
RECENT NOTABLE CHANGES TO PHARMACY LAWS

FACT SHEET

INTRODUCTION

Over 2003, numerous changes were made to the statutes and regulations that govern pharmacies, pharmacists, and other practices related to drugs. This Fact Sheet is intended to highlight the most pertinent changes, all of which are presently effective and in force.

POSITIVE ID FOR CONTROLLED SUBSTANCES PRESCRIPTIONS

An employee of a pharmacy must obtain a current governmentally-issued picture identification of the person picking up a prescription for all controlled substances prescriptions where the patient or person picking up the prescription:

- Is paying cash,
- Has not had a prescription for the same controlled substance filled before at that pharmacy, and
- Is not getting the prescription filled at a pharmacy that is part of a health care facility or clinic at which the patient is being treated.

A pharmacy may not dispense a controlled substances prescription for which positive ID is required without reviewing the ID. If a positive ID is required, the pharmacy must:

- Make and keep a photocopy of the ID, or
- Record the full name and identification number of the person offering the ID on a written record (refill log, counseling log, etc.) or in the pharmacy's computer.

CHANGES TO DAW AND GENERIC SUBSTITUTION RULES

For any drug for which there are two or more substitutable versions (either name brand and generic or competing generics), a pharmacy must

dispense to a patient the least expensive version of the drug in its inventory.ⁱ A patient may refuse to accept the least expensive version of the drug unless the prescription is paid for by a governmental agency.

A physician may indicate that a particular brand must be dispensed only if he or she:

- Orally communicates that desire to a pharmacist;
- *HANDWRITES* the words "Dispense as Written" on the face of the prescription; or
- Includes the words "Dispense as Written" on an electronically transmitted prescription.

Check-off boxes or preprinted indications of "DAW" or "Dispense as Written" are not effective and must be disregarded by the pharmacist and pharmacy.

The exceptions to this requirement are:

- The prescription is an inpatient prescription;
- The prescription is dispensed by mail order or an Internet pharmacy; or
- The use of the least expensive version of the drug would violate the terms of the patient's formulary or would otherwise make the transaction ineligible for third-party payment.

EXPIRATION DATES ON PRESCRIPTIONS

The expiration date on all prescription labels must now be the actual expiration date taken off of the manufacturer's original packaging.ⁱⁱ

CII PRESCRIPTIONS MAY NOW BE POST-DATED

On CII prescriptions, a practitioner may now indicate that a prescription may not be filled until a later date (not to exceed six months from the date of issuance).ⁱⁱⁱ Language such as “Do not dispense until. . .” or “Do not dispense before. . .” is acceptable, as long as the actual date of issuance is also on the prescription.

PHARMACIST INITIALS REGARDING PATIENT COUNSELING

A pharmacist must hand-initial a document to indicate whether a patient accepted counseling or refused to be counseled.^{iv} If the pharmacy has a checkout computer screen used by patients, the pharmacist may initial the patient’s checkout computer screen as long as the computer screen captures and keeps the screen as part of the patient’s file, the computer file cannot be altered at a later time, and the computer file is readily retrievable.

PRESCRIPTIONS RECEIVED FROM OUT-OF-STATE PRACTITIONERS

For any controlled substances prescription written by a practitioner who is not licensed in Nevada, a pharmacist shall speak with the practitioner to obtain and record on the prescription or in the pharmacy’s computer the following:

- The name of the person with whom the pharmacist spoke;
- The date and time of the conversation; and
- The date and time the patient was physically examined by the prescribing practitioner.^v

For any prescription that is not for a controlled substance written by a practitioner who is not licensed in Nevada for a patient who is (1) not a resident of Nevada and is not resident in the same state as the practitioner and (2) not paying for the prescription using a third-party payor, the pharmacist shall speak with the patient and the practitioner to obtain and record on the

prescription or in the pharmacy’s computer the following:

- The name of the person with whom the pharmacist spoke;
- The date and time of the conversation; and
- The date and time the patient was physically examined by the prescribing practitioner.^{vi}

The physical examination, which must have occurred by the practitioner and the patient being in the same room, must have occurred within 6 months of the date of the prescription.

DOCUMENTS TO LOCAL POLICE

In addition to the preexisting list of people to whom a pharmacist should provide copies of a prescription or other information regarding a patient, a pharmacist should now also provide copies of these documents to a police officer or sheriff to the extent necessary:

- For the investigation of a crime reported by an employee of the pharmacy where the crime was committed; or
- To comply with a search warrant or subpoena issued pursuant to a court order.^{vii}

TECHNICIAN QUALIFICATIONS

As of October 1, 2003, a person can no longer qualify to be a pharmaceutical technician by having one year of post-secondary education that included a class in algebra and a class in chemistry or biology.^{viii}

ⁱ SB 387, Sec. 3 (2003 Legislative Session).

ⁱⁱ NRS 639.2801(6) as amended by AB 119, Sec. 1 (2003 Legislative Session).

ⁱⁱⁱ SB 425, Sec. 41 (2003 Legislative Session).

^{iv} NAC 639.707(4).

^v NRS 639.235 as amended by SB 425, Sec. 26 (2003 Legislative Session).

^{vi} NAC 639.752.

^{vii} NRS 639.238, as amended by SB 425, Sec. 27 (2003 Legislative Session).

^{viii} NRS 639.1371 as amended by SB 425, Sec 16 (2003 Legislative Session).