R045-17
NAC Chapter 639.926
Transmission of Information Regarding
Controlled Substances

December 8, 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

New language to be added to NAC 639.926 pursuant to Assembly Bill 474 from the 2017 Legislative Session which amended the laws for prescribing controlled substances in Nevada. The proposed amendment adds controlled substances listed in Schedule V drugs to the list of controlled substances that need to be reported to the Prescription Monitoring Program. The proposed amendment also requires that a pharmacy or practitioner transmit the International Classification of Diseases Tenth Revision (ICD-10) diagnosis code for the disease being treated with the controlled substance. The proposed amendment also defines the term "days' supply."

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.

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: 24
The number of persons who testified at the hearing was: -0-
The number of agency submitted statements was: -1-

The name of persons who testified at the hearing:
Not Applicable

The names of the agencies that submitted statements:
-Mike Podgurski, Rite Aid Corporation – P.O. Box 3165, Harrisburg, PA 17105

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.

Mike Podgurski, Rite Aid Corporation, submitted written comment that Nevada's PMP reporting format will require an update to version ASAP 4.2A, which includes a field for ICD-10 codes. Mr. Podgurski recommended that prescribers be required to put the ICD-10 code on the prescription.

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

The Board adopted LCB File R045-17 with a non-substantive change at Section 1.1, page 2 to read as follows:

Sec. 1. NAC 639.7105 is hereby amended to read as follows:

1. Each pharmacy that uses a computerized system to record information concerning prescriptions and that dispenses a controlled substance that is listed in

schedule II, III, [~~or~~] IV *or V* to a person who is not an inpatient of a hospital, correctional institution or nursing facility shall transmit to the Board or its agent the following information, as applicable, set forth in the *most current version of* [~~*2011*~~] *ASAP* [~~*Version 4.2*~~] *Standard for Prescription Monitoring Programs* published by the American Society for Automation in Pharmacy. The following Segments and the accompanying Data Elements of the Implementation Guide for the [~~*2011*~~] *ASAP* [~~*Version 4.2*~~] *Standard for Prescription Monitoring Programs* are hereby adopted by reference:

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.

There should be no adverse economic impact from this regulation on businesses or 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.