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STATE OF NEVADA
BOARD OF PHARMACY

985 Damonte Ranch Pkwy, Ste 206
Reno, NV 89521

Posted: September 11, 2024

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, October 17, 2024.

Pursuant to NRS 241.023(1)(c) the meeting is being conducted by means of remote
technology. The public may attend the meeting via live stream remotely or at the
following location:

Hilton Garden Inn
7830 S. Las Vegas Boulevard
Las Vegas, NV

Via Videoconference at Zoom: <https://zoom.us/j/5886256671>

or

Via Teleconference at 1 (669) 900-6833
Meeting ID: 588 625 6671

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 and/or 453 of
the Nevada Administrative Code.

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

Amendment to Nevada Administrative Code NAC 639.748. The proposed
amendments revises the requirements concerning the documentation an employee of a
pharmacy must obtain from a person before dispensing a controlled substance pursuant
to a lawful prescription to the person.
(LCB File No. R189-24)

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

The proposed regulation will allow access for the vulnerable population who may
have been unhoused or were recently incarcerated to have access to their

medications to treat opioid use disorder even if they do not have a valid form of identification.

2. Either the terms or the substance of the regulations to be adopted and amended.

A copy of the proposed regulation 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 economic impact from this regulation amendment on the regulated entities or on the public. The regulation amendment will have a beneficial effect on the regulated entities and on the public by allowing the vulnerable population to receive medications to treat opioid use disorder.

(b) Both immediate and long-term effects.

Both the immediate and long-term economic effects on regulated entities and on the public will be beneficial by allowing the vulnerable population to receive medications to treat opioid use disorder.

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 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 Board at teambc@pharmacy.nv.gov or to the Nevada State Board of Pharmacy, 985 Damonte Ranch Parkway, Suite 206 – Reno, NV 89521. Written submissions must be received by the Board on or before October 17, 2024. 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.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Nevada State Board of Pharmacy in writing at 985 Damonte Ranch Pkwy., #206, Reno, Nevada 89521, or by calling (775) 850-1440. Please notify us at least one (1) week prior to the scheduled meeting date to allow time to secure any necessary equipment or provisions prior to the meeting.

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.

Pursuant to NRS 233B.064(1), upon adoption of any regulation, the Board, 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:

www.notice.nv.gov
www.bop.nv.gov
www.leg.state.nv.us.

Nevada State Board of Pharmacy
Reno, Nevada

Nevada State Board of Pharmacy
Las Vegas, Nevada

Nevada State Library
100 N. Stewart St.
Carson City, NV 89701

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

LCB File No. R189-24

July 30, 2024

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

AUTHORITY: § 1, NRS 639.070.

A REGULATION relating to pharmacy; revising requirements governing the identification that a person must submit before the dispensing of a controlled substance in certain circumstances; 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, with certain exceptions, an employee of a pharmacy to request and obtain from the person who picks up a controlled substance, pursuant to a lawful prescription, a current and valid form of identification issued by a federal, state or local governmental agency before dispensing the controlled substance. (NAC 639.748) This regulation provides that an employee of a pharmacy is not required to obtain such identification when: (1) a prescription is issued to the patient for the treatment of an opioid use disorder; and (2) the patient does not have a valid form of identification issued by a federal, state or local governmental entity. In such a circumstance, this regulation authorizes an employee of a pharmacy to accept any form of identification that contains the patient’s first name, last name and picture.

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 who picks up the controlled substance 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 for a patient who has had a prescription previously filled by the pharmacy;

(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 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 ~~or~~; *or*

(e) The prescription is issued to the person for the treatment of an opioid use disorder and the person:

(1) Does not have a valid form of identification that meets the requirements of subsection 1; and

(2) Presents any form of identification that includes the first name, last name and picture of the person.

3. If the provisions of subsection 1 *or paragraph (e) of subsection 2* apply, the employee dispensing the controlled substance shall:

(a) Make a copy of the identification presented to the employee; or

(b) Record the full name of the person who picks up the controlled substance, the identification number, if any, indicated on his or her identification presented to the employee and

, *where applicable*, the federal, state or local governmental agency that issued the identification.

The employee shall record that information on:

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

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

4. If a 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.