Nevada State Board of Pharmacy

985 DAMONTE RANCH PARKWAY • SUITE 206 • RENO, NEVADA 89521
(775) 850-1440 • 1-800-364-2081 • FAX (775) 850-1444
E-mail: pharmacy@pharmacy.nv.gov • Website: bop.nv.gov

April 28, 2020

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption and Amendment of
Regulations of the Nevada State Board of Pharmacy

The Nevada State Board of Pharmacy will hold a Public Hearing at 9:00 a.m. on Wednesday, June 3, 2020, via teleconference. The purpose of the hearing is to receive comments from all interested persons regarding the adoption and amendment of regulations that pertain to Chapters 453 and/or 639 of the Nevada Administrative Code.

Teleconference Line
1-669-900-6833
Meeting ID: 960 6095 2586

The following information is provided pursuant to the requirements of NRS 233B.060:

Amendment of Nevada Administrative Code (NAC) Chapter 639. The proposed amendment will authorize the treatment of partners for a shared communicable disease upon the diagnosis of one of the partners.
(LCB File No. R008-20)

1. The need for and the purpose of the proposed regulation or amendment.

The proposed amendment provides that it is not unprofessional conduct or conduct contrary to the public interest to prescribe or dispense a drug in accordance with certain federal guidelines. Those federal guidelines provide for the prescribing and dispensing of drugs for the treatment of certain sexually transmitted infections without a medical evaluation to the sexual partner of a person diagnosed with such an infection. The regulation is necessary for the protection, health and safety of the public.

2. Either the terms or the substance of the regulations to be adopted and amended.

A copy of the proposed regulation amendment is attached to this notice.

3. The estimated economic effect of the regulation on the business which it is to regulate and on the public:

(a) Both adverse and beneficial effects.

There should be no adverse economic impact from this regulation amendment on the regulated entities or on the public. This amendment will have beneficial effects for practitioners as the

regulated entities and on the public by improving delivery of pharmaceutical care in Nevada. The regulation is necessary for the protection, health and safety of the public.

(b) Both immediate and long-term effects.

The immediate and long-term economic effect on regulated entities will be to improve patient access and delivery of pharmaceutical care in Nevada. The regulation is necessary for the protection, health and safety of the public.

4. The estimated cost to the agency for enforcement of the proposed regulation.

There will be no additional or special costs incurred by the Board of Pharmacy for enforcement of this regulation amendment.

5. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The Board of Pharmacy is not aware of any similar regulations of any other state or local governmental agency that the proposed regulation amendment overlaps or duplicates.

6. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The regulation is not required by federal law.

7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The Board of Pharmacy is not aware of any similar federal regulation amendments of the same activity in which the state regulation is more stringent.

8. Whether the proposed regulation establishes a new fee or increases an existing fee.

This regulation does not provide a new or increase of fees.

Persons wishing to comment upon the proposed action of the Board may appear at the scheduled public hearing or may address their comments, data, views, or arguments in written form to the Nevada State Board of Pharmacy, 985 Damonte Ranch Parkway, Suite 206 – Reno, NV 89521, or at e-mail address: shunting@pharmacy.nv.gov. Written submissions must be received by the Board at least fourteen days before the scheduled public hearing. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Board may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted and amended will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during

business hours. Additional copies of the notice and the regulation to be adopted and amended will be available in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. The text of each regulation will include the entire text of any section of the Nevada Administrative Code which is proposed for amendment or repeal. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at http://www.leg.state.nv.us. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

Nevada State Board of Pharmacy
Reno, Nevada

Nevada State Board of Pharmacy
Las Vegas, Nevada

Mineral County Courthouse
Hawthorne, Nevada

Elko County Courthouse
Elko, Nevada

Washoe County Courthouse
Reno, Nevada

PROPOSED REGULATION OF THE

STATE BOARD OF PHARMACY

LCB File No. R008-20

March 2, 2020

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

AUTHORITY: §§1 and 2, NRS 639.070 and 639.210.

A REGULATION relating to pharmacy; revising provisions governing unprofessional conduct or conduct contrary to the public interest; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Board of Pharmacy to suspend or revoke a certificate, license, registration or permit or deny the application of any person for a certificate, license, registration or permit if the person is guilty of unprofessional conduct or conduct contrary to the public interest. (NRS 639.210) Existing regulations provide that it is unprofessional conduct and conduct contrary to the public interest to: (1) dispense a drug as a dispensing practitioner to a patient with whom the dispensing practitioner does not have a bona fide therapeutic relationship; or (2) prescribe a drug as a prescribing practitioner to a patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship. (NAC 639.945) This regulation provides that it is not unprofessional conduct or conduct contrary to the public interest to prescribe or dispense a drug in accordance with certain federal guidelines. Those federal guidelines provide for the prescribing and dispensing of drugs for the treatment of certain sexually transmitted infections without a medical evaluation to the sexual partner of a person diagnosed with such an infection.

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

1. Except as otherwise provided in subsection 2, the following publications are hereby adopted by reference:

(a) "Guidance on the Use of Expedited Partner Therapy in the Treatment of Gonorrhea," available from the Centers for Disease Control and Prevention of the United States Department of Health and Human Services at no cost on the Internet at https://www.cdc.gov/std/ept/gc-guidance.htm, or, if that Internet website ceases to exist, from the Board.

(b) "Expedited Partner Therapy in the Management of Sexually Transmitted Diseases: Review and Guidance," available from the Centers for Disease Control and Prevention of the United States Department of Health and Human Services at no cost on the Internet at https://www.cdc.gov/std/treatment/eptfinalreport2006.pdf, or, if that Internet website ceases to exist, from the Board.

2. Except as otherwise provided in this subsection, the most current version of a publication adopted by reference pursuant to subsection 1 which is published will be deemed to be adopted by reference. The Board will periodically review and determine, within 30 days after the review, whether any change made to a publication listed in subsection 1 is appropriate for application in this State. If the Board does not disapprove a change to an adopted publication within 30 days after the review, the change is deemed to be approved by the Board.

Sec. 2. NAC 639.945 is hereby amended to read as follows:

639.945 1. The following acts or practices by a holder of any license, certificate or registration issued by the Board or any employee of any business holding any such license, certificate or registration are declared to be, specifically but not by way of limitation, unprofessional conduct and conduct contrary to the public interest:

(a) Manufacturing, compounding, selling, dispensing or permitting to be manufactured, compounded, sold or dispensed substandard drugs or preparations.

(b) Except as otherwise provided in NRS 639.2583 to 639.2808, inclusive, for substitutions of generic drugs, dispensing or causing to be dispensed a different drug or brand of drug in place of the drug or brand of drug ordered or prescribed, unless the express permission of the orderer or prescriber is obtained and, in the case of a written prescription, unless the following information is recorded on the prescription by the person obtaining permission:

(1) The date on which the permission was granted;

(2) The name of the practitioner granting the permission;

(3) The name of the person obtaining the permission;

(4) The name of the drug dispensed; and

(5) The name of the manufacturer or distributor of the drug.

(c) Using secret formulas.

(d) Except as otherwise provided by subsection 2 of NRS 639.2396, failing strictly to follow the instructions of the person writing, making or ordering a prescription or chart order as to its filling or refilling, the content of the label of the prescription or giving a copy of the prescription or chart order to any person except as permitted by law.

(e) Failing to confer with the person writing, making or ordering a prescription or chart order if there is an error or omission in it which should be questioned.

(f) Operating a pharmacy at a location other than the location at which the pharmacy is licensed to operate.

(g) Supplying or diverting drugs, biologicals, medicines, substances or devices which are legally sold in pharmacies or by wholesalers, so that unqualified persons can circumvent any law pertaining to the legal sale of such articles.

(h) Performing or in any way being a party to any fraudulent or deceitful practice or transaction.

(i) Performing any of his or her duties as the holder of a license, certificate or registration issued by the Board, or as the owner of a business or an entity licensed by the Board, in an incompetent, unskillful or negligent manner.

(j) Aiding or abetting a person not licensed to practice pharmacy in the State of Nevada.

(k) Performing any act, task or operation for which licensure, certification or registration is required without the required license, certificate or registration.

(l) Violating any term or condition of a subpoena or order issued by the Board or the staff of the Board.

(m) Failing to provide any document, data or information that is required to be made and maintained pursuant to chapters 453, 454, 585 and 639 of NRS and chapters 453, 454, 585 and 639 of NAC to a member of the Board or a member of the staff of the Board upon his or her request.

(n) ***Except as otherwise provided in subsection 2:***

(1) Dispensing a drug as a dispensing practitioner to a patient or animal or owner of an animal with whom the dispensing practitioner does not have a bona fide therapeutic relationship

~~f.~~

~~(o)~~] ***; or***

(2) Prescribing a drug as a prescribing practitioner to a patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship.

2. ***It is not unprofessional conduct or conduct contrary to the public interest for a practitioner to prescribe or dispense a drug under the circumstances described in paragraph (n) of subsection 1 if the drug is prescribed or dispensed in accordance with either publication adopted by reference in section 1 of this regulation.***

3. The owner of any business or facility licensed, certified or registered by the Board is responsible for the acts of all personnel in his or her employ.

~~[3.]~~ ***4.*** For the purposes of this section, a bona fide therapeutic relationship between the patient and practitioner shall be deemed to exist if the patient was examined in person, electronically, telephonically or by fiber optics within or outside of this State or the United States by the practitioner within the 6 months immediately preceding the date the practitioner dispenses or prescribes a drug to the patient and, as a result of the examination, the practitioner diagnosed a condition for which a given drug therapy is prescribed.