ADOPTED REGULATION OF THE

STATE BOARD OF PHARMACY

LCB File No. R070-03

Effective October 21, 2003

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

AUTHORITY: § 1, NRS 639.070 and 639.0745.

Section 1. NAC 639.711 is hereby amended to read as follows:

639.711 1. A prescription for a controlled substance listed in schedule II must not be transmitted by a practitioner or his designated agent by a facsimile machine to a pharmacy unless the prescription is:

(a) For a controlled substance that will be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion;

(b) For issuance to a resident of a facility for long-term care; or

(c) For issuance to a patient enrolled in a program that provides hospice care which has been licensed by this state or certified by Medicare pursuant to Title XVIII of the Social Security Act. Such a prescription must state that the patient receives hospice care.

2. A dangerous drug or a controlled substance listed in schedule III, IV or V may be transmitted by a practitioner or his designated agent by a facsimile machine to a pharmacy.

3. A practitioner or his designated agent shall not transmit a prescription by a facsimile machine to a pharmacy unless the patient:

(a) Consents to the use of the facsimile machine; and

(b) Approves the pharmacy where the facsimile prescription will be transmitted.

4. A pharmacist shall not dispense a facsimile prescription unless it is signed by a practitioner and transmitted to a pharmacy by the practitioner or his designated agent.

5. A facsimile prescription must be kept by the pharmacist for ***at least*** 2 years after it is received by him. If the paper is not of sufficient quality to last for at least 2 years, the facsimile prescription must be reproduced on permanent paper or the pharmacist must reduce the prescription to writing and attach the original transmission of the prescription to the reproduced copy or the prescription reduced to writing.

6. A facsimile prescription which complies with the provisions of this section shall be deemed an original prescription.

7. ***A pharmacist may act as the designated agent of a practitioner for the purposes of this section if:***

(a) The pharmacist, pursuant to a contract entered into with a health maintenance organization or other third-party payor, reviews the records of practitioners or patients to optimize the patients' drug therapy; and

(b) The document that serves as a prescription or by which the patient's drug therapy is modified:

(1) Is signed by the practitioner;

(2) Contains an acknowledgment by the practitioner that the pharmacist is acting as the practitioner's designated agent; and

(3) Indicates the name of at least one person to whom questions regarding the validity of the prescription or the modification of the patient's drug therapy are to be directed.

8. As used in this section:

(a) “Facsimile machine” means a device which transmits or receives a reproduction or facsimile of a document or photograph which is transmitted electronically or telephonically by telecommunications lines, including, without limitation, a computer that has a facsimile modem through which documents can be sent and received.

(b) “Facsimile prescription” means an electronically produced image of a written prescription which is transmitted by a facsimile machine.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R070-03

The State Board of Pharmacy adopted regulations assigned LCB File No. R070-03 which pertain to chapter 639 of the Nevada Administrative Code on September 11, 2003.

Notice date: 8/11/2003 **Date of adoption by agency:** 9/11/2003
Hearing date: 9/11/2003 **Filing date:** 10/21/2003

INFORMATIONAL STATEMENT

The informational statement required by NRS 233B.066 numerically conforms to the subsections of the statute as follows:

1. A DESCRIPTION OF HOW PUBLIC COMMENT WAS SOLICITED, A SUMMARY OF PUBLIC RESPONSE, AND AN EXPLANATION HOW OTHER INTERESTED PERSONS MAY OBTAIN A COPY OF THE SUMMARY.

Public comment was solicited through public notices posted in county courthouses and through mailings to interested parties.

There was no public response expressed relative to this proposed regulation.

2. THE NUMBER OF PERSONS WHO: (A) ATTENDED EACH HEARING; (B) TESTIFIED AT EACH HEARING; AND (C) SUBMITTED TO THE AGENCY WRITTEN STATEMENTS.

There was no public response expressed relative to this proposed regulation.

3. A DESCRIPTION OF HOW COMMENT WAS SOLICITED FROM AFFECTED BUSINESSES, A SUMMARY OF THEIR RESPONSE, AND AN EXPLANATION HOW OTHER INTERESTED PERSONS MAY OBTAIN A COPY OF THE SUMMARY.

Comments were solicited from affected businesses through posting of public notices in the county courthouses, by direct mailings to all interested persons who have requested notices of board of pharmacy meeting agendas and by direct mailings to professional and trade associations.

There was no response from affected businesses relative to this proposed regulation.

4. IF THE REGULATION WAS ADOPTED WITHOUT CHANGING ANY PART OF THE PROPOSED REGULATION, A SUMMARY OF THE REASONS FOR ADOPTING THE REGULATION WITHOUT CHANGE.

The proposed regulation was adopted with one minor change.

5. THE ESTIMATED ECONOMIC EFFECT OF THE REGULATION ON THE BUSINESS WHICH IT IS TO REGULATE AND ON THE PUBLIC. THESE MUST BE STATED SEPARATELY, AND IN EACH CASE MUST INCLUDE:

A) BOTH ADVERSE AND BENEFICIAL EFFECTS.

This regulation should have no economic impact on affected businesses or on the public.

B) BOTH IMMEDIATE AND LONG-TERM EFFECTS.

This regulation will have no immediate or long-term economic effects on business or the public.

6. 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.

7. A DESCRIPTION OF ANY REGULATIONS OF OTHER STATE OR GOVERNMENT AGENCIES WHICH THE PROPOSED REGULATION OVERLAPS OR DUPLICATES AND A STATEMENT EXPLAINING WHY THE DUPLICATION OR OVERLAPPING IS NECESSARY. IF THE REGULATION OVERLAPS OR DUPLICATES A FEDERAL REGULATION, 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.

8. IF THE REGULATION INCLUDES PROVISIONS WHICH ARE MORE STRINGENT THAN A FEDERAL REGULATION WHICH REGULATES THE SAME ACTIVITY, A SUMMARY OF SUCH PROVISIONS.

The Board of Pharmacy is not aware of any similar regulations of the same activity in which the federal regulation is more stringent.

9. IF THE REGULATION PROVIDES A NEW FEE OR INCREASES AN EXISTING FEE, THE TOTAL ANNUAL AMOUNT THE AGENCY EXPECTS TO COLLECT AND THE MANNER IN WHICH THE MONEY WILL BE USED.

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