ADOPTED REGULATION

THE STATE BOARD OF PHARMACY

LCB File No. R118-13

Effective March 28, 2014

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

AUTHORITY: §§1 and 2, NRS 639.070 and 639.2351; §§3-5, NRS 639.070 and 639.1375.

A REGULATION relating to pharmacy; amending the requirements for an advanced practice registered nurse who prescribes and dispenses controlled substances, poisons, dangerous drugs and devices; and providing other matters properly relating thereto.

Section 1. NAC 639.850 is hereby amended to read as follows:

639.850 1. The application of an advanced ~~[practitioner of nursing]~~ ***practice registered nurse*** for a certificate of registration to prescribe controlled substances, poisons, dangerous drugs and devices must include:

(a) The name, address, social security number and telephone number of the applicant;

(b) A copy of the certificate issued by the State Board of Nursing which authorizes the applicant to prescribe controlled substances, poisons, dangerous drugs and devices;

(c) The name, address and telephone number of the applicant's collaborating physician ~~[;]~~ ***, if the applicant is required to have a collaborating physician pursuant to NRS 632.237;*** and

(d) Any other information requested by the Board.

2. Each advanced ~~[practitioner of nursing]~~ ***practice registered nurse*** who applies for a certificate of registration ~~[and his or her collaborating physician]~~ may be required by the Board to appear personally before the Board for a determination and an assignment of the specific authority to be granted to the advanced ~~[practitioner of nursing.~~

~~3. Each advanced practitioner of nursing to whom a certificate of registration is issued must be registered to a collaborating physician.]~~ ***practice registered nurse.***

Sec. 2. NAC 639.854 is hereby amended to read as follows:

639.854 1. Except as otherwise provided in subsection 2, an advanced ~~[practitioner of nursing]~~ ***practice registered nurse*** who is authorized to prescribe controlled substances, poisons, dangerous drugs and devices or to prescribe poisons, dangerous drugs and devices may prescribe a controlled substance, poison, dangerous drug and device or a poison, dangerous drug and device, as applicable, only:

(a) For a legitimate medical purpose ~~[,]~~ ***that is within the scope of practice in which the advanced practice registered nurse is trained, qualified and competent and subject to any limitations prescribed by the State Board of Nursing pursuant to NRS 632.237;*** and

(b) In ~~[such]~~ amounts ~~[as are authorized by his or her collaborating physician, except that the amounts must]~~ not ***to*** exceed a 365-day supply.

2. The limitation set forth in paragraph (b) of subsection 1 does not apply to any method of birth control prescribed by an advanced ~~[practitioner of nursing.]~~ ***practice registered nurse.***

3. An advanced practice registered nurse who is authorized to prescribe controlled substances, poisons, dangerous drugs and devices pursuant to NRS 639.2351 may only prescribe a controlled substance listed in schedule II in accordance with the requirements of NRS 632.237.

Sec. 3. NAC 639.870 is hereby amended to read as follows:

639.870 1. The application of an advanced ~~[practitioner of nursing]~~ ***practice registered nurse*** for a certificate of registration to dispense controlled substances, poisons, dangerous drugs and devices must include:

(a) The name, address, social security number and telephone number of the applicant;

(b) A copy of the certificate issued by the State Board of Nursing which authorizes the applicant to dispense controlled substances, poisons, dangerous drugs and devices;

(c) The name, address and telephone number of the applicant's collaborating physician ~~[.]~~ ***, if any;***

(d) Written verification from the State Board of Nursing that the applicant has passed an examination on Nevada law relating to pharmacy; and

(e) Any other information requested by the Board.

2. Each application for the issuance or the biennial renewal of a certificate of registration must be accompanied by a nonrefundable fee of $300. The biennial certificate of registration covers the period beginning on November 1 of each even-numbered year.

3. Each advanced ~~[practitioner of nursing]~~ ***practice registered nurse*** who applies for a certificate of registration and his or her collaborating physician ***, if any,*** must appear personally before the Board for a determination and an assignment of the specific authority to be granted to the advanced ~~[practitioner of nursing]~~ ***practice registered nurse*** if the advanced ~~[practitioner of nursing:]~~ ***practice registered nurse:***

(a) Will be operating in a practice not previously licensed by the Board;

(b) Responded affirmatively to any of the questions on the application regarding his or her character or competency; or

(c) Is requested to do so by the Board.

4. Each advanced ~~[practitioner of nursing]~~ ***practice registered nurse*** to whom a certificate of registration is issued must be registered to a collaborating physician ~~[.]~~ ***unless:***

(a) The advanced practice registered nurse is not required to have a collaborating physician pursuant to subsection 3 of NRS 632.237; or

(b) The advanced practice registered nurse will not prescribe any controlled substance listed in schedule II.

5. An advanced ~~[practitioner of nursing]~~ ***practice registered nurse*** who fails to renew his or her certificate of registration within the time prescribed by statute or regulation must pay, in addition to the fee for renewal required by subsection 2, a fee equal to 50 percent of the fee for the renewal of the certificate.

Sec. 4. NAC 639.879 is hereby amended to read as follows:

639.879 1. An advanced ~~[practitioner of nursing]~~ ***practice registered nurse*** who dispenses drugs to a patient shall do so in accordance with:

(a) All applicable statutes and regulations; and

(b) The agreement between the advanced ~~[practitioner of nursing]~~ ***practice registered nurse*** and his or her collaborating physician ~~[.]~~ ***, if any.***

2. Except as otherwise provided in subsection 3, an advanced ~~[practitioner of nursing]~~ ***practice registered nurse*** who is authorized to dispense controlled substances, poisons, dangerous drugs and devices or to dispense poisons, dangerous drugs and devices may dispense a controlled substance, poison, dangerous drug and device or a poison, dangerous drug and device, as applicable, only:

(a) For a legitimate medical purpose ~~[, and]~~ ***that is within the scope of practice in which the advanced practice registered nurse is trained, qualified and competent and subject to any limitations prescribed by the State Board of Nursing pursuant to NRS 632.237;***

(b) In ~~[such]~~ amounts ~~[as are authorized by his or her collaborating physician, except that the amounts of any controlled substance or dangerous drug must]~~ not ***to*** exceed a 30-day supply ~~[.]~~ ***; and***

(c) In such amounts as are authorized by his or her collaborating physician, if any.

3. An advanced ~~[practitioner of nursing]~~ ***practice registered nurse*** who is authorized to dispense dangerous drugs may dispense any method of birth control in any quantity ordered by prescription.

Sec. 5. NAC 639.892 is hereby amended to read as follows:

639.892 A controlled substance, dangerous drug or poison dispensed by an advanced ~~[practitioner of nursing]~~ ***practice registered nurse*** must be dispensed in a child-proof container unless the advanced ~~[practitioner of nursing]~~ ***practice registered nurse determines that a child-proof container is not warranted for a particular patient or*** is instructed otherwise by his or her collaborating physician.

R118-13
NAC 639.850, NAC 639.854, NAC 639.870, NAC 639.879, NAC 639.892
Advanced Practice of Nursing

February 14, 2014

INFORMATIONAL STATEMENT

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

1. EXPLANATION OF THE NEED FOR THE ADOPTED REGULATION

The proposed amendments will bring certain sections of NAC Chapter 639 relating to the advanced practice of nursing in line with the statutory amendments enacted by the Nevada Legislature through AB 170. The proposed amendments will replace the term "advanced practitioner of nursing" with "advanced practice registered nurse" and make various other changes to the provisions relating to the advanced practice of nursing.

2. 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.

The Board solicited comment on the proposed amendment by (1) posting a summary of the proposed amendment on the Board's website (bop.nv.gov) with a link to the full text of the proposed amendment, (2) soliciting comment from Nevada dispensers who receive Board of Pharmacy notifications using a facsimile notice directed to each, and (3) contacting a representative of each relevant industry association Board Staff deemed likely to have an interest in the proposed amendment. The Board also provided time for public comment at the workshop(s) concerning the proposed amendment, and opened the floor for public comment at the public hearing on the proposed amendment.

The Board received no public comment on R118-13.

Parties interested in obtaining a copy of the summary of the proposed amendment, or that wish to view the text of the proposed amendment, may access that information on the Board's website at bop.nv.gov, or by contacting the Board's office at (775) 850-1440.

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

The number of persons who attended the hearing was __20___.
The number of persons who testified at the hearing was __-0-___.
The number of agency submitted statements was _-0-____.
The name of persons who testified at the hearing: N/A

4. 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, by direct mailings to professional and trade associations, posting a summary of the proposed amendment on the Board's website (bop.nv.gov), with a link to the full text of the proposed amendment, and soliciting comment from Nevada pharmacies who receive Board of Pharmacy "Hotline" notifications using a facsimile notice directed to each.

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

Parties interested in obtaining a copy of the summary of the proposed amendment, or that wish to view the text of the proposed amendment, may access that information on the Board's website at bop.nv.gov, or by contacting the Board's office at (775) 850-1440.

5. 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 without change because the Board members found the amendments appropriate to carry out the statutory amendments in AB 170, and because the Board received no comment in support of or in opposition to the proposed regulation.

6. 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.

The Board anticipates no adverse or beneficial economic effect on Nevada pharmacies from R118-13.

B) BOTH IMMEDIATE AND LONG-TERM EFFECTS.

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

7. THE ESTIMATED COST TO THE AGENCY FOR ENFORCEMENT OF THE PROPOSED REGULATION.

There will be no additional or special costs incurred by the Board for enforcement of this regulation.

8. 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 is not aware of any similar regulations of other state or government agencies that the proposed regulation overlaps or duplicates.

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

10. 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.