Nevada State Board of Pharmacy

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November 28, 2017

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 Thursday, January 11, 2018, at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada. 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.

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

Amendment of Nevada Administrative Code (NAC) 453.460: The proposed amendment to NAC 453.460 revises provisions relating to the partial filling of a controlled substance listed in Schedule II. (LCB File No. R007-17)

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

This regulation revises the circumstances in which a pharmacist is authorized to partially fill a prescription for a controlled substance listed in schedule II. The regulation requires that the remaining portion of a partially filled schedule II prescription must be filled not later than 30 days after the date the prescription was written; the remaining portion of an emergency schedule II prescription must be filled not later than 72 hours after the prescription was issued; requires a pharmacist to refuse to fill or partially fill a schedule II prescription more than 30 days after the date the prescription was written.

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 on businesses or the public.

(b) Both immediate and long-term effects.

The Board anticipates that there will be no immediate or long-term economic effect on businesses or the public, or that any such effects will be negligible.

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.

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 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 but is consistent with the Comprehensive Addiction and Recovery Act of 2016, Pub.L. 114-198, 130 Stat. 695 (enacted July 22, 2016) at § 702.

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 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, 431 West Plumb Lane, Reno, Nevada 89509, 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

SECOND REVISED PROPOSED REGULATION

OF THE STATE BOARD OF PHARMACY

LCB File No. R007-17

November 3, 2017

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

AUTHORITY: §1, NRS 453.221 and 639.070.

A REGULATION relating to controlled substances; revising provisions relating to the partial filling of certain controlled substances; 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 within this State. (NRS 453.221) Existing regulations authorize a pharmacist to partially fill a prescription for a controlled substance listed in schedule II, III, IV or V. (NAC 453.460) This regulation revises the circumstances in which a pharmacist is authorized to partially fill a prescription for a controlled substance listed in schedule II. This regulation: (1) generally requires that the remaining portion of a prescription for a controlled substance listed in schedule II that has been partially filled must be filled not later than 30 days after the date on which the prescription was written; (2) provides that in an emergency situation, the remaining portion of such a prescription must be filled not later than 72 hours after the prescription was issued; and (3) requires a pharmacist to refuse to fill or partially fill any prescription for a controlled substance listed in schedule II more than 30 days after the date on which the prescription was written.

Section 1. NAC 453.460 is hereby amended to read as follows:

453.460 1. A pharmacist may partially fill a prescription for a controlled substance listed in schedule II:

(a) If the ~~[pharmacist]~~ ***partial filling*** is ~~[unable to supply the full quantity called for in a written or emergency oral prescription and he or she makes a notation of the quantity supplied on the face of the written prescription or written record of the emergency oral prescription. The]~~ ***requested by a patient or the prescribing practitioner and the total quantity of the controlled substance that is dispensed in all partial fillings does not exceed the total quantity of the controlled substance that is prescribed. Except as otherwise provided in this paragraph, the*** remaining portion of the prescription ~~[may]~~ ***must*** be filled ~~[within]~~ ***not later than 30 days after the date on which the prescription was written. In an emergency situation as set forth in 21 U.S.C. § 829(a), the remaining portion of the prescription must be filled not later than*** 72 hours after the ~~[first partial filling. If the remaining portion is not or cannot be filled within the 72-hour period, the pharmacist shall notify the prescribing practitioner. No further quantity may be supplied beyond the 72-hour period without a new]~~ prescription ~~[.]~~ ***was issued.***

(b) For a patient in a facility for long-term care or for a patient who has been diagnosed as having a terminal illness. The pharmacist shall record on the prescription that the patient is a "LTC patient" or "terminally ill." The date of the partial filling, the quantity of the medication that is dispensed, the remaining quantity which is authorized to be dispensed, and the signature or initials of the pharmacist must be recorded on the back of the prescription. The total quantity of the controlled substance that is dispensed in all partial fillings must not exceed the total quantity of the controlled substance that is prescribed. A prescription is valid for 60 days after the date of the prescription unless the prescription is terminated earlier by the discontinuance of medication.

2. A pharmacist may partially fill a prescription for a controlled substance listed in schedule III, IV or V. A partial filling ***of a prescription*** pursuant to this subsection does not constitute a ~~[full]~~ refill for the purposes of subsection 3 of NRS 453.256. A ~~[full refill of a]~~ prescription ~~[does not occur]~~ ***that is partially filled pursuant to this subsection is not completely filled*** until the total quantity dispensed in all partial fillings equals the total quantity prescribed.

3. Whenever a patient requests a partial filling, ~~[the]~~ ***a*** pharmacist shall:

(a) Create and maintain a record of each partial ~~[refill]~~ ***filling*** that reflects the total quantity dispensed for any particular prescription;

(b) Ensure that the total quantity dispensed in all partial fillings does not exceed the total quantity prescribed; and

(c) Refuse to fill or partially fill any prescription ***for a controlled substance listed in:***

(1) Schedule II more than 30 days after the date on which the prescription was written; and

(2) Schedule III, IV or V more than 6 months after the date on which the prescription was issued.

~~[3.]~~ ***4.*** As used in this section, "facility for long-term care" means a medical facility that provides 24-hour nursing services.