PROPOSED REGULATION OF THE

STATE BOARD OF PHARMACY

LCB File No. R070-03

July 24, 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:

(1) Has a degree in clinical pharmacy that is more advanced than a pharmaceutical doctorate degree;

(2) Has successfully completed a medical or pharmacy residency program in clinical pharmacy; or

(3) Is certified by a national medical or pharmacy organization in clinical pharmacy;

(b) 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

(c) 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.