Nevada State Board of Pharmacy

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October 22, 2019

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, December 5, 2019, at the Hyatt Place, 1790 East Plumb Lane, Reno, 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) 453.550: Schedule V. The proposed amendment will add FDA approved Brivaracetam to the controlled substances listed in Schedule V. (LCB File No. R149-16)

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

The proposed amendment adds such drug products to the list of controlled substances in schedule V in conformity with federal regulations of the Uniform Controlled Substances Act.

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 public.

(b) Both immediate and long-term effects.

The Board anticipates that there will be no immediate or long-term economic effect on 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 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 amendment does not provide a new or increase of fees.

Amendment of Nevada Administrative Code (NAC) 453.540: Schedule IV. The proposed amendment will add FDA approved Eluxadoline to the controlled substances listed in Schedule IV. (LCB File No. R150-16)

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

The proposed amendment adds such drug products to the list of controlled substances in schedule IV in conformity with federal regulations of the Uniform Controlled Substances Act.

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 public.

(b) Both immediate and long-term effects.

The Board anticipates that there will be no immediate or long-term economic effect on 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 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 amendment does not provide a new or increase of fees.

Amendment of Nevada Administrative Code (NAC) 639: Dispensing Practitioner. The proposed amendment would permit dispensing practitioners employed by a Federally Qualified Health Center to dispense dangerous drugs for qualified patients at a certain site other than the Health Center. (LCB File No. R004-19)

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

The proposed amendment requires a dispensing practitioner who wishes to transport and dispense dangerous drugs to certain patients from a federally-qualified health center vehicle to be registered by the State Board of Pharmacy.

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 public.

(b) Both immediate and long-term effects.

The Board anticipates that there will be no immediate or long-term economic effect on 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 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 amendment does not provide a new or increase of fees.

Amendment of Nevada Administrative Code (NAC) Chapter 639 to add a new section thereto and to amend NAC 453.190 regarding the payment of fees for initial registration, the biennial renewal of a registration, or any other fees charged by the Board. (LCB File No. R033-19)

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

The proposed amendments will require that payment to the Board be made by credit card, debit card or electronic transfer of money, or by personal, certified or cashier's check or money order payable to the State Board of Pharmacy.

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 public.

(b) Both immediate and long-term effects.

The Board anticipates that there will be no immediate or long-term economic effect on 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 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 amendment does not provide a new or increase of fees.

Amendment of Nevada Administrative Code (NAC) Chapter 453 to add new sections thereto and to amend NAC 453.070 and NAC 453.074 relating to access to the database of the program established pursuant to NRS 453.162 by pharmacy personnel, practitioners, delegates of practitioners, and hospitals. (LCB File No. R035-19)

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

The proposed amendments authorizes the managing pharmacist of a pharmacy to designate certain persons to access the database that tracks each prescription for certain controlled substances; authorizes certain practitioners who are not licensed in this State to access the database to obtain patient utilization report; requires a person who designates an employee to access the database to take certain actions upon the termination of the employment of the designee.

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 public.

(b) Both immediate and long-term effects.

The Board anticipates that there will be no immediate or long-term economic effect on 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 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 amendment does not provide a new or increase of fees.

Amendment of Nevada Administrative Code (NAC) Chapter 639. Inactive Status (LCB File No. R071-19)

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

The proposed amendments will add a new regulation requiring that the Executive Secretary, upon notice that an occupational licensing board that licenses a practitioner has placed that license on inactive status, place any certificate of registration issued by the Board to that practitioner pursuant to NRS 453.226 on inactive status, providing for notice to the practitioner of placement on inactive status, providing for a process to petition for reinstatement of a registration to active status, and providing a process for a registrant to request a hearing before the Board to contest or appeal the placement of a registration on inactive status or the denial of a petition for reinstatement of the registration to active status.

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 public.

(b) Both immediate and long-term effects.

The Board anticipates that there will be no immediate or long-term economic effect on 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 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 amendment does not provide a new or increase of fees.

Amendment of Nevada Administrative Code (NAC) 639.240 (Requirements for registration of pharmaceutical technicians), 639.242 (Registration of pharmaceutical technician in training) and 639.7425 (Registration of dispensing technician). (LCB File No. R072-19)

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

The proposed amendments to the existing registration requirements for a pharmaceutical technician, pharmaceutical technician in training, and dispensing technician would remove prior criminal convictions or past history of drug abuse as mandatory disqualifiers from licensure and make denial for prior criminal convictions or past history of drug abuse permissive consistent with the statutory requirements for other license categories.

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 public.

(b) Both immediate and long-term effects.

The Board anticipates that there will be no immediate or long-term economic effect on 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 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 amendment 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. R149-16

September 6, 2019

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

AUTHORITY: §1, NRS 453.146, 453.2182 and 639.070.

A REGULATION relating to controlled substances; adding brivaracetam to the controlled substances listed in schedule V of the Uniform Controlled Substances Act; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the State Board of Pharmacy is required to administer the Uniform Controlled Substances Act. (NRS 453.011-453.348) Existing law authorizes the Board to adopt regulations to add, delete or reschedule substances listed as controlled substances in schedules I, II, III, IV and V of the Uniform Controlled Substances Act. (NRS 453.146) Existing law also provides that, if a substance is designated, rescheduled or deleted as a controlled substance pursuant to federal law, the Board is required, with certain limited exceptions, to similarly treat the substance under the Uniform Controlled Substances Act within 60 days after the publication in the Federal Register of the final order concerning the federal action. (NRS 453.2182) The Drug Enforcement Administration of the United States Department of Justice placed the substance brivaracetam on schedule V of the federal Controlled Substances Act effective May

12, 2016. (81 Fed. Reg. 29487, 29491 (to be codified at 21 CFR § 1308.15)) This regulation brings the treatment of brivaracetam into conformity with federal regulations by adding it to the list of controlled substances in schedule V of the schedules of controlled substances set forth in the Uniform Controlled Substances Act.

Section 1. NAC 453.550 is hereby amended to read as follows:

453.550 1. Schedule V consists of the drugs and other substances listed in this section, by whatever official, common, usual, chemical or trade name designated.

2. Any compound, mixture or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base alkaloid, containing one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone, in quantities:

(a) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(b) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(c) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(d) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(e) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams; or

(f) Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

3. Unless specifically excepted or excluded or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of pyrovalerone having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers.

4. Unless specifically excepted or excluded or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of pregabalin having a depressant effect on the central nervous system, including their salts, isomers and salts of isomers.

5. ***Brivaracetam.***

6. Lacosamide.

PROPOSED REGULATION OF THE

STATE BOARD OF PHARMACY

LCB File No. R150-16

September 6, 2019

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

AUTHORITY: § 1, NRS 453.146, 453.2182 and 639.070.

A REGULATION relating to controlled substances; adding eluxadoline to the controlled substances listed in schedule IV of the Uniform Controlled Substances Act; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the State Board of Pharmacy is required to administer the Uniform Controlled Substances Act. (NRS 453.011-453.348) Existing law authorizes the Board to adopt regulations to add, delete or reschedule substances listed as controlled substances in schedules I, II, III, IV and V of the Uniform Controlled Substances Act. (NRS 453.146) Existing law also provides that, if a substance is designated, rescheduled or deleted as a controlled substance pursuant to federal law, the Board is required, with certain limited exceptions, to similarly treat the substance under the Uniform Controlled Substances Act within 60 days after the publication in the Federal Register of the final order concerning the federal action. (NRS 453.2182) The

Drug Enforcement Administration of the United States Department of Justice placed the substance eluxadoline in schedule IV of the federal Controlled Substances Act effective December 14, 2015. (80 Fed. Reg. 69861, 69864 (November 12, 2015), as corrected by 80 Fed. Reg. 70680 (November 16, 2015) (to be codified at 21 CFR § 1308.14)) Existing regulations set forth the controlled substances that are included in schedule IV of the Uniform Controlled Substances Act. (NAC 453.540) This regulation brings the treatment of eluxadoline into conformity with federal regulations by adding it to the list of controlled substances in schedule IV.

Section 1. NAC 453.540 is hereby amended to read as follows:

453.540 1. Schedule IV consists of the drugs and other substances listed in this section, by whatever official, common, usual, chemical or trade name designated.

2. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following narcotic drugs, including, without limitation, their salts, calculated as the free anhydrous base of alkaloid, is hereby enumerated on schedule IV, in quantities:

(a) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit; or

(b) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxy-butane).

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances,

including, without limitation, their salts, isomers and salts of isomers, is hereby enumerated on schedule IV, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

Alprazolam;

Barbital;

Bromazepam;

Butorphanol;

Camazepam;

Carisoprodol;

Chloral betaine;

Chloral hydrate;

Chlordiazepoxide;

Clobazam;

Clonazepam;

Clorazepate;

Clotiazepam;

Cloxazolam;

Delorazepam;

Diazepam;

Dichloralphenazone;

Eluxadoline;

Estazolam;

Ethchlorvynol;

Ethinamate;

Ethyl loflazepate;

Fludiazepam;

Flunitrazepam;

Flurazepam;

Halazepam;

Haloxazolam;

Ketazolam;

Loprazolam;

Lorazepam;

Lorcaserin;

Lormetazepam;

Mebutamate;

Medazepam;

Meprobamate;

Methohexital;

Methylphenobarbital (mephobarbital);

Midazolam;

Nimetazepam;

Nitrazepam;

Nordiazepam;

Oxazepam;

Oxazolam;

Paraldehyde;

Petrichloral;

Phenobarbital;

Pinazepam;

Prazepam;

Quazepam;

Suvorexant;

Temazepam;

Tetrazepam;

Tramadol (2-((dimethylamino)methyl)-1-(3-methoxyphenyl)cyclohexanol);

Triazolam;

Zaleplon;

Zolpidem; or

Zopiclone.

4. Any material, compound, mixture or preparation which contains any quantity of fenfluramine, including, without limitation, its salts, isomers and salts of such isomers, whenever the existence of such salts, isomers and salts of isomers is possible, is hereby enumerated on

schedule IV. For the purposes of this subsection, "isomer" includes, without limitation, the optical, position or geometric isomer.

5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including, without limitation, their salts, isomers and salts of isomers, is hereby enumerated on schedule IV:

Cathine ((+)-norpseudoephedrine);

Diethylpropion;

Fencamfamin;

Fenproporex;

Mazindol;

Mefenorex;

Modafinil;

Pemoline (including organometallic complexes and chelates thereof);

Phentermine;

Pipradrol;

Sibutramine; or

SPA ((-)-dimethylamino-1,2,diphenylethane).

6. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of pentazocine, including, without limitation, its salts, is hereby enumerated on schedule IV.

PROPOSED REGULATION OF THE

STATE BOARD OF PHARMACY

LCB File No. R004-19

July 31, 2019

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

AUTHORITY: §§1, 3, 4, 9, 13 and 15, NRS 639.070; §§2, 6-8 and 10-12, NRS 639.070 and 639.0727; §5, NRS 639.070 and 639.170; §14, NRS 639.070 and 639.210.

A REGULATION relating to pharmacy; requiring a dispensing practitioner who wishes to transport and dispense dangerous drugs to certain patients from a federally-qualified health center vehicle to be registered by the State Board of Pharmacy; defining the term "dispensing practitioner"; 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 practice of pharmacy in this State. (NRS 639.070)

Existing regulations require a practitioner who wishes to dispense controlled substances or dangerous drugs to apply to the Board on an application provided by the Board for a certificate of registration to dispense controlled substances or dangerous drugs. (NAC 639.742) **Section 3** of this regulation requires a dispensing practitioner who works for a federally-qualified health center in this State and who wishes to transport dangerous drugs by using a vehicle owned by a federally-qualified health center and dispense dangerous drugs from such a vehicle to apply to the Board for a certificate of registration to transport and dispense dangerous drugs. **Section 3** provides that such registration: (1) entitles the dispensing practitioner to dispense dangerous drugs only to the patients of the federally-qualified health center; and (2) is a revocable privilege. **Sections 5, 8 and 13** of this regulation make conforming changes.

Existing law requires the Board to adopt regulations to define the term "dispensing practitioner." (NRS 639.0727) **Section 4** of this regulation defines the term "dispensing practitioner" to mean: (1) a practitioner who is registered to dispense controlled substances or dangerous drugs, or both, for human consumption; or (2) a licensed veterinarian who is registered to dispense controlled substances or dangerous drugs, or both, not for human consumption. **Sections 3, 6-12, 14 and 15** of this regulation make conforming changes. **Section**

2 of this regulation states that the Board is complying with existing law by defining the term "dispensing practitioner" as set forth in **section 4**.

Section 1. Chapter 639 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. ***For the purposes of NRS 639.0727, the Board defines the term "dispensing practitioner" as set forth in subsection 5 of NAC 639.010.***

Sec. 3. ***1. A dispensing practitioner who is employed by or serving as an independent contractor of a federally-qualified health center in this State and who wishes to transport dangerous drugs by using a federally-qualified health center vehicle and dispense dangerous drugs to patients of the federally-qualified health center from the federally-qualified health center vehicle must apply to the Board on an application provided by the Board for a certificate of registration to transport and dispense dangerous drugs. The Board will issue the certificate of registration to the dispensing practitioner if the Board determines that:***

(a) The dispensing practitioner is registered pursuant to subsection 1 of NAC 639.742.

(b) If the federally-qualified health center is not wholly owned and operated by the dispensing practitioner, the owner or owners of the federally-qualified health center have registered the federally-qualified health center pursuant to subsection 2 of NAC 639.742. The owner or owners are not required to obtain a separate certificate of registration pursuant to subsection 2 of NAC 639.742 for the federally-qualified health center vehicle.

(c) The federally-qualified health center vehicle:

(1) Is owned by the federally-qualified health center that employs or contracts with the dispensing practitioner;

(2) Was configured by the federally-qualified health center for the purpose of transporting and dispensing dangerous drugs to the patients of the federally-qualified health center; and

(3) Has been inspected and approved by the Board for the purpose of transporting and dispensing dangerous drugs to the patients of the federally-qualified health center.

2. A certificate of registration issued pursuant to this section:

(a) Entitles the dispensing practitioner to dispense dangerous drugs from the federally-qualified health center vehicle only to patients of the federally-qualified health center; and

(b) Is a revocable privilege, and no holder of such a certificate of registration acquires any vested right therein or thereunder.

3. A dispensing practitioner to whom the Board has issued a certificate of registration pursuant to subsection 1:

(a) Shall comply with the provisions of this section and NAC 639.742 to 639.745, inclusive, if applicable;

(b) Shall not dispense any controlled substances from a federally-qualified health center vehicle;

(c) Shall not charge for the dispensing of any dangerous drug from a federally-qualified health center vehicle; and

(d) Shall ensure that all dangerous drugs are:

(1) Removed from the federally-qualified health center vehicle at the end of any day that the federally-qualified health center vehicle is used to dispense dangerous drugs; and

(2) Stored in the federally-qualified health center in a secure, locked room or cabinet to which the dispensing practitioner or the dispensing practitioner of the federally-qualified health center has the only key or lock combination.

4. The approval by the Board pursuant to subparagraph (3) of paragraph (c) of subsection 1 is not transferrable upon the sale or other transfer of the federally-qualified health center vehicle.

5. As used in this section, "dispensing practitioner" does not include a licensed veterinarian to whom the Board has issued a certificate of registration pursuant to NAC 639.7423 to dispense controlled substances or dangerous drugs, or both, not for human consumption.

Sec. 4. NAC 639.010 is hereby amended to read as follows:

639.010 As used in this chapter, unless the context otherwise requires:

1. "Board" means the State Board of Pharmacy.

2. "Controlled substances" has the meaning ascribed to it in NRS 0.031.

3. "Dangerous drug" has the meaning ascribed to it in NRS 454.201.

4. "Direct supervision" means the direction given by a supervising pharmacist who is:

(a) On the premises of the pharmacy or telepharmacy at all times when the person he or she is supervising is working at the pharmacy or telepharmacy or at a remote site or satellite consultation site; and

(b) Aware of the activities of that person related to the preparation and dispensing of medications, including the maintenance of appropriate records.

5. ***"Dispensing practitioner" means:***

(a) A practitioner to whom the Board has issued a certificate of registration pursuant to NAC 639.742 to dispense controlled substances or dangerous drugs, or both, for human consumption; or

(b) A licensed veterinarian to whom the Board has issued a certificate of registration pursuant to NAC 639.7423 to dispense controlled substances or dangerous drugs, or both, not for human consumption.

6. "Executive Secretary" means the Executive Secretary employed by the Board pursuant to NRS 639.040.

~~[6.]~~ *7. "Federally-qualified health center" has the meaning ascribed to it in 42 U.S.C. § 1396d(l)(2)(B).*

8. "Federally-qualified health center vehicle" means a vehicle that meets the requirements of paragraph (c) of subsection 1 of section 3 of this regulation.

9. "Licensed veterinarian" has the meaning ascribed to it in NRS 638.007.

10. "Pharmaceutical technician" means a person who performs technical services in a pharmacy under the direct supervision of a pharmacist and is registered with the Board pursuant to NAC 639.240.

~~[7.]~~ *11.* "Pharmaceutical technician in training" means a person who is registered with the Board pursuant to NAC 639.242 in order to obtain the training and experience required to be a pharmaceutical technician pursuant to subparagraph (3) of paragraph (e) of subsection 2 of NAC 639.240, or who is enrolled in a program of training for pharmaceutical technicians that is approved by the Board.

~~[8.]~~ *12.* "Practitioner" has the meaning ascribed to it in NRS 639.0125.

~~[9.]~~ *13.* "Prescription drug" means a drug or medicine as defined in NRS 639.007 which:

(a) May be dispensed only upon a prescription order that is issued by a practitioner; and

(b) Is labeled with the symbol "Rx only" pursuant to federal law or regulation.

~~[10.]~~ *14.* "Public or nonprofit agency" means a health center as defined in 42 U.S.C. § 254b(a) which:

(a) Provides health care primarily to medically underserved persons in a community;

(b) Is receiving a grant issued pursuant to 42 U.S.C. § 254b or, although qualified to receive such a grant directly from the Federal Government, is receiving money from such a grant under a contract with the recipient of that grant; and

(c) Is not a medical facility as defined in NRS 449.0151.

~~[11.]~~ *15.* "Surgical center for ambulatory patients" has the meaning ascribed to it in NRS 449.019.

Sec. 5. NAC 639.220 is hereby amended to read as follows:

639.220 1. The Board hereby adopts the following schedule of fees:

For the examination of an applicant for registration as a pharmacist...	..... Actual cost of the examination
For the investigation or registration of an applicant as a registered pharmacist.....	.....$180

For the investigation, examination or registration of an applicant as a registered pharmacist by reciprocity..... 180

For the investigation or issuance of an original license to conduct a retail pharmacy 500

For the biennial renewal of a license to conduct a retail pharmacy 500

For the investigation or issuance of an original license to conduct an institutional pharmacy 500

For the biennial renewal of a license to conduct an institutional pharmacy 500

For the investigation or issuance of an original license to conduct a pharmacy in a correctional institution 500

For the biennial renewal of a license to conduct a pharmacy in a correctional institution..... 500

For the issuance of an original or duplicate certificate of registration as a registered pharmacist..... 50

For the biennial renewal of registration as a registered pharmacist 180

For the reinstatement of a lapsed registration (in addition to the fees for renewal for the period of lapse) 100

For the initial registration of a pharmaceutical technician or pharmaceutical technician in training..... 40

For the biennial renewal of registration of a pharmaceutical technician or pharmaceutical technician in training 40

For the investigation or registration of an intern pharmacist..... 40

For the biennial renewal of registration as an intern pharmacist..... 40

For the investigation or registration of an advanced practice registered nurse or a physician assistant to prescribe drugs that are not controlled substances 80

For the biennial renewal of registration of an advanced practice registered nurse or a physician assistant to prescribe drugs that are not controlled substances 80

For authorization of a physician, advanced practice registered nurse, physician assistant, euthanasia technician, ambulatory surgical center, facility for treatment with narcotics, researcher, instructional user or any other authorized person to prescribe or possess controlled substances 80

For the biennial renewal of authorization of a physician, advanced practice registered nurse, physician assistant, euthanasia technician, ambulatory surgical center, facility for treatment with narcotics, researcher, instructional user or any other authorized person to prescribe or possess controlled substances 80

For the investigation or issuance of an original license to engage in business as an authorized warehouse, medical products provider or medical products wholesaler 500

For the biennial renewal of a license to engage in business as an authorized warehouse, medical products provider or medical products wholesaler..... 500

For the investigation or issuance of an original license to a manufacturer or wholesaler 500

For the biennial renewal of a license for a manufacturer or wholesaler 500

For the reissuance of a license issued to a pharmacy, when no change of ownership is involved, but the license must be reissued because of a change in the information required thereon..... 50

For authorization of a practitioner, other than a licensed veterinarian, to dispense controlled substances or dangerous drugs, or both, ***for human consumption*** for each location where the practitioner will dispense controlled substances or dangerous drugs, or both , ***for human consumption*** 300

For the biennial renewal of authorization of a practitioner, other than a licensed veterinarian, to dispense controlled substances or dangerous drugs, or both, ***for human consumption*** for each location where the practitioner will dispense controlled substances or dangerous drugs, or both , ***for human consumption*** 300

For authorization of a licensed veterinarian to dispense controlled substances or dangerous drugs, or both , ***not for human consumption*** 150

For the biennial renewal of authorization of a licensed veterinarian to dispense controlled substances or dangerous drugs, or both , ***not for human consumption*** 150

2. The penalty for failure to pay the renewal fee for any license, permit or certificate within the statutory period, as provided in subsection 6 of NRS 639.170, is 50 percent of the renewal fee for each period of delinquency in addition to the renewal fee for each period of delinquency.

3. Any person who has been registered as a pharmacist in this State for at least 50 years is not required to pay the fee for the biennial renewal of a certificate of registration as a registered pharmacist.

4. The provisions of this section concerning the fee for the biennial renewal of the authorization to dispense controlled substances or dangerous drugs do not apply to an advanced practice registered nurse who is required to pay a fee pursuant to NAC 639.870.

5. A health center:

(a) Which is a ~~[federally qualified]~~ ***federally-qualified*** health center ~~[as defined in 42 U.S.C. § 1396d(l)(2)(B), as that section existed on March 1, 2000,]~~ that provides health care primarily to medically underserved persons in a community; and

(b) Which is not a medical facility as defined in NRS 449.0151,

➥ is not required to pay the fee for the collective certification of advanced practice registered nurses in the employ of a public or nonprofit agency as set forth in subsection 1.

6. A practitioner employed by or serving as an independent contractor of a health center:

(a) Which is a ~~[federally qualified]~~ ***federally-qualified*** health center ~~[as defined in 42 U.S.C. § 1396d(l)(2)(B), as that section existed on March 1, 2000,]~~ that provides health care primarily to medically underserved persons in a community; and

(b) Which is not a medical facility as defined in NRS 449.0151,

➥ is not required to pay a fee to the Board for a change of address or for an additional address at which the practitioner dispenses drugs.

7. A practitioner who is exempt from the payment of a fee pursuant to subsection 6 shall notify the Board in writing of each change of address or additional address, or both.

Sec. 6. NAC 639.395 is hereby amended to read as follows:

639.395 1. A pharmaceutical technician or dispensing technician who operates a remote site shall transmit a copy of any new prescription which the technician receives to the telepharmacy electronically, telephonically or by fiber optics and retain the original prescription in the records maintained at the remote site.

2. A pharmaceutical technician or dispensing technician who operates a remote site or satellite consultation site must consult electronically, telephonically or by fiber optics with a

pharmacist or dispensing practitioner, as appropriate, at the telepharmacy to obtain approval before accessing any controlled substances or dangerous drugs maintained at the remote site or satellite consultation site.

3. A pharmacist or dispensing practitioner shall not authorize a pharmaceutical technician or dispensing technician at a remote site or satellite consultation site to dispense a controlled substance or dangerous drug unless the pharmacist or dispensing practitioner has:

(a) Consulted with the technician;

(b) Visually verified electronically, telephonically or by fiber optics that:

(1) The controlled substance or dangerous drug selected by the technician is correct; and

(2) The label prepared by the technician is correct; and

(c) Verified that the information entered by the technician into the computerized system for recording information concerning prescriptions is correct.

4. A pharmacist or dispensing practitioner shall only authorize a pharmaceutical technician or dispensing technician at a remote site or satellite consultation site to dispense a controlled substance or dangerous drug to a patient who resides in the service area of the remote site or satellite consultation site or whose residence is closer to the remote site or satellite consultation site than to a telepharmacy.

5. As used in this section, "dispensing practitioner" does not include a licensed veterinarian to whom the Board has issued a certificate of registration pursuant to NAC 639.7423 to dispense controlled substances or dangerous drugs, or both, not for human consumption.

Sec. 7. NAC 639.396 is hereby amended to read as follows:

639.396 1. Except as otherwise provided in this section, a pharmacist or dispensing practitioner who is responsible for the operation of a remote site or satellite consultation site shall maintain at the remote site or satellite consultation site, as applicable, and at the associated telepharmacy a record of each drug that is received, stored, dispensed, returned or otherwise dealt with at the remote site or satellite consultation site, including, without limitation, any record that is required to be maintained by state or federal law. The records so maintained must include, without limitation:

(a) Each prescription dispensed at the remote site or satellite consultation site;

(b) At the remote site or satellite consultation site, the initials of the technician who dispensed the controlled substance or dangerous drug;

(c) At the telepharmacy, the initials of the pharmacist or dispensing practitioner who authorized the controlled substance or dangerous drug to be dispensed at the remote site or satellite consultation site, as applicable;

(d) Each controlled substance or dangerous drug that is transferred between the stock of drugs maintained at the remote site or satellite consultation site, as applicable, and the stock of drugs maintained at the telepharmacy; and

(e) At the telepharmacy, documentation of any counseling provided by a pharmacist or dispensing practitioner at the telepharmacy that was provided electronically, telephonically or by fiber optics to a patient or person caring for a patient at the remote site or satellite consultation site, as applicable.

2. The pharmacist or dispensing practitioner who is responsible for the operation of a remote site or satellite consultation site shall ensure that each record which is maintained at the

remote site or satellite consultation site, as applicable, including, without limitation, each record of a prescription, is maintained in a manner that makes it readily apparent whether the prescription was dispensed at the remote site or satellite consultation site, as applicable, or at the telepharmacy.

3. As used in this section, "dispensing practitioner" does not include a licensed veterinarian to whom the Board has issued a certificate of registration pursuant to NAC 639.7423 to dispense controlled substances or dangerous drugs, or both, not for human consumption.

Sec. 8. NAC 639.742 is hereby amended to read as follows:

639.742 1. Except as otherwise provided in NAC 639.7423, a practitioner who wishes to dispense controlled substances or dangerous drugs ***, or both, for human consumption*** must apply to the Board on an application provided by the Board for a certificate of registration to dispense controlled substances or dangerous drugs. A practitioner must submit a separate application for each site of practice, including, without limitation, a telepharmacy, remote site or satellite consultation site, from which the practitioner wishes to dispense controlled substances or dangerous drugs ~~[.]~~ ***, or both, for human consumption.*** A certificate of registration to dispense controlled substances or dangerous drugs ***, or both, for human consumption*** is a revocable privilege, and no holder of such a certificate of registration acquires any vested right therein or thereunder.

2. Except as otherwise provided in NAC 639.7423 ~~[,]~~ ***and section 3 of this regulation,*** if a facility from which the practitioner intends to dispense dangerous drugs or controlled substances ***, or both, for human consumption*** is not wholly owned and operated by the practitioner, the

owner or owners of the facility must also submit an application to the Board on a form provided by the Board.

3. Except as otherwise provided in NRS 639.23277 and NAC 639.395, 639.648 and 639.7423, the dispensing practitioner and, if applicable, the owner or owners of the facility ~~[,]~~ ***and any federally-qualified health center vehicle,*** shall ensure that:

(a) All drugs are ordered by the dispensing practitioner;

(b) All drugs are received and accounted for by the dispensing practitioner;

(c) All drugs are stored in a secure, locked room or cabinet to which the dispensing practitioner has the only key or lock combination;

(d) All drugs are dispensed in accordance with NAC 639.745;

(e) No prescription is dispensed to a patient unless the dispensing practitioner is on-site at the facility ~~[,]~~ ***or federally-qualified health center vehicle, as applicable;***

(f) All drugs are dispensed only to the patient personally at the facility ~~[,]~~ ***or federally-qualified health center vehicle, as applicable;***

(g) The price of each drug dispensed to a patient is separately itemized on any bill or statement provided to the patient;

(h) All drugs are dispensed only for medically necessary purposes and according to prevailing standards of care for practitioners practicing in the specialty claimed or practiced by the dispensing practitioner; and

(i) The certificate for each dispensing technician employed at the facility is displayed in the room or cabinet in which drugs are stored.

4. Except as otherwise provided in NAC 639.648 and 639.7423, with regard to the filling and dispensing of a prescription at a facility, only the dispensing practitioner or a dispensing technician may:

(a) Enter the room or cabinet in which drugs are stored;

(b) Remove drugs from stock;

(c) Count, pour or reconstitute drugs;

(d) Place drugs into containers;

(e) Produce and affix appropriate labels to containers that contain or will contain drugs;

(f) Fill containers for later use in dispensing drugs; or

(g) Package or repackage drugs.

5. Except as otherwise provided in NAC 639.7423, a dispensing practitioner may compound drug products if he or she complies with the provisions of NAC 639.661 to 639.690, inclusive, as if:

(a) He or she were a pharmacist;

(b) His or her practice site was a pharmacy; and

(c) Any dispensing technician involved in the compounding was a pharmaceutical technician.

Sec. 9. NAC 639.7423 is hereby amended to read as follows:

639.7423 1. A licensed veterinarian who wishes to dispense controlled substances or dangerous drugs ***, or both, not for human consumption*** must apply to the Board on an application provided by the Board for a certificate of registration to dispense controlled substances or dangerous drugs ~~[.]~~ ***, or both, not for human consumption.*** A certificate of registration issued pursuant to this section:

(a) Entitles the licensed veterinarian to dispense controlled substances or dangerous drugs, ***or both, not for human consumption*** from any veterinary facility at which he or she engages in the practice of veterinary medicine.

(b) Must be renewed at the same time and in the same manner as certificates of registration by other practitioners.

(c) Is a revocable privilege, and no holder of such a certificate of registration acquires any vested right therein or thereunder.

2. A veterinary facility at which controlled substances or dangerous drugs are possessed, administered, prescribed or dispensed:

(a) Shall ensure that at least one veterinarian who practices at that veterinary facility registers and maintains a registration with the Drug Enforcement Administration of the United States Department of Justice and the Board.

(b) Except as otherwise provided in paragraph (c), may allow only veterinarians, veterinary technicians or veterinary technicians in training at that veterinary facility to prepare a prescription drug for dispensing.

(c) May allow veterinary assistants at that facility to prepare a prescription drug, other than a controlled substance or dangerous drug, for dispensing.

(d) Shall ensure that a prescription drug which is new for an animal is not dispensed unless a veterinarian or veterinary technician is at the veterinary facility or is otherwise available at the time the prescription drug is dispensed.

(e) Shall ensure that a notation is made in the medical record of the animal that contains:

(1) The name, strength and quantity of the prescription drug.

(2) The date the prescription drug was prescribed and dispensed.

(3) The directions for use.

(4) The name, signature or initials of the veterinarian who prescribed the prescription drug.

(5) The name, signature or initials of the veterinarian, veterinary technician or veterinary technician in training who prepared the prescription drug for dispensing.

(6) The name, signature or initials of the veterinarian or veterinary technician who verified the prescription drug before the prescription drug was dispensed.

(f) Shall ensure that each vial or container which contains a prescription drug has affixed to the vial or container a label that contains:

(1) Except as otherwise provided in subsection 3, the name or unique identifier of the animal and the name of the owner of the animal for which the prescription drug is prescribed.

(2) The name, strength and quantity of the prescription drug.

(3) The date the prescription drug was dispensed.

(4) The name of the veterinarian who prescribed the prescription drug.

(5) The expiration date of the prescription drug.

(6) A unique number identifying the prescription.

(7) The directions for use.

(g) Shall maintain a stock of prescription drugs necessary to serve the foreseeable needs of the veterinary practice.

(h) Shall ensure that drugs which are inappropriate or unlawful to the practice of veterinary medicine are not ordered or maintained in the stock of prescription drugs of the veterinary facility.

3. A label affixed to a vial or container that contains a prescription drug may contain a generic identifier for a group of animals of the same species in place of the name or unique identifier of one animal if:

(a) The group of animals identified on the label is owned by the same person;

(b) The prescription drug is dispensed for more than one of the animals in the group; and

(c) The directions for use of the prescription drug are the same for each animal in the group for which the prescription drug is dispensed.

4. The authorization to possess a prescription drug is not transferrable upon the sale or other transfer of the animal or animals for which the prescription drug was dispensed.

5. A veterinary facility which maintains a stock of controlled substances or dangerous drugs for administration or dispensing shall:

(a) Secure the stock of controlled substances or dangerous drugs in a locked container that is:

(1) Affixed to the structure and located within a locked room; or

(2) Located within a second locked container which is affixed to the structure.

(b) Ensure that only a veterinarian or a veterinary technician designated by the veterinarian has the keys or combination to unlock the two separate locks at the start of a business day or beginning of a shift, if the veterinary facility has veterinarians on successive shifts.

(c) Restrict access to the controlled substances or dangerous drugs to veterinarians or veterinary technicians only.

(d) Ensure that each veterinarian or veterinary technician who accesses the secure container which stores the controlled substances or dangerous drugs records in a log:

(1) The name of the veterinarian or veterinary technician who accessed the secure container and the date that he or she accessed the secure container.

(2) The name, strength and quantity of the controlled substance or dangerous drug removed from or placed into the secure container and the total amount of all quantities of that particular controlled substance or dangerous drug remaining inside the secure container.

(e) Ensure that a veterinarian who intends to destroy an unused portion of a controlled substance or dangerous drug records in a log the name and quantity of the controlled substance or dangerous drug that will be destroyed and the date and time that the controlled substance or dangerous drug will be destroyed. An entry made pursuant to this paragraph must be verified by an employee of the veterinary facility.

(f) Ensure that the purchasing, storage and recordkeeping of controlled substances or dangerous drugs comply with all applicable state and federal laws.

(g) Ensure that any controlled substance or dangerous drug is purchased by a veterinarian or with the knowledge of a veterinarian and that all controlled substances and dangerous drugs received by the veterinary facility are verified by a veterinarian or with the knowledge of the veterinarian.

(h) Maintain separate files for the records of the purchase of each controlled substance listed in schedule II of controlled substances in NAC 453.520 and records of the dispensing of each controlled substance listed in schedule II of controlled substances in NAC 453.520.

6. Any record made pursuant to subsections 2 to 5, inclusive, must be maintained for at least 4 years and must be available for inspection by the Board or its representative or any authorized federal, state or local regulatory agency or law enforcement agency.

7. A licensed veterinarian with a certificate of registration issued by the Board pursuant to subsection 1 and a veterinary facility at which controlled substances or dangerous drugs may be dispensed pursuant to this section are exempt from the provisions of NAC 639.7425 to 639.745, inclusive.

8. As used in this section:

(a) ~~["Licensed veterinarian" has the meaning ascribed to it in NRS 638.007.~~

~~(b)]~~ "Prescription drug" has the meaning ascribed to it in NAC 638.0135.

~~[(c)]~~ *(b)* "Veterinary facility" has the meaning ascribed to it in NAC 638.018.

Sec. 10. NAC 639.7425 is hereby amended to read as follows:

639.7425 1. Except as otherwise provided in NAC 639.7423, no person may act as a dispensing technician unless the person is:

(a) A registered pharmaceutical technician; or

(b) Employed at a facility to which a certificate of registration has been issued pursuant to NAC 639.742 and the dispensing practitioner at that facility has registered the person as a dispensing technician.

2. A dispensing practitioner may apply to the Board to register a person as a dispensing technician by submitting to the Board the fee required by NAC 639.744 and proof satisfactory to the Board that the person:

(a) Is 18 years of age or older;

(b) Has received a high school diploma or its equivalent;

(c) Has not been convicted of any felony or misdemeanor involving moral turpitude, dishonesty or the unlawful possession, sale or use of drugs; and

(d) Does not have a history of drug abuse.

3. Upon determining that a person for whom application for registration as a dispensing technician has been made by a dispensing practitioner satisfies the requirements of subsection 2, the Board will issue to the person a provisional registration as a dispensing technician for that practitioner.

4. A person acting as a dispensing technician pursuant to a provisional registration must complete at least 500 hours of training and experience provided by the dispensing practitioner relating to the skills that the person will be performing as a dispensing technician for that dispensing practitioner. Only that training and experience received by the person after the provisional registration is issued may be applied to satisfy the 500-hour requirement. In providing the training and experience, the dispensing practitioner shall supervise the training and experience of the person by observing the work of the person on a random basis at least three times each day during which the person is receiving training and experience.

5. A provisional registration issued to a person acting as a dispensing technician expires 12 months after it is issued or upon the expiration of the certificate of registration of the dispensing practitioner to whom the dispensing technician is registered, whichever is earlier. If a person acting as a dispensing technician pursuant to a provisional registration:

(a) Fails to complete the required 500 hours of training and experience before the expiration of the provisional registration, the person shall not act as a dispensing technician unless he or she

is issued a new provisional registration pursuant to this section. Any hours of training and experience completed by the person while acting as a dispensing technician pursuant to a provisional registration that has expired may not be used to satisfy the 500-hour requirement for a new provisional registration.

(b) Completes the required 500 hours of training and experience before the expiration of the provisional registration, the dispensing practitioner shall file with the Board a signed affidavit certifying:

(1) The number of hours of training and experience successfully completed by the person.

(2) The specific training and experience received by the person.

(3) That the person is, in the opinion of the dispensing practitioner, competent to perform the duties of a dispensing technician.

6. The Board, upon receiving the affidavit of the dispensing practitioner pursuant to subsection 5, will issue to the person a certificate of registration as a dispensing technician for that practitioner.

7. A dispensing technician shall complete at least 1 hour of in-service training during the 2-year period immediately preceding the renewal of the registration of the dispensing technician. The training must be a jurisprudence program approved or presented by the Board that relates to the practice of pharmacy or the law concerning pharmacy in this State. The dispensing technician shall retain a copy of the certificate from the Board or approved program certifying the completion of such in-service training. The copy must be:

(a) Retained for at least 2 years; and

(b) Readily accessible to a member of the Board or a person conducting an inspection or investigation on behalf of the Board.

8. As used in this section, "dispensing practitioner" does not include a licensed veterinarian to whom the Board has issued a certificate of registration pursuant to NAC 639.7423 to dispense controlled substances or dangerous drugs, or both, not for human consumption.

Sec. 11. NAC 639.743 is hereby amended to read as follows:

639.743 1. Except as otherwise provided in NRS 639.23277 and NAC 639.395, a person to whom a dispensing practitioner is providing training and experience pursuant to subsection 4 of NAC 639.7425 must not be allowed access to the room or cabinet in which drugs are stored unless accompanied by the dispensing practitioner. After the person has completed his or her training and experience and the Board has received an affidavit from the dispensing practitioner pursuant to subsection 5 of NAC 639.7425:

(a) The person may access the room or cabinet in which drugs are stored without being accompanied by the dispensing practitioner, so long as the dispensing practitioner is on-site at the facility; and

(b) The dispensing practitioner is not required to observe the work of the person.

2. A dispensing practitioner who allows a dispensing technician to perform any function described in subsection 4 or 5 of NAC 639.742 is responsible for the performance of that function by the dispensing technician. All such functions performed by a dispensing technician must be performed at the express direction and delegation of the dispensing practitioner. Each prescription with respect to which a dispensing technician performed such a function:

(a) Must be checked by the dispensing practitioner, and the dispensing practitioner shall indicate on the label of the prescription and in his or her record regarding the prescription that the dispensing practitioner has checked the work performed by the dispensing technician; and

(b) Must not be dispensed to the patient without the initials of the dispensing practitioner thereon. A prescription which has been so initialed must be handed to the patient only by the dispensing practitioner or an employee authorized by the dispensing practitioner.

3. As used in this section, "dispensing practitioner" does not include a licensed veterinarian to whom the Board has issued a certificate of registration pursuant to NAC 639.7423 to dispense controlled substances or dangerous drugs, or both, not for human consumption.

Sec. 12. NAC 639.7435 is hereby amended to read as follows:

639.7435 1. The registration of a dispensing technician is nontransferable and limited to the dispensing practitioner to whom the dispensing technician is registered. The registration of a dispensing technician expires at the same time that the certificate of registration of the dispensing practitioner expires. If a dispensing practitioner and the dispensing technician registered to that practitioner leave the facility at which they are registered, and the dispensing technician continues his or her employment with that practitioner at a different site, the dispensing practitioner shall, as soon as practicable, notify the Board of the change of address of employment of the dispensing technician.

2. If a dispensing technician no longer works as a dispensing technician for the dispensing practitioner to whom the dispensing technician is registered, the registration of the dispensing technician terminates. Except as otherwise provided in NAC 639.7423, if that person is

subsequently employed by another dispensing practitioner to work as a dispensing technician, the employing dispensing practitioner must, before the person may act as a dispensing technician for that practitioner:

(a) Register the person with the Board, showing the site of employment and the name of the dispensing practitioner; and

(b) Ensure that the person receives an additional 200 hours of training and experience provided by the dispensing practitioner. The additional training and experience must be provided in accordance with subsection 4 of NAC 639.7425. Except as otherwise provided in NRS 639.23277 and NAC 639.395, the dispensing practitioner shall not allow the person to be registered as a dispensing technician to enter the room or cabinet in which drugs are stored or perform any function described in subsection 4 or 5 of NAC 639.742 without the dispensing practitioner observing the act by the person to be registered as a dispensing technician until that person has completed the 200 additional hours of training and experience.

3. As used in this section, "dispensing practitioner" does not include a licensed veterinarian to whom the Board has issued a certificate of registration pursuant to NAC 639.7423 to dispense controlled substances or dangerous drugs, or both, not for human consumption.

Sec. 13. NAC 639.7445 is hereby amended to read as follows:

639.7445 If a dispensing practitioner allows any person to perform any act in violation of NAC 639.742 to 639.7445, inclusive, ***and section 3 of this regulation,*** the dispensing practitioner is subject to discipline relating to his or her registration as a dispensing practitioner,

including, without limitation, the temporary and immediate suspension of his or her registration as a dispensing practitioner until:

1. The violation is remedied; or

2. If an accusation has been made pursuant to NRS 639.241, the Board holds a hearing.

Sec. 14. 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) 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.

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

2. 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. 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.

Sec. 15. NAC 639.647 is hereby repealed.

TEXT OF REPEALED SECTION

639.647 "Licensed veterinarian" defined. "Licensed veterinarian" has the meaning ascribed to it in NRS 638.007.

PROPOSED REGULATION OF THE

STATE BOARD OF PHARMACY

LCB File No. R033-19

August 26, 2019

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

AUTHORITY: §§1 and 2, NRS 453.221 and 639.070.

A REGULATION relating to fees; authorizing additional methods of paying fees to the State Board of Pharmacy; removing a requirement for the Board to refund certain fees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each state agency to accept payment through credit cards, debit cards or electronic transfers of money. (NRS 353.1466) **Sections 1 and 2** of this regulation authorize the payment of any fee to the State Board of Pharmacy through personal, certified or cashier's check, a credit card, a debit card, an electronic transfer of money or a money order.

Existing regulations provide that the Board will refund a registration or reregistration fee if the Board refuses to register the applicant. (NAC 453.190) **Section 1** of this regulation removes this provision, thereby allowing the Board to retain such fees.

Section 1. NAC 453.190 is hereby amended to read as follows:

453.190 The fee for registration or reregistration must be paid when the application for registration or reregistration is submitted for filing. The payment must be made by a personal, certified or cashier's check ***, a credit card, a debit card, an electronic transfer of money*** or a money order payable to the State Board of Pharmacy. Any attempted payment made in the form of stamps, foreign currency or an endorsed check of a third person will not be accepted. [~~If the Board refuses to register an applicant, the payment will be refunded.~~]

Sec. 2. Chapter 639 of NAC is hereby amended by adding thereto a new section to read as follows:

Payment of any fee to the Board must be made by a personal, certified or cashier's check, a credit card, a debit card, an electronic transfer of money or a money order payable to the State Board of Pharmacy.

PROPOSED REGULATION OF THE

STATE BOARD OF PHARMACY

LCB File No. R035-19

September 24, 2019

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

AUTHORITY: §§1 and 3, NRS 453.221 and 639.070; §2, NRS 453.163, 453.221 and 639.070; §4, NRS 453.221, 639.070 and 639.23916; §5, NRS 453.221, 639.070 and 639.23507.

A REGULATION relating to controlled substances; authorizing the managing pharmacist of a pharmacy to designate certain persons to access the database that tracks each prescription for certain controlled substances; authorizing certain practitioners who are not licensed in this State to access the database to obtain a patient utilization report; requiring a person who designates an employee to access the database to take certain actions upon the termination of the employment of the designee; 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 requires the Board and the Investigation Division of the Department of Public Safety to develop a computerized program to track each prescription for a controlled substance listed in schedule II, III, IV or V filled by a pharmacy or dispensed by a practitioner. (NRS 453.162)

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 further 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. (NRS 639.23916)

Existing regulations authorize a practitioner and a hospital to designate certain persons as delegates for the purpose of accessing the database of the computerized program to obtain: (1) a patient utilization report on behalf of a practitioner; or (2) a patient utilization report on behalf of a physician providing service in a hospital emergency department. Existing regulations require such a delegate to complete certain courses of training before he or she may access the database of the computerized program. Existing regulations hold the practitioner or hospital, respectively, liable for any action of the delegate relating to accessing the database of the computerized program. (NAC 453.070, 453.074) **Section 2** of this regulation authorizes the managing pharmacist of a pharmacy to designate certain persons to act as a delegate to access the database on behalf of the pharmacy under similar circumstances. **Sections 2, 4 and 5** of this regulation require a person who designates a delegate to: (1) notify the Board whenever a delegate ceases to hold the position for which he or she was provided access to the database; and (2) cooperate with the Board to take any action necessary to terminate the access of the delegate to the database.

Section 3 of this regulation authorizes certain physicians, dentists, podiatric physicians, advanced practice registered nurses, physician assistants, optometrists and pharmacists who are not licensed in this State to apply to the Board for access to the database to obtain patient utilization reports. **Section 3** requires such a person to complete certain courses of training before receiving access to the database of the computerized program. **Section 3** prohibits such a person from designating a delegate to access the database.

Section 1. Chapter 453 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. ***1. A managing pharmacist pursuant to NRS 639.220 may designate an intern pharmacist, pharmaceutical technician or pharmaceutical technician in training employed by the pharmacy to act as a delegate to access the database of the computerized program established pursuant to NRS 453.162 on behalf of the pharmacy.***

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

3. The managing pharmacist shall be liable for any action of the delegate designated pursuant to subsection 1 relating to accessing the database.

4. The managing pharmacist must:

(a) Immediately notify the Board when a delegate designated pursuant to subsection 1 ceases to be employed by the pharmacy; and

(b) Cooperate with the Board to take any action necessary to terminate the access of the delegate to the database.

5. As used in this section:

(a) "Intern pharmacist" has the meaning ascribed to it in NRS 639.0086.

(b) "Managing pharmacist" has the meaning ascribed to it in NRS 639.0087.

(c) "Pharmaceutical technician" has the meaning ascribed to it in NRS 639.0113.

(d) "Pharmaceutical technician in training" has the meaning ascribed to it in NRS 639.0115.

Sec. 3. *1. A physician, dentist, podiatric physician, advanced practice registered nurse, physician assistant or optometrist who is not licensed to practice in this State but is authorized to prescribe a controlled substance pursuant to 21 C.F.R. § 1306.03 or a pharmacist who is not licensed to practice in this State but is authorized to dispense a controlled substance pursuant to 21 C.F.R. § 1306.06 may apply to the Board on a form prescribed by the Board for Internet access to the database of the computerized program established pursuant to NRS*

453.162 to obtain patient utilization reports for patients to whom they prescribe or dispense a controlled substance.

2. Before a person described in subsection 1 may receive Internet access to the database, he or she must complete the course of training developed pursuant to NRS 453.164. Such a person is subject to the laws and regulations of this State relating to the database.

3. A person described in subsection 1 who receives Internet access to the database of the computerized program established pursuant to NRS 453.162 may not designate a delegate pursuant to NAC 453.070.

Sec. 4. NAC 453.070 is hereby amended to read as follows:

453.070 1. Except as otherwise provided in NAC 453.074, 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 a patient utilization report pursuant to NRS 639.23507 on behalf of the practitioner.

2. A delegate designated pursuant to subsection 1 must complete the course of training ~~[required]~~ ***developed*** 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.

4. The practitioner must:

(a) Immediately notify the Board when a delegate ceases to be a member of the staff of the practitioner; and

(b) Cooperate with the Board to take any action necessary to terminate the access of the delegate to the database.

Sec. 5. NAC 453.074 is hereby amended to read as follows:

453.074 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]~~ ***developed*** 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.

4. The hospital must:

(a) Immediately notify the Board whenever a delegate ceases to be a member of the staff of the hospital; and

(b) Cooperate with the Board to take any action necessary to terminate the access of the delegate to the database.

PROPOSED REGULATION OF

THE STATE BOARD OF PHARMACY

LCB File No. R071-19

October 15, 2019

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

AUTHORITY: §1, NRS 453.221, 453.226 and 639.070.

A REGULATION relating to controlled substances; requiring the registration of a practitioner with the State Board of Pharmacy to be placed on inactive status if the Board is notified that the professional license of the registrant has been placed on inactive status; requiring the Board to notify a registrant when his or her registration is placed on inactive status; authorizing a registrant to request a hearing regarding the status of his or her registration; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires every practitioner who dispenses a controlled substance within this State to obtain biennially a registration issued by the State Board of Pharmacy in accordance with the regulations adopted by the Board, unless certain limited exceptions apply. (NRS 453.226) This regulation requires the Executive Secretary of the Board to place the certificate of registration of a practitioner on inactive status if the Board is notified by an occupational licensing board that the license upon which the practitioner's certificate of registration was issued has been placed on inactive status. This regulation requires the Board to provide a practitioner with certain notice if his or her registration is placed on inactive status and authorizes a practitioner to request a hearing to contest the placement of his or her registration on inactive status. This regulation also authorizes a practitioner whose registration has been placed on inactive status to petition for the reinstatement of his or her registration to active status and to request a hearing to appeal the denial of such a petition.

Section 1. Chapter 453 of NAC is hereby amended by adding thereto a new section to read as follows:

1. The Executive Secretary of the Board shall, without a hearing, place the registration of a practitioner on inactive status if:

(a) The Board is notified by an occupational licensing board that a license of the practitioner issued by the occupational licensing board has been placed on inactive status; and

(b) The license that was placed on inactive status is the license in connection with which the practitioner was issued a certificate of registration.

2. A practitioner may not dispense any controlled substance within this State during the period that his or her registration is on inactive status.

3. A registration that is placed on inactive status pursuant to subsection 1 will remain inactive until such time as the registrant presents proof to the Executive Secretary of the Board that the occupational licensing board that licenses the practitioner has reinstated the practitioner's license to active status.

4. If a registration is placed on inactive status pursuant to subsection 1, the Board will provide written notice to the registrant as soon as practicable after the registration is placed on inactive status. The notice shall inform the registrant that:

(a) The registrant may petition the Executive Secretary of the Board at any time for reinstatement of the registration to active status;

(b) The registrant's Internet access to the database of the program established pursuant to NRS 453.162 is suspended while the registration remains on inactive status; and

(c) The registrant may request a hearing before the Board to contest the placement of the registration on inactive status.

5. A registrant whose registration is placed on inactive status pursuant to subsection 1 may petition the Executive Secretary of the Board at any time for reinstatement of the registration to active status.

6. If the Executive Secretary of the Board denies a petition for reinstatement of the registration to active status, the Board will provide written notice to the registrant as soon as practicable after the denial of the petition. The notice shall inform the registrant that he or she may request a hearing before the Board to appeal the denial of the petition.

7. To request a hearing before the Board to contest the placement of a registration on inactive status or appeal the denial of a petition for reinstatement of the registration to active status, the registrant must submit a written request for a hearing to the Board not later than 30 days after the date of issuance of the notice pursuant to subsection 4 or 6.

8. If a registrant requests a hearing before the Board pursuant to subsection 7, the Board will conduct a hearing at the next regularly scheduled meeting of the Board, but in any event, the hearing must be instituted and determined within 45 days after the date of the request for a hearing, unless a continuance is requested by the registrant.

PROPOSED REGULATION OF THE STATE BOARD OF PHARMACY

LCB File No. R072-19

September 30, 2019

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

AUTHORITY: §§1, 5 and 6, NRS 639.070; §§2 and 3, NRS 639.070 and 639.1371; §4, NRS 639.070 and 639.0727.

A REGULATION relating to pharmacy; revising provisions governing the requirements for, application for and registration of pharmaceutical technicians, pharmaceutical technicians in training and dispensing technicians; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Board of Pharmacy to adopt regulations necessary for the protection of the public, appertaining to the practice of pharmacy and the lawful performance of its duties. (NRS 639.070) Existing law also requires the Board to adopt regulations concerning the requirements to register as a pharmaceutical technician or dispensing technician. (NRS 639.0727, 639.1371)

Existing regulations prohibit a person from registering as a pharmaceutical technician or a pharmaceutical technician in training if he or she has: (1) been convicted of any felony or misdemeanor involving moral turpitude, dishonesty or the unlawful possession, sale or use of drugs; or (2) a history of drug abuse. (NAC 639.240, 639.242) **Sections 2 and 3** of this regulation instead provide that the Board may deny an application to register as a pharmaceutical technician or pharmaceutical technician in training, respectively, if the applicant has been convicted of any such crime or has a history of drug abuse.

Existing regulations require a dispensing practitioner applying to register a person as a dispensing technician to submit proof to the Board that the candidate: (1) has not been convicted of any felony or misdemeanor involving moral turpitude, dishonesty or the unlawful possession, sale or use of drugs; and (2) does not have a history of drug abuse. (NAC 639.7425) **Section 4** of this regulation provides instead that the Board may deny an application to register a person as a dispensing technician if the candidate has been convicted of any such crime or has a history of drug abuse.

Sections 1, 5 and 6 of this regulation make conforming technical changes.

Section 1. NAC 639.010 is hereby amended to read as follows:

As used in this chapter, unless the context otherwise requires:

1. "Board" means the State Board of Pharmacy.

2. "Controlled substances" has the meaning ascribed to it in NRS 0.031.

3. "Dangerous drug" has the meaning ascribed to it in NRS 454.201.

4. "Direct supervision" means the direction given by a supervising pharmacist who is:

(a) On the premises of the pharmacy or telepharmacy at all times when the person he or she is supervising is working at the pharmacy or telepharmacy or at a remote site or satellite consultation site; and

(b) Aware of the activities of that person related to the preparation and dispensing of medications, including the maintenance of appropriate records.

5. "Executive Secretary" means the Executive Secretary employed by the Board pursuant to NRS 639.040.

6. "Pharmaceutical technician" means a person who performs technical services in a pharmacy under the direct supervision of a pharmacist and is registered with the Board pursuant to NAC 639.240.

7. "Pharmaceutical technician in training" means a person who is registered with the Board pursuant to NAC 639.242 in order to obtain the training and experience required to be a pharmaceutical technician pursuant to subparagraph (3) of paragraph ~~[(e)]~~ *(c)* of subsection 2 of NAC 639.240, or who is enrolled in a program of training for pharmaceutical technicians that is approved by the Board.

8. "Practitioner" has the meaning ascribed to it in NRS 639.0125.

9. "Prescription drug" means a drug or medicine as defined in NRS 639.007 which:

(a) May be dispensed only upon a prescription order that is issued by a practitioner; and

(b) Is labeled with the symbol "Rx only" pursuant to federal law or regulation.

10. "Public or nonprofit agency" means a health center as defined in 42 U.S.C. § 254b(a) which:

(a) Provides health care primarily to medically underserved persons in a community;

(b) Is receiving a grant issued pursuant to 42 U.S.C. § 254b or, although qualified to receive such a grant directly from the Federal Government, is receiving money from such a grant under a contract with the recipient of that grant; and

(c) Is not a medical facility as defined in NRS 449.0151.

11. "Surgical center for ambulatory patients" has the meaning ascribed to it in NRS 449.019.

Sec. 2. NAC 639.240 is hereby amended to read as follows:

1. No person may perform the duties of a pharmaceutical technician until the person has been issued a certificate of registration.

2. An applicant for registration as a pharmaceutical technician must:

(a) Be 18 years of age or older;

(b) Be a high school graduate or the equivalent; ***and***

(c) ~~[Not have been convicted of any felony or a misdemeanor involving moral turpitude, dishonesty or the unlawful possession, sale or use of drugs;~~

~~(d) Have no history of drug abuse; and~~

~~(e)~~ Have complied with one of the following requirements:

(1) The successful completion of a program of training for pharmaceutical technicians, including, but not limited to, a program of training offered by a postsecondary school, that is approved by the Board pursuant to NAC 639.256.

(2) Registration in another state as a pharmaceutical technician, if the requirements for registration in that state are equivalent to the requirements of this State, and the successful completion of at least 240 hours of employment as a pharmaceutical technician in a pharmacy in that state, which must be verified by the managing pharmacist of the pharmacy.

(3) If the state in which the applicant has been employed does not offer registration, licensure or certification as a pharmaceutical technician:

(I) The successful completion of at least 1,500 hours of experience in a pharmacy in that state performing the duties set forth in paragraph (c) of subsection 3 of NRS 639.1371 during the 3 years immediately preceding the date on which his or her application was submitted;

(II) The successful completion of at least 350 hours of employment in a pharmacy in this State; and

(III) The acquisition of a written statement to the Board from the managing pharmacist of the pharmacy referred to in sub-subparagraph (II) stating that the applicant, during his or her employment, demonstrated competence to perform the tasks assigned to him or her.

➥ Such an applicant must register as a pharmaceutical technician in training before he or she completes the requirements of sub-subparagraph (II).

(4) The successful completion of at least 1,500 hours of training and experience as a pharmaceutical technician in training. A pharmaceutical technician in training may accumulate certified hours of training from each place of employment.

(5) The successful completion of a program of training for pharmaceutical technicians conducted by a branch of the Armed Forces of the United States, the Indian Health Service of the United States Department of Health and Human Services or the United States Department of Veterans Affairs.

(6) Certification by the Pharmacy Technician Certification Board or the National Healthcareer Association as a pharmacy technician if:

(I) The applicant successfully completes a program of training for pharmaceutical technicians conducted by a postsecondary school in another state;

(II) The program is accredited or otherwise approved by the appropriate regulatory authority in that state; and

(III) The applicant successfully completes at least 240 hours of employment as a pharmaceutical technician in training in a pharmacy in another state, which must be verified by the managing pharmacist of the pharmacy.

3. An applicant who attended a school outside the United States must submit to an organization which evaluates educational credentials a copy of the transcript of his or her academic record from that school for a determination of whether the grades the applicant received are substantially equivalent to the grades required for an applicant who attended a school, or a program of training for pharmaceutical technicians that is accredited by the

American Society of Health-System Pharmacists, in the United States. The applicant must ensure that a copy of the organization's evaluation of the transcript is submitted to the Board.

4. ***The Board may deny an application for registration as a pharmaceutical technician if the applicant has:***

(a) Been convicted of any felony or a misdemeanor involving moral turpitude, dishonesty or the unlawful possession, sale or use of drugs; or

(b) A history of drug abuse.

5. Upon receipt of an application and the required fee, the Executive Secretary shall, unless he or she has good cause to deny the registration, issue a certificate of registration to the pharmaceutical technician.

Sec. 3. NAC 639.242 is hereby amended to read as follows:

1. An applicant for registration as a pharmaceutical technician in training must:

(a) Be 18 years of age or older;

(b) Be a high school graduate or the equivalent; ***and***

(c) ~~[Not have been convicted of any felony or a misdemeanor involving moral turpitude, dishonesty or the unlawful possession, sale or use of drugs;~~

~~(d) Have no history of drug abuse; and~~

~~(e)]~~ Participate in training while on the job and acquire experience that is commensurate with the duties of his or her employment.

2. ***The Board may deny an application for registration as a pharmaceutical technician in training if the applicant has:***

(a) Been convicted of any felony or a misdemeanor involving moral turpitude, dishonesty or the unlawful possession, sale or use of drugs; or

(b) A history of drug abuse.

3. A person may perform the duties of a pharmaceutical technician while the person is receiving the training and experience required by paragraph ~~[(c)]~~ *(c)* of subsection 1 if he or she is registered with the Board.

~~[3.]~~ *4.* Upon receipt of an application and the required fee, the Executive Secretary shall, unless he or she has good cause to deny the registration, issue a registration certificate for a pharmaceutical technician in training to the managing pharmacist of the pharmacy where the trainee will be employed.

~~[4.]~~ *5.* Registration as a pharmaceutical technician in training is effective for 24 months after the date of issuance unless an extension is granted by the Board.

~~[5.]~~ *6.* The registration certificate of a pharmaceutical technician in training who is receiving the training and experience required by paragraph ~~[(c)]~~ *(c)* of subsection 1 will specify the pharmacy where he or she will be employed. Termination of that employment voids the registration, and the trainee must reapply for registration before his or her services may be used by another pharmacy. This subsection does not prohibit a trainee from accumulating certified hours of training from each place of employment.

~~[6.]~~ *7.* The managing pharmacist of the pharmacy where a pharmaceutical technician in training is employed to receive the training and experience required by paragraph ~~[(c)]~~ *(c)* of subsection 1 shall file with the Board a signed affidavit certifying:

(a) The number of hours of training and experience the trainee has successfully completed;

(b) The specific training and experience the trainee has completed; and

(c) That the trainee is competent to perform the duties of a pharmaceutical technician.

Sec. 4. NAC 639.7425 is hereby amended to read as follows:

1. Except as otherwise provided in NAC 639.7423, no person may act as a dispensing technician unless the person is:

(a) A registered pharmaceutical technician; or

(b) Employed at a facility to which a certificate of registration has been issued pursuant to NAC 639.742 and the dispensing practitioner at that facility has registered the person as a dispensing technician.

2. A dispensing practitioner may apply to the Board to register a person as a dispensing technician by submitting to the Board the fee required by NAC 639.744 and proof satisfactory to the Board that the person:

(a) Is 18 years of age or older; ***and***

(b) Has received a high school diploma or its equivalent**.** ~~[;~~

~~(c) Has not been convicted of any felony or misdemeanor involving moral turpitude, dishonesty or the unlawful possession, sale or use of drugs; and~~

~~(d) Does not have a history of drug abuse.]~~

3. ***The Board may deny an application to register a person as a dispensing technician if the person has:***

(a) Been convicted of any felony or a misdemeanor involving moral turpitude, dishonesty or the unlawful possession, sale or use of drugs; or

(b) A history of drug abuse.

4. Upon determining that a person for whom application for registration as a dispensing technician has been made by a dispensing practitioner satisfies the requirements of subsection 2, the Board will issue to the person a provisional registration as a dispensing technician for that practitioner.

~~[4.]~~ *5.* A person acting as a dispensing technician pursuant to a provisional registration must complete at least 500 hours of training and experience provided by the dispensing practitioner relating to the skills that the person will be performing as a dispensing technician for that dispensing practitioner. Only that training and experience received by the person after the provisional registration is issued may be applied to satisfy the 500-hour requirement. In providing the training and experience, the dispensing practitioner shall supervise the training and experience of the person by observing the work of the person on a random basis at least three times each day during which the person is receiving training and experience.

~~[5.]~~ *6.* A provisional registration issued to a person acting as a dispensing technician expires 12 months after it is issued or upon the expiration of the certificate of registration of the dispensing practitioner to whom the dispensing technician is registered, whichever is earlier. If a person acting as a dispensing technician pursuant to a provisional registration:

(a) Fails to complete the required 500 hours of training and experience before the expiration of the provisional registration, the person shall not act as a dispensing technician unless he or she is issued a new provisional registration pursuant to this section. Any hours of training and experience completed by the person while acting as a dispensing technician pursuant to a provisional registration that has expired may not be used to satisfy the 500-hour requirement for a new provisional registration.

(b) Completes the required 500 hours of training and experience before the expiration of the provisional registration, the dispensing practitioner shall file with the Board a signed affidavit certifying:

(1) The number of hours of training and experience successfully completed by the person.

(2) The specific training and experience received by the person.

(3) That the person is, in the opinion of the dispensing practitioner, competent to perform the duties of a dispensing technician.

~~[6.]~~ ***7.*** The Board, upon receiving the affidavit of the dispensing practitioner pursuant to subsection ~~[5,]~~ ***6,*** will issue to the person a certificate of registration as a dispensing technician for that practitioner.

~~[7.]~~ ***8.*** A dispensing technician shall complete at least 1 hour of in-service training during the 2-year period immediately preceding the renewal of the registration of the dispensing technician. The training must be a jurisprudence program approved or presented by the Board that relates to the practice of pharmacy or the law concerning pharmacy in this State. The dispensing technician shall retain a copy of the certificate from the Board or approved program certifying the completion of such in-service training. The copy must be:

(a) Retained for at least 2 years; and

(b) Readily accessible to a member of the Board or a person conducting an inspection or investigation on behalf of the Board.

Sec. 5. NAC 639.743 is hereby amended to read as follows:

1. Except as otherwise provided in NRS 639.23277 and NAC 639.395, a person to whom a dispensing practitioner is providing training and experience pursuant to subsection ~~[4]~~ ***5*** of NAC

639.7425 must not be allowed access to the room or cabinet in which drugs are stored unless accompanied by the dispensing practitioner. After the person has completed his or her training and experience and the Board has received an affidavit from the dispensing practitioner pursuant to subsection ~~[5]~~ ***6*** of NAC 639.7425:

(a) The person may access the room or cabinet in which drugs are stored without being accompanied by the dispensing practitioner, so long as the dispensing practitioner is on-site at the facility; and

(b) The dispensing practitioner is not required to observe the work of the person.

2. A dispensing practitioner who allows a dispensing technician to perform any function described in subsection 4 or 5 of NAC 639.742 is responsible for the performance of that function by the dispensing technician. All such functions performed by a dispensing technician must be performed at the express direction and delegation of the dispensing practitioner. Each prescription with respect to which a dispensing technician performed such a function:

(a) Must be checked by the dispensing practitioner, and the dispensing practitioner shall indicate on the label of the prescription and in his or her record regarding the prescription that the dispensing practitioner has checked the work performed by the dispensing technician; and

(b) Must not be dispensed to the patient without the initials of the dispensing practitioner thereon. A prescription which has been so initialed must be handed to the patient only by the dispensing practitioner or an employee authorized by the dispensing practitioner.

Sec. 6. NAC 639.7435 is hereby amended to read as follows:

1. The registration of a dispensing technician is nontransferable and limited to the dispensing practitioner to whom the dispensing technician is registered. The registration of a

dispensing technician expires at the same time that the certificate of registration of the dispensing practitioner expires. If a dispensing practitioner and the dispensing technician registered to that practitioner leave the facility at which they are registered, and the dispensing technician continues his or her employment with that practitioner at a different site, the dispensing practitioner shall, as soon as practicable, notify the Board of the change of address of employment of the dispensing technician.

2. If a dispensing technician no longer works as a dispensing technician for the dispensing practitioner to whom the dispensing technician is registered, the registration of the dispensing technician terminates. Except as otherwise provided in NAC 639.7423, if that person is subsequently employed by another dispensing practitioner to work as a dispensing technician, the employing dispensing practitioner must, before the person may act as a dispensing technician for that practitioner:

(a) Register the person with the Board, showing the site of employment and the name of the dispensing practitioner; and

(b) Ensure that the person receives an additional 200 hours of training and experience provided by the dispensing practitioner. The additional training and experience must be provided in accordance with subsection ~~[4]~~ ***5*** of NAC 639.7425. Except as otherwise provided in NRS 639.23277 and NAC 639.395, the dispensing practitioner shall not allow the person to be registered as a dispensing technician to enter the room or cabinet in which drugs are stored or perform any function described in subsection 4 or 5 of NAC 639.742 without the dispensing practitioner observing the act by the person to be registered as a dispensing technician until that person has completed the 200 additional hours of training and experience.