

Proposed Regulation of the Nevada State Board of Pharmacy

Workshop – May 29, 2024

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted, and language in *green text* indicates prior Board-approved amendments that are in the process of being codified.

AUTHORITY: NRS 639.070; NRS 639.1371

A REGULATION relating to pharmacy; minimum staffing requirements in the pharmacy; restriction on supervision; and providing other matters properly relating thereto.

The proposed regulation is a result of the Nevada Pharmacists Workplace and Patient Safety Survey. There were three main recurring themes that needs to be addressed based on the results of the survey:

1. The pharmacies need to eliminate workload productivity metrics.
2. The pharmacies need more staff, particularly pharmacists, but pharmaceutical technicians as well.
3. The pharmacies need to separate dispensing services from non-dispensing services.

This is supported by the results of the following survey questions:

7- *“To keep up with work related tasks, how often do you continue working after your scheduled/paid shift hours have been completed.”*
- The top answer amongst Retail Chain Pharmacists was “Always” and “Usually” (55%). While only 28% and 26% of Institutional/Hospital Pharmacists and pharmacists in other practice settings answered, “Always” and “Usually,” respectively.

16- *“Do you believe your primary practice setting is sufficiently staffed to meet the demands of the pharmacy while meeting patient care and safety standards?”* - The top answer amongst the Retail Chain Pharmacists and Institutional/Hospital Pharmacists was “No” (74.6% and 52.3%, respectively.)

17- *“Do you believe the current staffing in your primary practice setting poses a risk to patient safety?”* – The top answer amongst the Retail Chain Pharmacists was “Yes” (68.3%) while the top answer for Institutional/Hospital Pharmacists was “No” (51.7%).

18- *“If you could choose to add more staff to assist in the demands of your pharmacy to ensure patient care and safety is prioritized, which would you choose?”* – The top answer amongst all the pharmacists was “Additional Pharmacists.”

19- *“I feel that my work environment has sufficient pharmacy technicians staffing that allows for safe patient care?”* - The top answer amongst Retail Chain Pharmacists were “Strongly disagree” or “Disagree” (63%). While only 38% and 18% of Institutional/Hospital Pharmacists and pharmacists in other practice settings answered, “Strongly disagree” or “Disagree,” respectively.

20- *“I feel that my work environment has sufficient pharmacist staffing that allows for safe patient care.”* - The top answer amongst Retail Chain Pharmacists was “Disagree.” While the top answer amongst Institutional/Hospital Pharmacists and pharmacists in other practice settings was “Agree” or “Strongly Agree.”

21- *“I feel that staffing at my pharmacy is adequate to prevent delays in patients receiving medications in a timely manner.”* – The top answers amongst Retail Chain Pharmacists were “Strongly Disagree” and “Disagree.”

28 – *“In your opinion, how does completing non-dispensing services affect your ability to dispense prescriptions effectively?”* - The top answer amongst Retail Chain Pharmacists were “It somewhat diminishes my ability to dispense prescriptions effectively” or “It greatly diminishes my ability to dispense prescriptions effectively” (83%). While only 27% and 22% of Institutional/Hospital Pharmacists and pharmacists in other practice settings answered, “It somewhat diminishes my ability to dispense prescriptions effectively” or “It greatly diminishes my ability to dispense prescriptions effectively,” respectively.

29- *“In your opinion, how does completing non-dispensing services while also engaged in processing prescriptions affect your ability to practice safely?”* – The top answer amongst Retail Chain Pharmacists were “It somewhat diminishes my ability to practice safely” or “It greatly diminishes my ability to practice safely” (83%). While only 36% and 21% of Institutional/Hospital pharmacist and pharmacists in other practice settings answered, “It somewhat diminishes my ability to practice safely” or “It greatly diminishes my ability to practice safely,” respectively.

30- *“In your opinion, how does completing non-dispensing services while also engaged in processing prescriptions affect patient from getting their medications in a timely manner?”* - The top answer amongst the Retail Chain Pharmacists were “It greatly diminishes patients from getting their medications in a timely manner” or “It somewhat diminishes patients from getting their medications in a timely manner” (89%). While only 40% and 22% of Institutional/Hospital Pharmacists and pharmacists in other practice settings answered, “It greatly diminishes patients from getting their medications in a timely manner” or “It somewhat diminishes patients from getting their medications in a timely manner,” respectively.

32- *“Do you feel that you have been pressured by your employer or supervisor to meet standards or metrics that may interfere with safe patient care?”* - The top answers amongst the Retail Chain Pharmacists were “Yes” or “Somewhat” (86%). While only 37% and 19% of Institutional/Hospital Pharmacists and pharmacists in other practice settings answer, “Yes” or “Somewhat,” respectively.

38 – “In your opinion, how would an increase in the number of pharmaceutical technicians (PT) and pharmaceutical technicians in training (PTT) you may supervise in your primary practice setting affect patient safety? - The top answer amongst the Retail Chain Pharmacists was “Improve patient safety” (69%).

40- “In your opinion, how would an increase in the number of pharmacists in your primary practice setting affect patient safety?” - The top answer amongst all pharmacists was “Improve patient safety.”

45 – “In your opinion, are you able to comfortably take meals and rest periods without feeling like you will fall behind or compromise patient care or safety.” – The top answer amongst the Retail Chain Pharmacists was “No” (70%). While only 42% and 23% of Institutional/Hospital Pharmacists and pharmacists in other practice settings answered, “No,” respectively.

47- “Please rank the following from 1 to 7 on their impact on patient safety (1 having the most positive impact on patient safety and 7 having the least positive impact on patient safety)” – The top 3 answers amongst all the pharmacists survey participants were 1) Eliminating workload productivity metrics, 2) Increasing the number of pharmacists staffed, and 3) Eliminating non-dispensing responsibility for pharmacists processing prescriptions.

48 – “My current workload is:” The top answer amongst Retail Chain Pharmacists were “High” or “Excessively High” (82%). While only 58% and 24% of Institutional/Hospital Pharmacists or pharmacists in other practice settings answered, “High” or “Excessively High,” respectively.

54- “In your opinion, what is the number of prescriptions ONE pharmacist should be able to reasonably and safely fill on a given weekday, working from 9am to 7pm, in a general retail pharmacy setting, with the assistance of one to three pharmaceutical technicians or pharmaceutical technicians in training IF non-dispensing services such as medication therapy management, vaccinations, point-of-care testing, chronic disease management, collaborative practice agreements, staff education and quality improvement projects ARE EXCLUDED?” - The top answer amongst all pharmacist survey participants was 101-200 prescriptions.

Free-fill responses for questions 55, 56, and 57- majority of the responses were

1. The pharmacies need to eliminate workload productivity metrics.
2. The pharmacies need more staff, particularly pharmacists, but pharmaceutical technicians as well.
3. The pharmacies need to separate dispensing services from non-dispensing services.

To address the above issues, minimum staffing standards should be required of retail community pharmacies. If the proposed regulation is adopted it will address items 2 and 3 of the survey. Addressing items 2 and 3 will address the issue regarding item 1, workload productivity metrics.

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

1. *A pharmacy, as defined in NRS 639.012, except an institutional pharmacy, as defined by NRS 639.0085, and a pharmacy in a correctional institution, as defined by NRS 639.0123 engaged in the dispensing of controlled substances or dangerous drugs shall staff a pharmacy in a manner that meets the demand of the pharmacy while prioritizing patient care and safety.*

a. *The following are the minimum pharmacist staffing requirements:*

- i. *A pharmacy shall staff the pharmacy with a minimum of two (2) pharmacists for every hour the pharmacy is filling greater than or equal to twenty (20) prescriptions per hour; (see survey results for questions 7, 16, 17, 18, 20, 21, 40, 45, 47, 48, 54, 55, 56, 57)*
- ii. *The pharmacy shall add, at a minimum, an additional pharmacist for every twenty (20) prescriptions filled per hour thereafter by the pharmacy; and (see survey results for questions 7, 16, 17, 18, 20, 21, 40, 45, 47, 48, 54, 55, 56, 57)*
 - 1. *The pharmacist designated to perform the non-dispensing services may assist in the dispensing of controlled substances or dangerous drugs if in the professional judgement of the pharmacist time permits and patient care and safety is not compromised, but this pharmacist may not be used to meet the minimum requirements as specified in paragraphs i and ii of subsection (a) of this section.*
 - 2. *Except as specified in subsection iv, a pharmacy must cease providing non-dispensing services if there is no pharmacist solely designated to perform the non-dispensing services.*
- iii. *If the pharmacy is engaged in providing non-dispensing services during the hours the pharmacy is also providing dispensing services, the pharmacy must add an additional pharmacist designated to perform the non-dispensing services. (see survey results for questions 28, 29, 30, 40, 47, 55, 56, 57)*
 - 1. *The pharmacist designated to perform the non-dispensing services may assist in the dispensing of controlled substances or dangerous drugs if in the professional judgement of the pharmacist time permits and patient care and safety is not compromised, but this pharmacist may not be used to meet the minimum requirements as specified in paragraphs i and ii of subsection (a) of this section.*
 - 2. *Except as specified in subsection iv, a pharmacy must cease providing non-dispensing services if there is no pharmacist solely designated to perform the non-dispensing services.*
- iv. *A pharmacist while engaged in the dispensing of controlled substances or dangerous drugs shall not engage in any non-dispensing services, except when the pharmacy is staffed with one pharmacist and the pharmacy is filling less than ten (10) prescriptions per hour.*

Example (Ex) 1: A pharmacy filling 10-19 RXs/h (~ 100-190 RXs in a 10h shift) will need **1 pharmacist** during those hours. A pharmacy providing non-dispensing services during the same hours will need **2 pharmacists**.

Ex 2: A pharmacy filling 20-39 RXs/h (~ 200-390 RXs in a 10hr shift) will need **2 pharmacists** during those hours. A pharmacy providing non-dispensing services during the same hours will need **3 pharmacists**.

Ex 3: A pharmacy filling 40-59 RXs/h (~ 400-590 RXs in a 10h shift) will need **3 pharmacists** during those hours. A pharmacy providing non-dispensing services during the same hours will need **4 pharmacists**, etc.

Ex 4: A pharmacy filling 0-9 RXs/h (~ 0-90 RXs in a 10h shift) will need **1 pharmacist** during those hours. The same pharmacist may provide non-dispensing services during the same hours.

b. *Except as otherwise provided in NAC 639.250, the following are the minimum pharmaceutical technician and pharmaceutical technician in training staffing requirements: (see survey results for questions 16, 19, 21, 38, 55, 56, 57)*

- i. *A pharmacy shall staff the pharmacy with a minimum of one (1) pharmaceutical technician or pharmaceutical technician in training for every hour the pharmacy is filling greater than five (5) but less than ten (10) prescriptions per hour;*
- ii. *A pharmacy shall staff the pharmacy with a minimum of two (2) pharmaceutical technician or pharmaceutical technician in training for every hour the pharmacy is filling greater than or equal to ten (10) prescriptions but less than twenty (20) prescriptions per hour;*
- iii. *A pharmacy shall staff the pharmacy with a minimum of three (3) pharmaceutical technicians or pharmaceutical technicians in training for every hour the pharmacy is filling greater than or equal to twenty (20) prescriptions per hour; and*
- iv. *The pharmacy shall add, at a minimum, an additional pharmaceutical technician or pharmaceutical technician for every twenty (20) prescriptions filled per hour thereafter by the pharmacy.*

▶ **Ex 1:** A pharmacy filling 5-9 RXs/h (~ 50-90 RXs in a 10h shift) will need 1 PT or PTT during those hours.

▶ **Ex 2:** A pharmacy filling 10-19 RXs/h (~ 100-190 RXs in a 10h shift) will need 2 PTs or PTTs during those hours.

▶ **Ex 3:** A pharmacy filling 20-39 RXs/h (~ 200-390 RXs in a 10h shift) will need 3 PTs or PTTs during those hours.

▶ **Ex 4:** A pharmacy filling 40-59 RXs/h (~ 400-590 RXs in a 10h shift) will need 4 PTs or PTTs during those hours, etc.

- 2. *The managing pharmacist has the duty to enforce the provisions in these sections and maintain documentation of hourly compliance with these sections, including, but not limited the name of the pharmacist, and the name of the pharmaceutical technician or pharmaceutical technician staffed each hour and day, and is responsible for ensuring there is documentation of each hour and day the pharmacy fails to maintain minimum staffing requirements. This document must be readily retrievable and maintained for at least 2 years.*
- 3. *The pharmacy, managing pharmacist, and all registered pharmacists have the duty to report to the Board when the pharmacy fails to maintain minimum staffing requirements for any hours during three (3) consecutive days.*
- 4. *As used in this section “non-dispensing services” means all activities that a registered pharmacist may perform except for the filling, dispensing, and counseling of prescriptions.*

NAC 639.250 is amended to read as follows (see survey results for questions 16, 19, 21, 38, 55, 56, 57):

NAC 639.250 Restrictions on supervision. (NRS 639.070, 639.0727, 639.1371) Except as otherwise provided in NAC 639.258:

1. Except as otherwise provided in subsection 5, in an ~~hospital~~ *institutional pharmacy or a pharmacy in a correctional institution*, a pharmacist who is dispensing prescriptions may not supervise more than a total of three pharmaceutical technician at one time. A pharmacist who is supervising distributive functions may not supervise more than a total of two pharmaceutical technicians and one pharmaceutical technician in training while the trainee is performing technician functions in on-the-job training.
2. ~~Except as otherwise provided in subsection 5,]~~ ~~]~~ In any pharmacy, other than an ~~hospital~~ *institutional* pharmacy, *a pharmacy in a correctional institution*, telepharmacy, remote site, satellite consultation site or nondispensing pharmacy, a pharmacist may not supervise more than a total of ~~three~~ *four* pharmaceutical technicians or ~~one~~ *two* pharmaceutical technician and two pharmaceutical technicians in training at one time.
3. In any telepharmacy, remote site or satellite consultation site, a pharmacist may not supervise more than a total of three pharmaceutical technicians at one time.
4. In any nondispensing pharmacy, a pharmacist may not supervise more than a total of eight pharmaceutical technicians or six pharmaceutical technicians and two pharmaceutical technicians in training at one time.
5. A pharmacist may supervise more pharmaceutical technicians and pharmaceutical technicians in training at one time than are otherwise allowed pursuant to subsections 1 and 2 if:
 - (a) Not more than three of the pharmaceutical technicians or pharmaceutical technicians in training are performing the duties of a pharmaceutical technician as set forth in NAC 639.245; and
 - (b) The record kept by the pharmacy pursuant to NAC 639.245 identifies the pharmaceutical technicians and pharmaceutical technicians in training who are performing the duties of a pharmaceutical technician as set forth in NAC 639.245.]
6. As used in this section, “nondispensing pharmacy” means a pharmacy that is licensed pursuant to this chapter and chapter 639 of NRS that does not dispense, including, without limitation, drugs, controlled substances, poisons, medicines or chemicals.
7. *The pharmacy, managing pharmacist, and all registered pharmacists have the duty to immediately report to the Board when the pharmacy exceeds restriction on supervision.*