DISCUSSION AND DETERMINATION – JANUARY 2017

Board staff was asked at the last Board meeting to D&D once again the sharing of prescriptions between the computerized systems of two or more pharmacies licensed by the Board who are not under common ownership.

The relevant regulation is NAC 639.921, changes to which were denied by the Board in July, 2016 (see next pages).

NEVADA STATE BOARD OF PHARMACY

Excerpt of
July 21, 2016

Board Meeting Minutes

21.   Notice of Intent to Act Upon a Regulation

A.   **Amendment of Nevada Administrative Code (NAC) 639.921 Sharing
of information between two or more pharmacies.** The proposed amendment
would allow for the sharing of information concerning prescriptions between the
computerized system of two or more pharmacies that are commonly owned or
contractually related.

Mr. Wuest provided additional information for the Board. He explained that during the
last meeting the Board instructed Staff to get industry input. He stated that members of
the industry were in the audience.

President Basch opened the Public Comment.

Bill Stilling was present as counsel representing Walgreens.

Mr. Stilling commented in support of pharmacies contractually sharing data, and
presented a flow chart comparing persons liable for unprofessional conduct for data
check error using different work flow models.

Dan Luce, National Director of Pharmacy Affairs, Walgreens, appeared and was sworn
by President Basch prior to answering questions or offering testimony.

Mr. Luce commented in support of pharmacies contractually sharing data. He also
requested the Board continue to license and discipline the out-of-state facilities instead
of licensing each out-of-state pharmacist involved in the prescription filling process.

Board discussion ensued regarding the importance of looking at each discipline case on
a single basis and not assigning blame contractually or through regulation.

Charlie Hartig, legal counsel representing CVS, appeared and was sworn by President
Basch.

Mr. Hartig commented in support of shared service models added that this work flow model helps reduce distractions.

Dan Heller, pharmacist, appeared and was sworn by President Basch prior to answering questions or offering testimony.

Mr. Heller commented that a segmented work flow is the safest work model.

President Basch closed Public Comment.

The Board discussed who would be held responsible for errors using the contractual data sharing model.

The Board discussed possible unintended consequences for approving or denying this amendment.

Board Action:

Motion: Jason Penrod moved to table LCB File No. R035-16.

Second: Darla Zarley

Jason Penrod withdrew his motion.

Board Action:

Motion: Jason Penrod moved to deny LCB File No. R035-16.

Second: Darla Zarley

Action: Passed unanimously

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; 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.

(Added to NAC by Bd. of Pharmacy by R039-07, eff. 12-4-2007)