

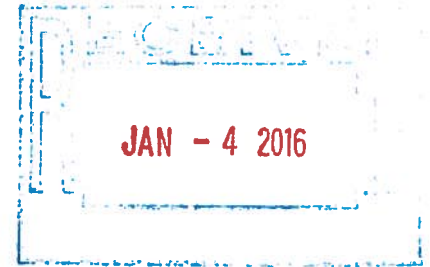


300 N. LaSalle Street  
Suite 4000  
Chicago, Illinois 60654-3406  
312.715.5000  
Fax 312.715.5155  
[www.quarles.com](http://www.quarles.com)

Writer's Direct Dial: 312-715-5139  
E-Mail: [Edward.Rickert@quarles.com](mailto:Edward.Rickert@quarles.com)

Attorneys at Law in  
Chicago  
Indianapolis  
Madison  
Milwaukee  
Naples  
Phoenix  
Scottsdale  
Tampa  
Tucson  
Washington, D.C.

December 30, 2015



**VIA ELECTRONIC MAIL AND  
UPS**

Mr. Larry Pinson  
Executive Secretary  
431 W. Plumb Lane  
Reno, NV 89509

Re: BriovaRx of Nevada, LLC and Tel-Drug, Inc.  
January 14, 2016 Board Appearance

Dear Mr. Pinson:

I am writing on behalf of BriovaRx of Nevada, LLC and Tel-Drug, Inc. to formally request a revision to the Nevada pharmacy regulation that governs the sharing of information between pharmacy computer systems. As we have discussed, the current regulation, Nev. Admin. Code § 639.921, has been interpreted by board staff as requiring pharmacies that wish to share prescription information electronically to have a common owner. That interpretation creates a hardship for pharmacies that desire to electronically share prescription and patient information in order to perform certain prescription processing and fulfillment services, as permitted by Nev. Admin. Code § 639.7125, but do not have a common owner.

You explained that when the original rule was drafted, it was contemplated that only chain pharmacies with multiple locations would share computer systems. However, though this need may have been the case at one time, it is no longer the case. I am aware of independent pharmacies that share services with central refill pharmacies, specialty pharmacies, compounding pharmacies, and other independent pharmacies, in order to improve patient care and optimize efficiency. Many of those pharmacies share computerized prescription and patient information.

Mr. Larry Pinson  
Page 2  
December 30, 2015

In fact, a recent review of the pharmacy laws of all fifty states plus the District of Columbia reveals that nearly every state permitting shared services allows pharmacies not having a common owner to share information electronically in order to process or fill prescriptions.<sup>1</sup>

You have agreed to place this issue before the Nevada pharmacy board for review at the board's January 14, 2015 meeting, and have agreed to allow me to present the issue to the board, accompanied by representatives of BriovaRx of Nevada, LLC and Tel-Drug, Inc. I am enclosing a document that identifies the requested revision to Nev. Admin. Code § 639.921. I ask that this letter and the enclosed document be included in the materials to be distributed to the board in advance of the January 13 - 14 board meeting.

Thank you. I look forward to seeing you next month.

Respectfully submitted,



---

Edward D. Rickert

Enclosures

cc: David Wuest  
Paul Edwards  
Karen Peterson

---

<sup>1</sup> Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, Minnesota, Missouri, Montana, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Vermont, Virginia, Washington, Wisconsin, and Wyoming all permit unrelated pharmacies to share services via a shared computer system. Connecticut, D.C., Massachusetts, Mississippi, Nebraska, New York, Oklahoma, Ohio, South Carolina, South Dakota, and West Virginia are silent on the issue of shared services or common ownership. Only Kentucky and Nevada appear to require common ownership. Citations are available upon request.

## Proposed Revisions to NAC 639.921

NAC 639.921 Sharing information between systems: Conditions and requirements. (NRS 639.070, 639.0745, 639.236)

1. Information concerning prescriptions may be shared between the computerized systems of two or more pharmacies licensed by the Board if:

(a) The pharmacies are commonly owned;~~—~~ or if not commonly owned, have a written agreement that outlines the services to be provided and the accountabilities of each pharmacy in compliance with federal and state law; and

(b) The computerized systems for recording information concerning prescriptions share a common database that:

(1) Except as otherwise provided in subsection 3, contains all the information concerning a patient that is contained in each computerized system that has access to the common database;

(2) Except as otherwise provided in subsection 3, contains all the information concerning a prescription that is contained in each computerized system that has access to the common database;

(3) After a prescription has been filled, automatically decreases the number of refills remaining for the prescription, if any, regardless of which pharmacy filled the prescription;

(4) Automatically stores any modification or manipulation of information concerning a prescription made by a pharmacy with access to the common database so that the modification or manipulation is available to each pharmacy with access to the common database;

(5) Allows access only by a person who is authorized to obtain information from the common database;

(6) Requires any person who is authorized to modify or manipulate information concerning a prescription, before modifying or manipulating the information concerning the prescription, to identify himself or herself in the computerized system by:

(I) Using a biometric identification technique; or

(II) Entering into the computerized system another unique identifier which is approved by the Board and which is known only to and used only by that person;

(7) Makes and maintains an unchangeable record of each person who modifies or manipulates information concerning the prescription, that includes, without limitation:

(I) The name or initials of the person;

(II) An identifier that can be used to determine the pharmacy in which the person modified or manipulated the information concerning the prescription; and

(III) The type of activity concerning the prescription that the person performed, including, without limitation, modifying or manipulating the information concerning the prescription;

(8) Contains a scanned image of the original prescription if the original prescription is a written prescription; and

(9) Provides contact information for the first pharmacist who verifies the correctness of the information contained in the common database concerning the prescription.

2. If a pharmacy is the initial pharmacy to receive a written prescription, a pharmacist shall ensure that:

(a) The written prescription is numbered consecutively in accordance with NAC 639.914; and

(b) The image of the prescription is scanned into the computerized system of the pharmacy.

3. If a pharmacy other than the pharmacy that initially received a prescription enters information concerning a prescription into a computerized system for recording information concerning prescriptions, the information must not be accessible from the common database for the purpose of filling or dispensing a prescription until a pharmacist verifies the correctness of the information entered into the computerized system. After verifying that information, the pharmacist shall enter a notation in the computerized system that includes the pharmacist's name, contact information and the date on which he or she verified the information.

4. A pharmacy that fills a prescription using the information from the common database, other than the pharmacy that initially received the prescription, shall:

(a) Process the prescription in the same manner as a prescription that is initially received by the pharmacy;

(b) Except as otherwise provided in paragraph (c), dispense the prescription in the same manner as a prescription that is initially received by the pharmacy; and

(c) Place on the label of the container in which the prescription will be dispensed:

(1) The number assigned to the prescription by the pharmacy that initially received the prescription; and

(2) An additional number or other identifier that ensures that the number placed on the label pursuant to subparagraph (1) is not confused with a prescription number of the pharmacy that is filling the prescription.

5. The filling of a prescription pursuant to the provisions of subsection 4 shall not be considered a transfer of the prescription.