

**REVISED PROPOSED REGULATION OF THE  
STATE BOARD OF PHARMACY**

**LCB File No. R131-17**

April 17, 2017

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §1, NRS 639.070 and section 1 of Senate Bill No. 131, chapter 112, Statutes of Nevada 2017, at page 484 (NRS 639.28015).

A REGULATION relating to pharmacies; specifying the manner in which certain retail community retail pharmacies must provide notice of the availability of prescription readers; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Senate Bill No. 131 of the 79th Legislative Session requires a retail community pharmacy that dispenses drugs to notify each person to whom a drug is dispensed that a prescription reader is available to the person. (Section 1 of Senate Bill No. 131, Chapter 112, Statutes of Nevada 2017, at page 484, (NRS 639.28015)) This regulation specifies the manner in which such notice must be provided.

**Section 1.** Chapter 639 of NAC is hereby amended by adding thereto a new section to read as follows:

*1. To comply with the provisions of section 1 of Senate Bill No. 131, chapter 112, Statutes of Nevada 2017, at page 484, (NRS 639.28015), regarding notice about the availability of prescription readers, a retail community pharmacy shall provide:*

*(a) Written notice in the form of a sign that is posted in the pharmacy;*

*(b) Notice in writing that is given directly to the patient or caregiver of the patient to whom the drug is dispensed; or*

*(c) Verbal notice by direct conversation between the staff of the pharmacy and the patient or caregiver of the patient to whom the drug is dispensed.*

*2. Upon request of the patient or caregiver of the patient to whom a drug is dispensed, a retail community pharmacy shall provide to the patient or caregiver a prescription reader or directions or advice on the manner in which to obtain a prescription reader.*

**PROPOSED REGULATION OF THE  
STATE BOARD OF PHARMACY**

**LCB File No. R013-18**

April 27, 2018

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §§1, 2 and 5-9, NRS 453.221 and 639.070; §3, NRS 639.070 and section 58 of Assembly Bill No. 474, chapter 605, Statutes of Nevada 2017, at page 4434 (NRS 639.23916); §4, NRS 639.070 and 639.23507; §10, NRS 639.070 and 639.0727.

A REGULATION relating to controlled substances; requiring a practitioner to register with the State Board of Pharmacy to access the database that tracks each prescription for certain controlled substances; authorizing a practitioner or hospital to have a delegate access the database to obtain a patient utilization report; authorizing the Board to suspend or terminate before a hearing the Internet access of a practitioner or other person to the database in certain situations; providing the procedure used by the Board to suspend the registration of a practitioner or other person to dispense any controlled substance in certain circumstances; authorizing the Board to provide certain information from the database to a practitioner or other person whose Internet access is suspended or terminated; setting forth the notice and hearing requirements for a practitioner or other person to use if his or her Internet access to the database is suspended or terminated; setting forth certain requirements for the disclosure of information from the database; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes the State Board of Pharmacy to adopt regulations relating to the registration and control of the dispensing of controlled substances in Nevada. (NRS 453.221) Existing law further authorizes the Board to adopt regulations that: (1) are necessary for the protection of the public relating to the practice of pharmacy; (2) authorize the Executive Secretary of the Board to issue certificates, licenses and permits required for the practice of pharmacy or for the dispensing of controlled substances; and (3) govern the dispensing of poisons, drugs, chemicals and medicines. (NRS 639.070) Existing law provides that the Board and the Investigation Division of the Department of Public Safety will develop a computerized

program to track each prescription for a controlled substance listed in schedule II, III, IV or V that is filled by a pharmacy or dispensed by a practitioner. (NRS 453.162)

Existing law requires a practitioner or other person who dispenses any controlled substance to obtain biennially a registration that is issued by the Board. (NRS 453.226) Existing regulations require that a practitioner who wishes to dispense controlled substances or dangerous drugs must apply to the Board for a certificate of registration to dispense controlled substances or dangerous drugs. (NAC 639.742) Existing law provides that a person must present proof that he or she is authorized to access the database of the computerized program that tracks each prescription for a controlled substance before the Board issues or renews a registration to dispense any controlled substance. (NRS 453.226) **Section 2** requires a practitioner or other person who is required to register with the Board to dispense controlled substances or to dispense controlled substances or dangerous drugs to register with the Board to access the database of the computerized program. **Section 10** of this regulation provides that a practitioner must present proof that he or she is registered pursuant to **section 2** of this regulation to access the database of the computerized program before the Board will issue a certificate of registration to dispense controlled substances or dangerous drugs. **Section 2** sets forth that: (1) the Board will deem such registration as proof that the practitioner is authorized to access the database of the computerized program; and (2) access to the database of the computerized program is a revocable privilege.

Existing law requires a practitioner other than a veterinarian to obtain from the database of the computerized program a patient utilization report before issuing an initial prescription for a controlled substance and at least once every 90 days thereafter for the duration of the course of treatment. Existing law requires the Board to adopt regulations that allow a hospital to designate members of the hospital staff to act as delegates for the purposes of accessing the database of the computerized program and obtaining patient utilization reports from the computerized program on behalf of a physician while he or she is providing service in a hospital emergency department. (NRS 639.23507) Existing law authorizes the Board to adopt any regulations necessary to enforce the provisions requiring a practitioner to obtain a patient utilization form from the database of the computerized program. (Section 58 of Assembly Bill No. 474, chapter 605, Statutes of Nevada 2017, at page 4434 (NRS 639.23916)) **Sections 3 and 4** of this regulation authorize a practitioner and a hospital, respectively, to designate certain persons as delegates for the purpose of accessing the database of the computerized program to obtain: (1) the information needed by a practitioner for the practitioner to create a patient utilization report; or (2) a patient utilization report on behalf of a physician providing service in a hospital emergency department. **Sections 3 and 4** require such a delegate to complete certain courses of training before he or she may access the database of the computerized program. **Sections 3 and 4** hold the practitioner or hospital, respectively, liable for any action of the delegate relating to accessing the database of the computerized program.

Existing law authorizes the Board or the Division to suspend or terminate access to the database of the computerized program if a law enforcement agency or employee violates certain provisions. (NRS 453.165) **Section 5** of this regulation authorizes the Board or the Division to

suspend or terminate, before a hearing, the Internet access of a practitioner or other person to the database of the computerized program if the practitioner or other person violates certain provisions. **Section 7** of this regulation authorizes a practitioner or other person whose Internet access to the database of the computerized program is suspended or terminated pursuant to **section 5** to request from the Board information from the database of the computerized program concerning a patient of the practitioner or other person. **Section 7** provides that the Board will provide the requested information if: (1) the person whose information is being requested is a patient of the practitioner or other person; (2) the person whose information is being requested is not deceased; and (3) the request for information complies with existing law. **Section 8** of this regulation sets forth the notice and hearing requirements that must occur if: (1) a practitioner's or other person's Internet access to the database of the computerized program is suspended or terminated pursuant to **section 5**; or (2) a law enforcement agency's or employee's Internet access to the database of the computerized program is suspended or terminated pursuant to existing law.

Existing law authorizes the Board to suspend any registration before a hearing if the Board finds that there is an imminent danger to the public health or safety which warrants such action. (NRS 453.241) **Section 6** of this regulation authorizes the Board or Executive Secretary of the Board, if a practitioner's or other person's Internet access is suspended or terminated pursuant to **section 5**, to also suspend the practitioner's or other person's registration to dispense controlled substances or certificate of registration to dispense controlled substances or dangerous drugs if the Board finds that there is an imminent danger to the public health or safety that warrants such action.

Existing law requires the information obtained from the database of the computerized program to be disclosed upon the request of a person about whom the information requested concerns or upon the request of that person's attorney. (NRS 453.164) **Section 9** of this regulation: (1) requires the person or his or her attorney to submit such a request by using a notarized authorization form that the Board will provide on its Internet website; and (2) provides that the Board will, upon receiving such a notarized authorization form, disclose the information only to the person about whom the information requested concerns or to that person's attorney.

**Section 1.** Chapter 453 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

**Sec. 2. 1. *A practitioner or other person who is required to register with the Board pursuant to subsection 1 of NRS 453.226 to dispense controlled substances or NAC 639.742 to***

*dispense controlled substances or dangerous drugs must also register with the Board pursuant to this section to access the database of the program established pursuant to NRS 453.162.*

*2. To register pursuant to this section to access the database, the practitioner or other person must apply to the Board on an application provided by the Board. For purposes of subsection 1 of NRS 453.226, the Board will deem such registration as proof that the practitioner or other person is authorized to access the database.*

*3. Access to the database is a revocable privilege, and no holder of such access to the database of the program acquires any vested right therein or thereunder.*

*Sec. 3. 1. Except as otherwise provided in section 4 of this regulation, a practitioner other than a veterinarian may designate not more than two members of his or her staff to act as delegates for the purpose of accessing the database of the computerized program established pursuant to NRS 453.162 to obtain the information needed by a practitioner for the practitioner to obtain a patient utilization report pursuant to NRS 639.23507.*

*2. A delegate designated pursuant to subsection 1 must complete the course of training required pursuant to subsection 5 of NRS 453.164 before the delegate is provided with Internet access to the database.*

*3. The practitioner shall be liable for any action of the delegate relating to accessing the database.*

*Sec. 4. 1. A hospital may designate members of the staff of the hospital to act as delegates for the purpose of accessing the database of the computerized program established pursuant to NRS 453.162 to obtain a patient utilization report pursuant to NRS 639.23507 on behalf of a physician providing service in a hospital emergency department.*

2. *A delegate designated pursuant to subsection 1 must complete the course of training required pursuant to subsection 5 of NRS 453.164 before the delegate is provided with Internet access to the database.*

3. *The hospital shall be liable for any action of the delegate relating to accessing the database.*

Sec. 5. 1. *The Board or the Division may suspend or terminate, before a hearing, the Internet access of a practitioner or other person to the database of the program established pursuant to NRS 453.162 if the practitioner or other person violates any provision of NRS 453.162 to 453.165, inclusive, NRS 639.23507 or sections 52 to 58, inclusive, of Assembly Bill No. 474, chapter 605, Statutes of Nevada 2017, at page 4430 (NRS 639.2391 to 639.23916, inclusive).*

2. *As used in this section, "practitioner" does not include a hospital or other institution which is licensed, registered or otherwise authorized in this State to distribute, dispense, conduct research with respect to, administer or use in teaching or chemical analysis a controlled substance in the course of professional practice or research.*

Sec. 6. 1. *If the Internet access of a practitioner or other person to the database of the program established pursuant to NRS 453.162 is suspended or terminated pursuant to section 5 of this regulation, the Board or Executive Secretary of the Board on behalf of the Board may, pursuant to NRS 453.241, also suspend, before a hearing, a registration of the practitioner or other person to dispense controlled substances issued pursuant to NRS 453.226 or a certificate of registration to dispense controlled substances or dangerous drugs issued*