 Unlawful advertising. Any person who places in any printed publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia is guilty of a **Category D offense**.

SECTION 453.566 Unlawful use or possession. Any person who uses, or possesses with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this chapter is guilty of a **Category D offense**.

MISCELLANEOUS PROVISIONS

SECTION 453.570 Amount of controlled substance needed to sustain conviction for prohibited offense. The amount of a controlled substance needed to sustain a conviction of a person for an offense prohibited by the provisions of SECTION 453.011 to 453.552, inclusive, is that amount necessary for identification as a controlled substance by a witness qualified to make such identification.

SECTION 453.575 Fee for analysis of controlled substance or other substance or drug: Inclusion in sentence of offender; distribution and use of proceeds.

1. If a defendant pleads guilty to or is found guilty of, any violation of this chapter and an analysis of a controlled substance or other substance or

drug was performed in relation to his case, the court shall include in the sentence an order that the defendant pay a fee for the analysis of the controlled substance or other substance or drug.

TREATMENT AND REHABILITATION OF ADDICTS

SECTION 453.600 Declaration of legislative purpose. It is the purpose of SECTION 453.600 to 453.730, inclusive, to protect and promote the health, welfare and safety of the people of this Tribe by combating the effects of the disease of narcotic addiction and by assisting the rehabilitation of certain narcotic addicts through a comprehensive program of treatment, research and investigation.

SECTION 453.730 Emergency treatment authorized without notification to law enforcement officer or agency. Notwithstanding any other provision of law, any physician may render emergency treatment for narcotic or dangerous drug abuse without notifying a law enforcement official or agency.