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December 7, 2022

Via Email

Nevada State Board of Pharmacy
Attention: Dave Wuest, PharmD
Executive Secretary
985 Damonte Ranch Parkway #206
Reno, NV 89521

Email: dwuest@pharmacy.nv.gov

Re: Proposed Regulation LCB File No. R164-20

Dear Executive Secretary Wuest,

On behalf of all pharmacies owned and operated by Walgreen Co. licensed in the State of Nevada, we appreciate the opportunity to comment on your proposed regulations for LCB File No. R164-20.

Allowing pharmacists to work from alternative locations outside (i.e., at home) pharmacies provides the opportunity of alternative work environments for pharmacists to alleviate burnout and to provide medical accommodations for team members. We appreciate the Board's attempt to make the process to allow pharmacists to work from locations outside the pharmacy simpler and more efficient. We respectfully request the following amendments to make the regulation most effective and enable broad applicability to improve patient access.

While dispensing must occur in a licensed pharmacy, the other cognitive functions related to collaborative drug therapy and prescribing should be able to be performed at locations other than a licensed pharmacy (i.e., physicians' offices and public health clinics.)

Sec. 2 1. While engaging in the practice of pharmacy at a location other than the site of a license pharmacy pursuant to the provisions of NAC 639.403 or section 3 of this regulation a registered pharmacist may perform only:

- (a) *The functions described in paragraphs (b), (c), (d), (g), ~~and (h)~~, (i), (j), and (k) of subsection 1 of NRS 639.0124, as amended by section 1 of Senate Bill No. 229, chapter 290, Statutes of Nevada 2021, at page 1660, section 2 of Senate Bill No. 325, chapter 492, Statutes of Nevada 2021, at page 3201, and section 5 of Senate Bill No. 190, chapter 504, Statues of Nevada 2021, at 3270; and*

We recommend striking the section below; there is no reason that pharmacists should be limited to practicing only in one site if they feel that they are capable. With the current state of healthcare worker availability in Nevada and across the country, the Board should not create arbitrary limitations that may restrict patient access.



~~Sec. 2 4. A registered pharmacist shall not engage in the practice of pharmacy at a location other than the site of a license pharmacy pursuant to the provisions of NAC 639.403 or section 3 of this regulation if he or she:~~

- ~~(a) Serves as a managing pharmacist; or~~
- ~~(b) Provides pharmaceutical services at:~~

- ~~(1) A facility for modified medical detoxification, as defined in NRS 449.00385;~~
- ~~(2) An independent center for emergency medical care, as defined in NRS 449.013;~~
- ~~(3) A facility for intermediate care, as defined in NRS 449.0038;~~
- ~~(4) A facility for skilled nursing, as defined in NRS 449.0039; or~~
- ~~(5) A surgical center for ambulatory patients, as defined in NRS 449.019.~~

Several required elements in Section 3(2) are not commonly available in community pharmacy records. We respectfully request that Section 3(2) be amended as follows to align with the current standard of care:

Sec 3. 2. A registered pharmacist described in subsection 1 shall not engage in the practice of pharmacy at a location other than the site of a licensed pharmacy unless he or she is provided with the same computerized system and access to data regarding a patient for whom a prescription has been submitted that is available to a registered pharmacist in the pharmacy. Such data must include, without limitation:

- (a) The ~~height, weight and~~ age of the patient and any allergies the patient may have;*
- ~~*(b) The medical records regarding any medications prescribed to the patient;*~~
- ~~*(c) The results of any relevant laboratory tests;*~~
- ~~*(d) The health history and notes regarding physical examinations, to the extent that the information is available in the computerized system of the pharmacy;*~~
- (e) Any notes provided by a physician, nurse or other medical staff, to the extent that those notes are available in the computerized system of the pharmacy;*
- (f) A legible copy of the prescription that is available through a scanned image in the computerized system of the pharmacy or by facsimile machine; and*
- (g) Any other information that is available in the computerized system of the pharmacy that is relevant or necessary for the registered pharmacist to provide pharmaceutical services.*

I appreciate the Board's consideration of these proposed amendments. If the Board would like additional information, please feel free to contact me.

Sincerely,

Lorri Walmsley, R.Ph.



Nevada State Board of Pharmacy
985 Damonte Ranch Parkway, Suite 206
Reno, Nevada 89521

Nevada State Board of Pharmacy,

We appreciate the opportunity to comment on the proposed changes allowing pharmacists to practice at a location other than a licensed pharmacy. Since we work with pharmacies devoted to animal health and the veterinary profession, we would like to offer a few recommendations to allow the proposed language to accommodate all situations.

Under Sec. 3.2.(a), providing height or allergies on prescriptions is not common in veterinary medicine and a small change to the language should be able to clarify that these are applicable only for human patients. Likewise, Sec.3.2(e), could be rewritten to include veterinarians, as practitioners. Lastly, we had a question about (f) and whether it would accommodate orders transmitted orally or written, which are the common methods on the veterinary side. These changes can be made various ways, following are a few suggestions.

For human patients, such data must include, without limitation: or;

Such data must include, without limitation:

- (a) The weight and age of the patient, as well as the height of human patients;*
- (b) Any allergies the human patient may have;*
- (c) The medical records regarding any medications prescribed to the patient;*
- (d) The results of any relevant laboratory tests;*
- (e) The health history and notes regarding physical examinations, to the extent that the information is available in the computerized system of the pharmacy;*
- (f) Any notes provided by a practitioner, nurse or other medical staff, to the extent that those notes are available in the computerized system of the pharmacy;*
- (g) The prescription information, including a scanned or facsimile copy, when made available; and*
- (h) Any other information that is available in the computerized system of the pharmacy that is relevant or necessary for the registered pharmacist to provide pharmaceutical services.*

We appreciate the board's work on this and please do not hesitate to contact us if you have any questions.

Sincerely,

Scott Young
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December 6, 2022

Dave Wuest, RPh
Nevada State Board of Pharmacy
985 Damonte Ranch Pkwy
Ste 206
Reno Nevada 89521
dwuest@pharmacy.nv.gov

Re: CVS Health's comments on LCB File R164-20.

Dear Executive Secretary Wuest:

I am writing to you in my capacity as Executive Director of Pharmacy Regulatory Affairs for CVS Health and its family of pharmacies. CVS Health, the largest pharmacy health care provider in the United States, is uniquely positioned to provide diverse access points of care to patients in the state of Nevada through our integrated offerings across the spectrum of pharmacy care. CVS Health appreciates the opportunity to submit comments on the LCB File R164-20 to allow pharmacists to engage in the practice of pharmacy at a site other than a licensed pharmacy. We would also like to thank the Board for their vigilance to continuously improve the laws and regulations that guide pharmacists, pharmacy interns and pharmacy technicians and technician trainees serving Nevada patients.

CVS Health supports the allowance for pharmacists to engage in the practice of pharmacy at a site other than a licensed pharmacy. Currently, 33 states provide an avenue for pharmacists to access the pharmacy's electronic database from inside or outside the pharmacy to perform prescription drug order processing functions if there are established controls to protect confidentiality and integrity of protected health. Nevada is currently the only state which requires a pharmacist to apply and seek approval by the Board prior to engaging in remote practice. During the COVID-19 pandemic, the Nevada Board of Pharmacy issued a waiver which permitted pharmacists to remote process without approval, which expired on July 20, 2022.¹ CVS Health requests the Board amend the proposed rule language to streamline requirements and provide clear direction for Nevada licensed pharmacists who wish to practice pharmacy at a site other than a licensed pharmacy. Below, we have provided suggested edits to current rule NAC 639.403 for the Board's consideration as well as the NABP (National Association of Boards of Pharmacy) Model Act language for review, which is used in most states across the country.

Should the Board move to promulgate the rule as proposed, we do request the Board consider removing two specific sections. In proposed Section 2, number 4, we are unsure of the rationale for restriction on a pharmacist who serves as a managing pharmacist or who provides pharmaceutical services at the listed facilities in (b)(1-5) from engaging in the practice of pharmacy at a site other than a licensed pharmacy. NRS 639.220 (3)(b) does permit a managing pharmacist to not be present during the time the pharmacy is open for business if another pharmacist assumes the managing pharmacist's duties in their absence.² While a managing pharmacist is not solely a remote responsibility, this restriction will shrink the pool of eligible pharmacists who can serve as a managing pharmacist at a time when designating such is already strained due to lack of pharmacists joining the profession. Furthermore, this may restrict a pharmacist who is disabled from serving in a capacity as a managing pharmacist if they are unable to practice pharmacy remotely in some capacity. Additionally, pharmacists who hold consultant roles with the facilities listed in (b)(1-5) are participating in pharmaceutical services while at the facility, outside of a licensed pharmacy. Restricting these pharmacists to only practicing pharmacy in a licensed pharmacy is not existing practice due to the roles these consultant pharmacists have on the patient care team. Finally, in Section 3, number 2, we request the Board remove the specific data elements listed in (a-g) from the requirement of the computerized system and access to data that a pharmacist practicing at a location other than a licensed pharmacy. We agree the pharmacist should have access to

the same computerized system and data regarding a patient, however the data elements listed are not encompassing to all practice settings and would prohibit pharmacists from practicing remotely should the rule be promulgated with this specific list of requirements.

CVS Health appreciates the opportunity to submit comments on this proposed rule, LCB file R164-20. If you have any questions, please contact me directly at 540-604-3661.

Suggested Language:

NAC 639.403 ~~Application required for p~~Pharmacists to engage engaging in practice of pharmacy at site other than licensed pharmacy; exemption for pharmacists who administer immunizations. (NRS 639.070)

1. ~~Except as otherwise provided in subsection 2, a~~ A registered pharmacist ~~who is employed by or under contract with a pharmacy or who is an employee of the State Government~~ may ~~apply to the Board to~~ engage in the practice of pharmacy ~~as described in NRS 639.0124 at a site other than the site of a licensed pharmacy. A registered pharmacist who engages in the practice of pharmacy at a location other than the site of a licensed pharmacy pursuant to this regulation shall:~~

~~(a) Provide written notice of the site of practice to the Executive Secretary;~~

~~(b) Ensure that the records of the registered pharmacist are made readily accessible to members of the Board and employees, agents or designees of the Board; and~~

~~(c) Comply with all applicable federal and state laws and regulations, including, without limitation:~~

~~(1) The Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and the regulations adopted pursuant thereto and any other applicable federal or state law concern the privacy of information regarding health care; and~~

~~(2) Requirements relating to the maintenance of records.~~

~~2. A registered pharmacist may not submit an application pursuant to subsection 1 if he or she provides services:~~

~~(a) Pursuant to the provisions of NAC 449.15347;~~

~~(b) Pursuant to the provisions of NAC 449.6138;~~

~~(c) Pursuant to the provisions of NAC 449.722;~~

~~(d) Pursuant to the provisions of NAC 449.74531;~~

~~(e) Pursuant to the provisions of NAC 449.9905 and 639.4996;~~

~~(f) Pursuant to the provisions of subsection 2 of NAC 639.465;~~

~~(g) Pursuant to the provisions of NAC 639.690;~~

~~(h) Voluntarily or without compensation, regardless of whether the services are provided individually or through an employer; or~~

~~(i) Pursuant to a medication therapy management program approved pursuant to 42 C.F.R. § 423.153(d).~~

~~2. A registered pharmacist who engages in the practice of pharmacy at a location other than the site of a licensed pharmacy shall not maintain an inventory of drugs at that location.~~

~~3. The licensed pharmacy or State Government who employs or is under contract with a registered pharmacist shall provide access to the same computerized system and access to data regarding a patient for whom a prescription has been submitted that is available to a registered pharmacist in the pharmacy.~~

~~4. A registered pharmacist who is not employed or under contract with a pharmacy and who is not an employee of the State Government shall not engage in the practice of pharmacy at a site other than the site of a licensed pharmacy unless he or she obtains the approval of the Board to engage in the practice of pharmacy at a site other than a licensed pharmacy. To request such approval, the registered pharmacist must submit an application on a form prescribed by the Board. An application must be approved before a registered pharmacist may commence any practice pursuant to this section. The application must include, without limitation:~~

~~(a) The name of the pharmacist;~~

~~(b) A description of the services that the pharmacist intends to provide at the site, which must include services other than the practice of pharmacy described in NRS 639.0124 to be performed at the site;~~

- (c) The location at which the pharmacist will provide the services;
- (d) An identification of the types of patients or other persons to whom the pharmacist intends to provide the services;
- (e) An identification of the types of pharmacies or other entities to whom the pharmacist intends to provide the services;
- (f) A description of all resources, both paper and electronic, that will be available to the pharmacist in the course of providing the services;
- (g) The days and hours during which the pharmacist intends to provide the services;
- (h) An explanation of the policy of the pharmacist for users of the services when the pharmacist is unavailable;
- (i) An explanation of the policy of the pharmacist regarding the confidentiality and security of the patient data that will be gathered, made and maintained as part of the services which are provided, including, without limitation, paper and electronic records;
- (j) ~~Whether the services provided will be affiliated with, an adjunct of or otherwise related to a licensed pharmacy~~
The identity of the business under which the services will be performed, as registered with the Secretary of State pursuant to chapter 76 of NRS; and
- (k) A description of the business plan for the services provided.

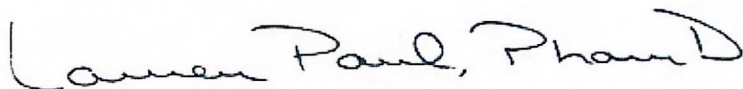
35. A registered pharmacist who administers immunizations pursuant to a written protocol established in accordance with NAC 639.297 to 639.2978, inclusive, is not required to submit an application pursuant to this section for purposes of administering the immunizations at the authorized location.

NABP Model Rules Section 8. Shared Pharmacy Services

(e) Individual Practice

- (1) Nothing in this Section shall prohibit an individual Pharmacist licensed in the state, who is an employee of or under contract with a Pharmacy, or a licensed Certified Pharmacy Technician, Certified Pharmacy Technician Candidate, or Pharmacy Intern, working under the supervision of the Pharmacy, from accessing that Pharmacy's electronic database from inside or outside the Pharmacy and performing the Prescription Drug Order processing functions permitted by the Pharmacy Act, if both of the following conditions are met:
 - (i) the Pharmacy establishes controls to protect the confidentiality and integrity of Protected Health Information; and
 - (ii) no part of the database is duplicated, downloaded, or removed from the Pharmacy's electronic database.

Sincerely,



Lauren Paul, PharmD, MS
Executive Director, Pharmacy Regulatory Affairs
CVS Health

References

1. Partial Waiver of Remote Site Operation Regulations in Response to COVID-19. Available from <https://bop.nv.gov/uploadedFiles/bopnvgov/content/Resources/ALL/3.%20Partial%20Waiver%20->

[%20Remote%20Site%20Operation%20in%20Response%20to%20COVID-19%20exp%2012.31.21.pdf](#).
(Accessed December 5, 2022).

2. NRS 239.220 Management by a registered pharmacist; exceptions; requirements for managing pharmacist; notice of change in managing pharmacist. Available from <https://www.leg.state.nv.us/NRS/NRS-639.html> (Accessed December 5, 2022).