R154-16
NAC Chapter 639.7102
Electronic Submission of a Prescription

September 27, 2017

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 amendment to NAC 639.7102 revises provisions relating to the electronic transmission of a prescription to a pharmacy.

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 notice, with links to the full text of the proposed amendment, to the LCB Administrative Regulation Notices webpage, (2} posting a copy of the full text of the proposed changes to the Board's website as part of the Board Hearing materials, (3} posting notice to the Nevada Public Notice website, operated by the Department of Administration, with a link back to a full text of the proposed amendment on the Board's website, and (4) posting notices and agendas in numerous public locations per NRS Chapter 233B.

The Board also solicited comment from Nevada dispensing practitioners, and from representatives of relevant industry associations that Board Staff deemed likely to have an interest in the proposed amendment. The Board further provided time for public comment at the workshop(s) concerning the proposed amendment.

The Board received positive public comments supporting R154-16 from Catherine O'Mara and Dr. Steven Parker, Nevada State Medical Association; Dr. Andrew Pasternak, Washoe County Medical Society; Connor Cane and Dr. Mary Ann K. Allison, Comprehensive Cancer Centers of Nevada; Dr. Staci McHale; New Beginnings OB-GYN; and Liz MacMenamin, Retail Association of Nevada.

Dr. Gurry-Winchell commented on the importance of patient safety, and encouraged increased communication between prescribers and pharmacies to help increase the quality of patient care and patient safety.

Dr. Hess commented on the differences between different electronic prescription software. He stated that some of the confusion could be resolved if there was some uniformity in what information and how electronic prescription software transmits the information to pharmacies.

Adam Porath expressed concern regarding medical assistants performing drug utilization review during transmission, which requires a clinical decision to be made. Board Staff clarified that the law does not allow medical assistants to make clinical decisions or prescribe. Mr. Porath stated no objection to the regulation after hearing the explanation.

Ken Whittemore, Surescripts, expressed agreement with the regulation and offered comment to ensure that the regulation is consistent with DEA rules.

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) ATIENDED EACH HEARING; (B) TESTIFIED AT EACH HEARING; AND (C) SUBMITIED TO THE AGENCY WRITIEN STATEMENTS.

The number of persons who attended the hearing was: 25
The number of persons who testified at the hearing was: -8-
The number of agency submitted statements was: -3-

The name of persons who testified at the hearing:

-Catherine O'Mara, Nevada State Medical Association
3100 Barron Way- Reno, NV- (775) 825-6788
-Dr. Andrew Pasternak, Washoe County Medical Society
10467 Double R- Reno, NV
-Dr. Stephen Parker, Nevada State Medical Association
75 Pringle Way, #705 – Reno, NV
-Connor Cane, Comprehensive Cancer Centers of Nevada
2054 Troon Drive- Henderson, NV 89074
703-401-2270
-John Hess, MD, Family Medicine (no contact information provided)
-Bayo Gurry-Winchell, MD, Family Medicine
Saint Mary's Hospital
Reno, NV
-Adam Porath, Nevada Society of Hospital Pharmacists
3160 Erin Drive – Sparks, NV
-Liz MacMenamin, Retail Association of Nevada
410 S Minnesota St, Carson City, NV 89703

The names of the agencies that submitted statements:

-Staci McHale, MD, New Beginnings OB-GYN
8850 W. Sunset Road, Suite 110 - Las Vegas, NV 89148
(702) 740-0500
-Mary Ann K. Allison, MD, Comprehensive Cancer Centers of Nevada
2054 Troon Drive- Henderson, NV 89074
-Ken Whittemore, Surescripts, LLC

(703) 921-2114

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.

The Board solicited comment on the proposed amendment by (1) posting notice, with links to the full text of the proposed amendment, to the LCB Administrative Regulation Notices webpage, (2} posting a copy of the full text of the proposed changes to the Board's website as part of the Board Hearing materials, (3) posting notice to the Nevada Public Notice website, operated by the Department of Administration, with a link back to a full text of the proposed amendment on the Board's website, and (4) posting notices and agendas in numerous public locations per NRS Chapter 233B.

The Board also solicited comment from Nevada dispensing practitioners, and from representatives of relevant industry associations that Board Staff deemed likely to have an interest in the proposed amendment. Further, the Board provided time for public comment at the workshop(s) concerning the proposed amendment.

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Ken Whittemore, Surescripts, expressed agreement with the regulation and offered comment to ensure that the regulation is consistent with DEA rules.

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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 Board received no comments from industry or the public requesting any changes.

The Board adopteq LCB File R154-16 with a minor change at Section. 2, page 7 to read as follows:

Sec. 2. NAC 639.7105 is hereby amended to read as follows:

639.7105 Except as otherwise provided in NAC 639.711:

1. A prescription for a dangerous drug or a controlled substance listed in schedule IT, ill, IV or V may be transmitted *to a phannacy* electronically by a practitioner Fte a pharmas:f:] *or, if tile prescription is for a dangerous drug, tile designated agent of the practitioner, if the patient:*

(a) Consents to the transmission of the prescription electronically; and

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

2. A practitioner shall not transmit a prescription [electronically] *for a controlled substance* to a pharmacy *electronically* unless (7

(a) The practitioner is the only person who will have access to the prescription until it is received by the pharmacy; *and*

(b) All requirements of 21 C.F.R. Part 1311 are satisfied.

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.

This regulation should have no significant adverse or beneficial economic effect on businesses or on the public.

B) BOTH IMMEDIATE AND LONG-TERM EFFECTS.

The Board anticipates that this regulation will have no immediate or long-term economic effects on business or the public, or any such effects will be negligible.

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 of Pharmacy 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 of Pharmacy 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.