



Nevada State Board of Pharmacy

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March 10, 2015

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, April 16, 2015, at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption and amendment of regulations that pertain to chapter 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 639.748 Identification of person to whom controlled substance is dispensed.

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

The proposed amendment will define the identification requirements to obtain controlled substance medications.

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:

There should be no adverse economic impact from this regulation on businesses or the public.

(b) Both immediate and long-term effects.

There will be no immediate or long-term negative economic impact on businesses or the public.

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

There will be no cost incurred by the Board for enforcement of this regulation.

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

The Board of Pharmacy is not aware of any similar regulations of other state or government agencies that the proposed regulation overlaps or duplicates.

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

The Board of Pharmacy is not aware of this regulation being 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 regulations of the same activity in which the state regulation is more stringent.

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

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

Persons wishing to comment upon the proposed action of the Board may appear at the scheduled public hearing or may address their comments, data, views, or arguments in written form to the Nevada State Board of Pharmacy, 431 West Plumb Lane, Reno, Nevada 89509, or at e-mail address: shunting@pharmacy.nv.gov. Written submissions must be received by the Board at least fourteen days before the scheduled public hearing. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Board may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted and amended will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted and amended will be available in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. The text of each regulation will include the entire text of any section of the Nevada Administrative Code which is proposed for amendment or repeal. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the

Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

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

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

Nevada State Board of Pharmacy
Reno, Nevada

Nevada State Board of Pharmacy
Las Vegas, Nevada

Mineral County Courthouse
Hawthorne, Nevada

Elko County Courthouse
Elko, Nevada

Washoe County Courthouse
Reno, Nevada

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

LCB File No. R014-14

June 24, 2014

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

AUTHORITY: §§1 and 2, NRS 639.070.

A REGULATION relating to pharmacy; revising provisions governing the presentation of identification by a person who picks up a controlled substance; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the State Board of Pharmacy to adopt regulations governing the dispensing of poisons, drugs, chemicals and medicines. (NRS 639.070) Existing regulations require an employee of a pharmacy to request the person to whom a controlled substance will be dispensed pursuant to a lawful prescription to present certain identification before the employee dispenses the controlled substance. In certain circumstances, an employee is not required to request such a person to present identification. (NAC 639.748)

Section 1 of this regulation clarifies that, under certain circumstances, identification must be requested from a person who picks up a controlled substance and that the identification presented must be a valid form of identification. **Section 1** also revises the information relating to a person who picks up a controlled substance that an employee is required to record in certain circumstances. **Section 1** also revises the circumstances in which an employee is not required to request a person who picks up a controlled substance to present identification.

Section 1. NAC 639.748 is hereby amended to read as follows:

639.748 1. Except as otherwise provided in this section, an employee of a pharmacy who is authorized to dispense controlled substances shall, before dispensing a controlled substance pursuant to a lawful prescription, request the person ~~{to whom}~~ *who picks up* the controlled substance ~~{will be dispensed}~~ to present a current *and valid* form of identification issued by a

federal, state or local governmental agency that contains a photograph of the person. The employee shall not dispense the controlled substance if:

- (a) That person does not present such identification; or
- (b) The employee reasonably believes that the identification presented has been altered or is false or otherwise invalid.

2. The provisions of subsection 1 do not apply if:

- (a) ~~The prescription is paid for, in whole or in part, by an insurer;~~

~~—(b) The prescription is for a patient who has had a prescription ~~for the same controlled substance~~ previously filled by the pharmacy; ~~or~~~~

~~—(c) The pharmacy is a part of the~~

(b) The prescription is for a patient who is an inpatient at a health care facility , facility for long-term care or facility for hospice care where ~~the patient~~ he or she is being treated ~~;~~ ;

(c) The person who picks up the controlled substance is personally known to an employee of the pharmacy; or

(d) The employee is dispensing the controlled substance by mail and has obtained or verified the identification of the patient through the prescription benefit plan of the patient.

3. ~~The~~ *If the provisions of subsection 1 apply, the employee dispensing the controlled substance shall:*

- (a) Make a ~~photocopy~~ *copy* of the identification presented to the employee; or
- (b) Record the full name of the person ~~to whom~~ *who picks up* the controlled substance , ~~is dispensed and~~ the identification number , *if any*, indicated on his or her identification ~~, if any,~~ *presented to the employee and the federal, state or local governmental agency that issued the identification. The employee shall record that information on ~~the~~ :*

- (1) *The prescription ~~is, the~~;*
- (2) *The refill log ~~is, the~~;*
- (3) *The counseling log ~~is, a~~;*
- (4) *A computer record related to the patient ; or ~~any other~~*
- (5) *A document that is readily retrievable ~~is~~ and accessible for inspection by law*

enforcement or any member, employee, agent or designee of the Board.

4. If a ~~photocopy~~ copy of the identification is made pursuant to paragraph (a) of subsection 3, it must be filed with the copy of the prescription that is maintained by the pharmacy.

5. *As used in this section:*

(a) *“Facility for hospice care” has the meaning ascribed to it in NRS 449.0033.*

(b) *“Facility for long-term care” means:*

(1) *A residential facility for groups as defined in NRS 449.017; and*

(2) *A facility for skilled nursing as defined in NRS 449.0039.*

(c) *“Health care facility” has the meaning ascribed to it in NRS 449.2414.*

(d) *“Valid form of identification” does not include:*

(1) *A driver authorization card obtained in accordance with NRS 483.291; or*

(2) *A driver authorization card, driving privilege card or other similar card issued by*

another jurisdiction.

Sec. 2. NAC 639.753 is hereby amended to read as follows:

639.753 1. A pharmacist may decline to fill a prescription that satisfies the requirements of this chapter and chapter 639 of NRS only if the pharmacist reasonably believes, in his or her professional judgment, that:

(a) The filling of the prescription would be unlawful;

(b) The filling of the prescription would be imminently harmful to the medical health of the patient;

(c) The prescription is fraudulent; or

(d) The prescription is not for a legitimate medical purpose.

2. If a pharmacist declines to fill a prescription pursuant to this section, the pharmacist shall speak with the prescribing practitioner in a timely manner to discuss and resolve the concerns of the pharmacist regarding the prescription. Before the pharmacist speaks with the prescribing practitioner, the pharmacist may, based on his or her professional judgment:

(a) Retain the prescription and not return the prescription to the patient;

(b) Return the prescription to the patient;

(c) Make a ~~photocopy~~ *copy* of the prescription and return the prescription to the patient; and

(d) Unless the prescription is for a controlled substance that is listed in schedule II, dispense a quantity of the drug prescribed, not to exceed a 3 days' supply, to allow a reasonable period for the pharmacist to speak with the prescribing practitioner about the concerns of the pharmacist regarding the prescription.

3. After speaking with the prescribing practitioner, the pharmacist may fill the prescription if the pharmacist reasonably believes, in his or her professional judgment, that the prescription is:

(a) Lawful;

(b) Not imminently harmful to the medical health of the patient;

(c) Not fraudulent; and

(d) For a legitimate medical purpose.

4. If, after speaking with the prescribing practitioner, the pharmacist reasonably believes, in his or her professional judgment, that the prescription does not meet one or more of the standards

set forth in subsection 3, the pharmacist shall retain the prescription and may not return the prescription to the patient.