PROPOSED REGULATION OF THE

STATE BOARD OF PHARMACY

LCB File No. R004-19

July 31, 2019

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

AUTHORITY: §§1, 3, 4, 9, 13 and 15, NRS 639.070; §§2, 6-8 and 10-12, NRS 639.070 and 639.0727; §5, NRS 639.070 and 639.170; §14, NRS 639.070 and 639.210.

A REGULATION relating to pharmacy; requiring a dispensing practitioner who wishes to transport and dispense dangerous drugs to certain patients from a federally-qualified health center vehicle to be registered by the State Board of Pharmacy; defining the term "dispensing practitioner"; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Board of Pharmacy to adopt regulations relating to the practice of pharmacy in this State. (NRS 639.070)

Existing regulations require a practitioner who wishes to dispense controlled substances or dangerous drugs to apply to the Board on an application provided by the Board for a certificate of registration to dispense controlled substances or dangerous drugs. (NAC 639.742) **Section 3** of this regulation requires a dispensing practitioner who works for a federally-qualified health center in this State and who wishes to transport dangerous drugs by using a vehicle owned by a federally-qualified health center and dispense dangerous drugs from such a vehicle to apply to the Board for a certificate of registration to transport and dispense dangerous drugs. **Section 3** provides that such registration: (1) entitles the dispensing practitioner to dispense dangerous drugs only to the patients of the federally-qualified health center; and (2) is a revocable privilege. **Sections 5, 8 and 13** of this regulation make conforming changes.

Existing law requires the Board to adopt regulations to define the term "dispensing practitioner." (NRS 639.0727) **Section 4** of this regulation defines the term "dispensing practitioner" to mean: (1) a practitioner who is registered to dispense controlled substances or dangerous drugs, or both, for human consumption; or (2) a licensed veterinarian who is registered to dispense controlled substances or dangerous drugs, or both, not for human consumption. **Sections 3, 6-12, 14 and 15** of this regulation make conforming changes. **Section 2** of this regulation states that the Board is complying with existing law by defining the term "dispensing practitioner" as set forth in **section 4**.

Section 1. Chapter 639 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. ***For the purposes of NRS 639.0727, the Board defines the term "dispensing practitioner" as set forth in subsection 5 of NAC 639.010.***

Sec. 3. ***1. A dispensing practitioner who is employed by or serving as an independent contractor of a federally-qualified health center in this State and who wishes to transport dangerous drugs by using a federally-qualified health center vehicle and dispense dangerous drugs to patients of the federally-qualified health center from the federally-qualified health center vehicle must apply to the Board on an application provided by the Board for a certificate of registration to transport and dispense dangerous drugs. The Board will issue the certificate of registration to the dispensing practitioner if the Board determines that:***

(a) The dispensing practitioner is registered pursuant to subsection 1 of NAC 639.742.

(b) If the federally-qualified health center is not wholly owned and operated by the dispensing practitioner, the owner or owners of the federally-qualified health center have registered the federally-qualified health center pursuant to subsection 2 of NAC 639.742. The owner or owners are not required to obtain a separate certificate of registration pursuant to subsection 2 of NAC 639.742 for the federally-qualified health center vehicle.

(c) The federally-qualified health center vehicle:

(1) Is owned by the federally-qualified health center that employs or contracts with the dispensing practitioner;

(2) Was configured by the federally-qualified health center for the purpose of transporting and dispensing dangerous drugs to the patients of the federally-qualified health center; and

(3) Has been inspected and approved by the Board for the purpose of transporting and dispensing dangerous drugs to the patients of the federally-qualified health center.

2. A certificate of registration issued pursuant to this section:

(a) Entitles the dispensing practitioner to dispense dangerous drugs from the federally-qualified health center vehicle only to patients of the federally-qualified health center; and

(b) Is a revocable privilege, and no holder of such a certificate of registration acquires any vested right therein or thereunder.

3. A dispensing practitioner to whom the Board has issued a certificate of registration pursuant to subsection 1:

(a) Shall comply with the provisions of this section and NAC 639.742 to 639.745, inclusive, if applicable;

(b) Shall not dispense any controlled substances from a federally-qualified health center vehicle;

(c) Shall not charge for the dispensing of any dangerous drug from a federally-qualified health center vehicle; and

(d) Shall ensure that all dangerous drugs are:

(1) Removed from the federally-qualified health center vehicle at the end of any day that the federally-qualified health center vehicle is used to dispense dangerous drugs; and

(2) Stored in the federally-qualified health center in a secure, locked room or cabinet to which the dispensing practitioner or the dispensing practitioner of the federally-qualified health center has the only key or lock combination.

4. The approval by the Board pursuant to subparagraph (3) of paragraph (c) of subsection 1 is not transferrable upon the sale or other transfer of the federally-qualified health center vehicle.

5. As used in this section, "dispensing practitioner" does not include a licensed veterinarian to whom the Board has issued a certificate of registration pursuant to NAC 639.7423 to dispense controlled substances or dangerous drugs, or both, not for human consumption.

Sec. 4. NAC 639.010 is hereby amended to read as follows:

639.010 As used in this chapter, unless the context otherwise requires:

1. "Board" means the State Board of Pharmacy.

2. "Controlled substances" has the meaning ascribed to it in NRS 0.031.

3. "Dangerous drug" has the meaning ascribed to it in NRS 454.201.

4. "Direct supervision" means the direction given by a supervising pharmacist who is:

(a) On the premises of the pharmacy or telepharmacy at all times when the person he or she is supervising is working at the pharmacy or telepharmacy or at a remote site or satellite consultation site; and

(b) Aware of the activities of that person related to the preparation and dispensing of medications, including the maintenance of appropriate records.

5. ***"Dispensing practitioner" means:***

(a) A practitioner to whom the Board has issued a certificate of registration pursuant to NAC 639.742 to dispense controlled substances or dangerous drugs, or both, for human consumption; or

(b) A licensed veterinarian to whom the Board has issued a certificate of registration pursuant to NAC 639.7423 to dispense controlled substances or dangerous drugs, or both, not for human consumption.

6. "Executive Secretary" means the Executive Secretary employed by the Board pursuant to NRS 639.040.

~~[6.]~~ ***7. "Federally-qualified health center" has the meaning ascribed to it in 42 U.S.C. § 1396d(l)(2)(B).***

8. "Federally-qualified health center vehicle" means a vehicle that meets the requirements of paragraph (c) of subsection 1 of section 3 of this regulation.

9. "Licensed veterinarian" has the meaning ascribed to it in NRS 638.007.

10. "Pharmaceutical technician" means a person who performs technical services in a pharmacy under the direct supervision of a pharmacist and is registered with the Board pursuant to NAC 639.240.

~~[7.]~~ ***11.*** "Pharmaceutical technician in training" means a person who is registered with the Board pursuant to NAC 639.242 in order to obtain the training and experience required to be a pharmaceutical technician pursuant to subparagraph (3) of paragraph (e) of subsection 2 of NAC 639.240, or who is enrolled in a program of training for pharmaceutical technicians that is approved by the Board.

~~[8.]~~ ***12.*** "Practitioner" has the meaning ascribed to it in NRS 639.0125.

~~[9.]~~ ***13.*** "Prescription drug" means a drug or medicine as defined in NRS 639.007 which:

(a) May be dispensed only upon a prescription order that is issued by a practitioner; and

(b) Is labeled with the symbol "Rx only" pursuant to federal law or regulation.

~~[10.]~~ ***14.*** "Public or nonprofit agency" means a health center as defined in 42 U.S.C. § 254b(a) which:

(a) Provides health care primarily to medically underserved persons in a community;

(b) Is receiving a grant issued pursuant to 42 U.S.C. § 254b or, although qualified to receive such a grant directly from the Federal Government, is receiving money from such a grant under a contract with the recipient of that grant; and

(c) Is not a medical facility as defined in NRS 449.0151.

~~[11.]~~ ***15.*** "Surgical center for ambulatory patients" has the meaning ascribed to it in NRS 449.019.

Sec. 5. NAC 639.220 is hereby amended to read as follows:

639.220 1. The Board hereby adopts the following schedule of fees:

For the examination of an applicant for registration as a pharmacist	Actual cost of the examination
For the investigation or registration of an applicant as a registered pharmacist	$180
For the investigation, examination or registration of an applicant as a registered pharmacist by reciprocity	180
For the investigation or issuance of an original license to conduct a retail pharmacy	500
For the biennial renewal of a license to conduct a retail pharmacy	500

For the investigation or issuance of an original license to conduct an institutional pharmacy 500

For the biennial renewal of a license to conduct an institutional pharmacy 500

For the investigation or issuance of an original license to conduct a pharmacy in a correctional institution 500

For the biennial renewal of a license to conduct a pharmacy in a correctional institution..... 500

For the issuance of an original or duplicate certificate of registration as a registered pharmacist..... 50

For the biennial renewal of registration as a registered pharmacist 180

For the reinstatement of a lapsed registration (in addition to the fees for renewal for the period of lapse) 100

For the initial registration of a pharmaceutical technician or pharmaceutical technician in training..... 40

For the biennial renewal of registration of a pharmaceutical technician or pharmaceutical technician in training 40

For the investigation or registration of an intern pharmacist..... 40

For the biennial renewal of registration as an intern pharmacist..... 40

For the investigation or registration of an advanced practice registered nurse or a physician assistant to prescribe drugs that are not controlled substances 80

For the biennial renewal of registration of an advanced practice registered nurse or a physician assistant to prescribe drugs that are not controlled substances 80

For authorization of a physician, advanced practice registered nurse, physician assistant, euthanasia technician, ambulatory surgical center, facility for treatment with narcotics, researcher, instructional user or any other authorized person to prescribe or possess controlled substances 80

For the biennial renewal of authorization of a physician, advanced practice registered nurse, physician assistant, euthanasia technician, ambulatory surgical center, facility for treatment with narcotics, researcher, instructional user or any other authorized person to prescribe or possess controlled substances 80

For the investigation or issuance of an original license to engage in business as an authorized warehouse, medical products provider or medical products wholesaler 500

For the biennial renewal of a license to engage in business as an authorized warehouse, medical products provider or medical products wholesaler 500

For the investigation or issuance of an original license to a manufacturer or wholesaler 500

For the biennial renewal of a license for a manufacturer or wholesaler 500

For the reissuance of a license issued to a pharmacy, when no change of ownership is involved, but the license must be reissued because of a change in the information required thereon 50

For authorization of a practitioner, other than a licensed veterinarian, to dispense controlled substances or dangerous drugs, or both, ***for human consumption*** for each location where the practitioner will dispense controlled substances or dangerous drugs, or both ***, for human consumption*** 300

For the biennial renewal of authorization of a practitioner, other than a licensed veterinarian, to dispense controlled substances or dangerous drugs, or both, ***for human consumption*** for each location where the practitioner will dispense controlled substances or dangerous drugs, or both ***, for human consumption*** 300

For authorization of a licensed veterinarian to dispense controlled substances or dangerous drugs, or both ***, not for human consumption*** 150

For the biennial renewal of authorization of a licensed veterinarian to dispense controlled substances or dangerous drugs, or both ***, not for human consumption*** 150

2. The penalty for failure to pay the renewal fee for any license, permit or certificate within the statutory period, as provided in subsection 6 of NRS 639.170, is 50 percent of the renewal fee for each period of delinquency in addition to the renewal fee for each period of delinquency.

3. Any person who has been registered as a pharmacist in this State for at least 50 years is not required to pay the fee for the biennial renewal of a certificate of registration as a registered pharmacist.

4. The provisions of this section concerning the fee for the biennial renewal of the authorization to dispense controlled substances or dangerous drugs do not apply to an advanced practice registered nurse who is required to pay a fee pursuant to NAC 639.870.

5. A health center:

(a) Which is a ~~[federally qualified]~~ ***federally-qualified*** health center ~~[as defined in 42 U.S.C. § 1396d(l)(2)(B), as that section existed on March 1, 2000,]~~ that provides health care primarily to medically underserved persons in a community; and

(b) Which is not a medical facility as defined in NRS 449.0151,

➥ is not required to pay the fee for the collective certification of advanced practice registered nurses in the employ of a public or nonprofit agency as set forth in subsection 1.

6. A practitioner employed by or serving as an independent contractor of a health center:

(a) Which is a ~~[federally qualified]~~ ***federally-qualified*** health center ~~[as defined in 42 U.S.C. § 1396d(l)(2)(B), as that section existed on March 1, 2000,]~~ that provides health care primarily to medically underserved persons in a community; and

(b) Which is not a medical facility as defined in NRS 449.0151,

➥ is not required to pay a fee to the Board for a change of address or for an additional address at which the practitioner dispenses drugs.

7. A practitioner who is exempt from the payment of a fee pursuant to subsection 6 shall notify the Board in writing of each change of address or additional address, or both.

Sec. 6. NAC 639.395 is hereby amended to read as follows:

639.395 1. A pharmaceutical technician or dispensing technician who operates a remote site shall transmit a copy of any new prescription which the technician receives to the telepharmacy electronically, telephonically or by fiber optics and retain the original prescription in the records maintained at the remote site.

2. A pharmaceutical technician or dispensing technician who operates a remote site or satellite consultation site must consult electronically, telephonically or by fiber optics with a pharmacist or dispensing practitioner, as appropriate, at the telepharmacy to obtain approval before accessing any controlled substances or dangerous drugs maintained at the remote site or satellite consultation site.

3. A pharmacist or dispensing practitioner shall not authorize a pharmaceutical technician or dispensing technician at a remote site or satellite consultation site to dispense a controlled substance or dangerous drug unless the pharmacist or dispensing practitioner has:

(a) Consulted with the technician;

(b) Visually verified electronically, telephonically or by fiber optics that:

(1) The controlled substance or dangerous drug selected by the technician is correct; and

(2) The label prepared by the technician is correct; and

(c) Verified that the information entered by the technician into the computerized system for recording information concerning prescriptions is correct.

4. A pharmacist or dispensing practitioner shall only authorize a pharmaceutical technician or dispensing technician at a remote site or satellite consultation site to dispense a controlled substance or dangerous drug to a patient who resides in the service area of the remote site or satellite consultation site or whose residence is closer to the remote site or satellite consultation site than to a telepharmacy.

5. As used in this section, "dispensing practitioner" does not include a licensed veterinarian to whom the Board has issued a certificate of registration pursuant to NAC 639.7423 to dispense controlled substances or dangerous drugs, or both, not for human consumption.

Sec. 7. NAC 639.396 is hereby amended to read as follows:

639.396 1. Except as otherwise provided in this section, a pharmacist or dispensing practitioner who is responsible for the operation of a remote site or satellite consultation site shall maintain at the remote site or satellite consultation site, as applicable, and at the associated telepharmacy a record of each drug that is received, stored, dispensed, returned or otherwise dealt with at the remote site or satellite consultation site, including, without limitation, any record that is required to be maintained by state or federal law. The records so maintained must include, without limitation:

(a) Each prescription dispensed at the remote site or satellite consultation site;

(b) At the remote site or satellite consultation site, the initials of the technician who dispensed the controlled substance or dangerous drug;

(c) At the telepharmacy, the initials of the pharmacist or dispensing practitioner who authorized the controlled substance or dangerous drug to be dispensed at the remote site or satellite consultation site, as applicable;

(d) Each controlled substance or dangerous drug that is transferred between the stock of drugs maintained at the remote site or satellite consultation site, as applicable, and the stock of drugs maintained at the telepharmacy; and

(e) At the telepharmacy, documentation of any counseling provided by a pharmacist or dispensing practitioner at the telepharmacy that was provided electronically, telephonically or by

fiber optics to a patient or person caring for a patient at the remote site or satellite consultation site, as applicable.

2. The pharmacist or dispensing practitioner who is responsible for the operation of a remote site or satellite consultation site shall ensure that each record which is maintained at the remote site or satellite consultation site, as applicable, including, without limitation, each record of a prescription, is maintained in a manner that makes it readily apparent whether the prescription was dispensed at the remote site or satellite consultation site, as applicable, or at the telepharmacy.

3. As used in this section, "dispensing practitioner" does not include a licensed veterinarian to whom the Board has issued a certificate of registration pursuant to NAC 639.7423 to dispense controlled substances or dangerous drugs, or both, not for human consumption.

Sec. 8. NAC 639.742 is hereby amended to read as follows:

639.742 1. Except as otherwise provided in NAC 639.7423, a practitioner who wishes to dispense controlled substances or dangerous drugs ***, or both, for human consumption*** must apply to the Board on an application provided by the Board for a certificate of registration to dispense controlled substances or dangerous drugs. A practitioner must submit a separate application for each site of practice, including, without limitation, a telepharmacy, remote site or satellite consultation site, from which the practitioner wishes to dispense controlled substances or dangerous drugs ~~[.]~~ ***, or both, for human consumption.*** A certificate of registration to dispense controlled substances or dangerous drugs ***, or both, for human consumption*** is a revocable privilege, and no holder of such a certificate of registration acquires any vested right therein or thereunder.

2. Except as otherwise provided in NAC 639.7423 ~~[,]~~ ***and section 3 of this regulation,*** if a facility from which the practitioner intends to dispense dangerous drugs or controlled substances ***, or both, for human consumption*** is not wholly owned and operated by the practitioner, the owner or owners of the facility must also submit an application to the Board on a form provided by the Board.

3. Except as otherwise provided in NRS 639.23277 and NAC 639.395, 639.648 and 639.7423, the dispensing practitioner and, if applicable, the owner or owners of the facility ~~[,]~~ ***and any federally-qualified health center vehicle,*** shall ensure that:

(a) All drugs are ordered by the dispensing practitioner;

(b) All drugs are received and accounted for by the dispensing practitioner;

(c) All drugs are stored in a secure, locked room or cabinet to which the dispensing practitioner has the only key or lock combination;

(d) All drugs are dispensed in accordance with NAC 639.745;

(e) No prescription is dispensed to a patient unless the dispensing practitioner is on-site at the facility ~~[,]~~ ***or federally-qualified health center vehicle, as applicable;***

(f) All drugs are dispensed only to the patient personally at the facility ~~[,]~~ ***or federally-qualified health center vehicle, as applicable;***

(g) The price of each drug dispensed to a patient is separately itemized on any bill or statement provided to the patient;

(h) All drugs are dispensed only for medically necessary purposes and according to prevailing standards of care for practitioners practicing in the specialty claimed or practiced by the dispensing practitioner; and

(i) The certificate for each dispensing technician employed at the facility is displayed in the room or cabinet in which drugs are stored.

4. Except as otherwise provided in NAC 639.648 and 639.7423, with regard to the filling and dispensing of a prescription at a facility, only the dispensing practitioner or a dispensing technician may:

(a) Enter the room or cabinet in which drugs are stored;

(b) Remove drugs from stock;

(c) Count, pour or reconstitute drugs;

(d) Place drugs into containers;

(e) Produce and affix appropriate labels to containers that contain or will contain drugs;

(f) Fill containers for later use in dispensing drugs; or

(g) Package or repackage drugs.

5. Except as otherwise provided in NAC 639.7423, a dispensing practitioner may compound drug products if he or she complies with the provisions of NAC 639.661 to 639.690, inclusive, as if:

(a) He or she were a pharmacist;

(b) His or her practice site was a pharmacy; and

(c) Any dispensing technician involved in the compounding was a pharmaceutical technician.

Sec. 9. NAC 639.7423 is hereby amended to read as follows:

639.7423 1. A licensed veterinarian who wishes to dispense controlled substances or dangerous drugs ***, or both, not for human consumption*** must apply to the Board on an application provided by the Board for a certificate of registration to dispense controlled

substances or dangerous drugs ~~[.]~~ ***, or both, not for human consumption.*** A certificate of registration issued pursuant to this section:

(a) Entitles the licensed veterinarian to dispense controlled substances or dangerous drugs ***, or both, not for human consumption*** from any veterinary facility at which he or she engages in the practice of veterinary medicine.

(b) Must be renewed at the same time and in the same manner as certificates of registration by other practitioners.

(c) Is a revocable privilege, and no holder of such a certificate of registration acquires any vested right therein or thereunder.

2. A veterinary facility at which controlled substances or dangerous drugs are possessed, administered, prescribed or dispensed:

(a) Shall ensure that at least one veterinarian who practices at that veterinary facility registers and maintains a registration with the Drug Enforcement Administration of the United States Department of Justice and the Board.

(b) Except as otherwise provided in paragraph (c), may allow only veterinarians, veterinary technicians or veterinary technicians in training at that veterinary facility to prepare a prescription drug for dispensing.

(c) May allow veterinary assistants at that facility to prepare a prescription drug, other than a controlled substance or dangerous drug, for dispensing.

(d) Shall ensure that a prescription drug which is new for an animal is not dispensed unless a veterinarian or veterinary technician is at the veterinary facility or is otherwise available at the time the prescription drug is dispensed.

(e) Shall ensure that a notation is made in the medical record of the animal that contains:

(1) The name, strength and quantity of the prescription drug.

(2) The date the prescription drug was prescribed and dispensed.

(3) The directions for use.

(4) The name, signature or initials of the veterinarian who prescribed the prescription drug.

(5) The name, signature or initials of the veterinarian, veterinary technician or veterinary technician in training who prepared the prescription drug for dispensing.

(6) The name, signature or initials of the veterinarian or veterinary technician who verified the prescription drug before the prescription drug was dispensed.

(f) Shall ensure that each vial or container which contains a prescription drug has affixed to the vial or container a label that contains:

(1) Except as otherwise provided in subsection 3, the name or unique identifier of the animal and the name of the owner of the animal for which the prescription drug is prescribed.

(2) The name, strength and quantity of the prescription drug.

(3) The date the prescription drug was dispensed.

(4) The name of the veterinarian who prescribed the prescription drug.

(5) The expiration date of the prescription drug.

(6) A unique number identifying the prescription.

(7) The directions for use.

(g) Shall maintain a stock of prescription drugs necessary to serve the foreseeable needs of the veterinary practice.

(h) Shall ensure that drugs which are inappropriate or unlawful to the practice of veterinary medicine are not ordered or maintained in the stock of prescription drugs of the veterinary facility.

3. A label affixed to a vial or container that contains a prescription drug may contain a generic identifier for a group of animals of the same species in place of the name or unique identifier of one animal if:

(a) The group of animals identified on the label is owned by the same person;

(b) The prescription drug is dispensed for more than one of the animals in the group; and

(c) The directions for use of the prescription drug are the same for each animal in the group for which the prescription drug is dispensed.

4. The authorization to possess a prescription drug is not transferrable upon the sale or other transfer of the animal or animals for which the prescription drug was dispensed.

5. A veterinary facility which maintains a stock of controlled substances or dangerous drugs for administration or dispensing shall:

(a) Secure the stock of controlled substances or dangerous drugs in a locked container that is:

(1) Affixed to the structure and located within a locked room; or

(2) Located within a second locked container which is affixed to the structure.

(b) Ensure that only a veterinarian or a veterinary technician designated by the veterinarian has the keys or combination to unlock the two separate locks at the start of a business day or beginning of a shift, if the veterinary facility has veterinarians on successive shifts.

(c) Restrict access to the controlled substances or dangerous drugs to veterinarians or veterinary technicians only.

(d) Ensure that each veterinarian or veterinary technician who accesses the secure container which stores the controlled substances or dangerous drugs records in a log:

(1) The name of the veterinarian or veterinary technician who accessed the secure container and the date that he or she accessed the secure container.

(2) The name, strength and quantity of the controlled substance or dangerous drug removed from or placed into the secure container and the total amount of all quantities of that particular controlled substance or dangerous drug remaining inside the secure container.

(e) Ensure that a veterinarian who intends to destroy an unused portion of a controlled substance or dangerous drug records in a log the name and quantity of the controlled substance or dangerous drug that will be destroyed and the date and time that the controlled substance or dangerous drug will be destroyed. An entry made pursuant to this paragraph must be verified by an employee of the veterinary facility.

(f) Ensure that the purchasing, storage and recordkeeping of controlled substances or dangerous drugs comply with all applicable state and federal laws.

(g) Ensure that any controlled substance or dangerous drug is purchased by a veterinarian or with the knowledge of a veterinarian and that all controlled substances and dangerous drugs received by the veterinary facility are verified by a veterinarian or with the knowledge of the veterinarian.

(h) Maintain separate files for the records of the purchase of each controlled substance listed in schedule II of controlled substances in NAC 453.520 and records of the dispensing of each controlled substance listed in schedule II of controlled substances in NAC 453.520.

6. Any record made pursuant to subsections 2 to 5, inclusive, must be maintained for at least 4 years and must be available for inspection by the Board or its representative or any authorized federal, state or local regulatory agency or law enforcement agency.

7. A licensed veterinarian with a certificate of registration issued by the Board pursuant to subsection 1 and a veterinary facility at which controlled substances or dangerous drugs may be dispensed pursuant to this section are exempt from the provisions of NAC 639.7425 to 639.745, inclusive.

8. As used in this section:

(a) ~~[“Licensed veterinarian” has the meaning ascribed to it in NRS 638.007.~~

~~(b)]~~ “Prescription drug” has the meaning ascribed to it in NAC 638.0135.

~~[(c)]~~ ***(b)*** “Veterinary facility” has the meaning ascribed to it in NAC 638.018.

Sec. 10. NAC 639.7425 is hereby amended to read as follows:

639.7425 1. Except as otherwise provided in NAC 639.7423, no person may act as a dispensing technician unless the person is:

(a) A registered pharmaceutical technician; or

(b) Employed at a facility to which a certificate of registration has been issued pursuant to NAC 639.742 and the dispensing practitioner at that facility has registered the person as a dispensing technician.

2. A dispensing practitioner may apply to the Board to register a person as a dispensing technician by submitting to the Board the fee required by NAC 639.744 and proof satisfactory to the Board that the person:

(a) Is 18 years of age or older;

(b) Has received a high school diploma or its equivalent;

(c) Has not been convicted of any felony or misdemeanor involving moral turpitude, dishonesty or the unlawful possession, sale or use of drugs; and

(d) Does not have a history of drug abuse.

3. Upon determining that a person for whom application for registration as a dispensing technician has been made by a dispensing practitioner satisfies the requirements of subsection 2, the Board will issue to the person a provisional registration as a dispensing technician for that practitioner.

4. A person acting as a dispensing technician pursuant to a provisional registration must complete at least 500 hours of training and experience provided by the dispensing practitioner relating to the skills that the person will be performing as a dispensing technician for that dispensing practitioner. Only that training and experience received by the person after the provisional registration is issued may be applied to satisfy the 500-hour requirement. In providing the training and experience, the dispensing practitioner shall supervise the training and experience of the person by observing the work of the person on a random basis at least three times each day during which the person is receiving training and experience.

5. A provisional registration issued to a person acting as a dispensing technician expires 12 months after it is issued or upon the expiration of the certificate of registration of the dispensing practitioner to whom the dispensing technician is registered, whichever is earlier. If a person acting as a dispensing technician pursuant to a provisional registration:

(a) Fails to complete the required 500 hours of training and experience before the expiration of the provisional registration, the person shall not act as a dispensing technician unless he or she is issued a new provisional registration pursuant to this section. Any hours of training and experience completed by the person while acting as a dispensing technician pursuant to a

provisional registration that has expired may not be used to satisfy the 500-hour requirement for a new provisional registration.

(b) Completes the required 500 hours of training and experience before the expiration of the provisional registration, the dispensing practitioner shall file with the Board a signed affidavit certifying:

(1) The number of hours of training and experience successfully completed by the person.

(2) The specific training and experience received by the person.

(3) That the person is, in the opinion of the dispensing practitioner, competent to perform the duties of a dispensing technician.

6. The Board, upon receiving the affidavit of the dispensing practitioner pursuant to subsection 5, will issue to the person a certificate of registration as a dispensing technician for that practitioner.

7. A dispensing technician shall complete at least 1 hour of in-service training during the 2-year period immediately preceding the renewal of the registration of the dispensing technician. The training must be a jurisprudence program approved or presented by the Board that relates to the practice of pharmacy or the law concerning pharmacy in this State. The dispensing technician shall retain a copy of the certificate from the Board or approved program certifying the completion of such in-service training. The copy must be:

(a) Retained for at least 2 years; and

(b) Readily accessible to a member of the Board or a person conducting an inspection or investigation on behalf of the Board.

8. As used in this section, "dispensing practitioner" does not include a licensed veterinarian to whom the Board has issued a certificate of registration pursuant to NAC

639.7423 to dispense controlled substances or dangerous drugs, or both, not for human consumption.

Sec. 11. NAC 639.743 is hereby amended to read as follows:

639.743 1. Except as otherwise provided in NRS 639.23277 and NAC 639.395, a person to whom a dispensing practitioner is providing training and experience pursuant to subsection 4 of NAC 639.7425 must not be allowed access to the room or cabinet in which drugs are stored unless accompanied by the dispensing practitioner. After the person has completed his or her training and experience and the Board has received an affidavit from the dispensing practitioner pursuant to subsection 5 of NAC 639.7425:

(a) The person may access the room or cabinet in which drugs are stored without being accompanied by the dispensing practitioner, so long as the dispensing practitioner is on-site at the facility; and

(b) The dispensing practitioner is not required to observe the work of the person.

2. A dispensing practitioner who allows a dispensing technician to perform any function described in subsection 4 or 5 of NAC 639.742 is responsible for the performance of that function by the dispensing technician. All such functions performed by a dispensing technician must be performed at the express direction and delegation of the dispensing practitioner. Each prescription with respect to which a dispensing technician performed such a function:

(a) Must be checked by the dispensing practitioner, and the dispensing practitioner shall indicate on the label of the prescription and in his or her record regarding the prescription that the dispensing practitioner has checked the work performed by the dispensing technician; and

(b) Must not be dispensed to the patient without the initials of the dispensing practitioner thereon. A prescription which has been so initialed must be handed to the patient only by the dispensing practitioner or an employee authorized by the dispensing practitioner.

3. As used in this section, "dispensing practitioner" does not include a licensed veterinarian to whom the Board has issued a certificate of registration pursuant to NAC 639.7423 to dispense controlled substances or dangerous drugs, or both, not for human consumption.

Sec. 12. NAC 639.7435 is hereby amended to read as follows:

639.7435 1. The registration of a dispensing technician is nontransferable and limited to the dispensing practitioner to whom the dispensing technician is registered. The registration of a dispensing technician expires at the same time that the certificate of registration of the dispensing practitioner expires. If a dispensing practitioner and the dispensing technician registered to that practitioner leave the facility at which they are registered, and the dispensing technician continues his or her employment with that practitioner at a different site, the dispensing practitioner shall, as soon as practicable, notify the Board of the change of address of employment of the dispensing technician.

2. If a dispensing technician no longer works as a dispensing technician for the dispensing practitioner to whom the dispensing technician is registered, the registration of the dispensing technician terminates. Except as otherwise provided in NAC 639.7423, if that person is subsequently employed by another dispensing practitioner to work as a dispensing technician, the employing dispensing practitioner must, before the person may act as a dispensing technician for that practitioner:

(a) Register the person with the Board, showing the site of employment and the name of the dispensing practitioner; and

(b) Ensure that the person receives an additional 200 hours of training and experience provided by the dispensing practitioner. The additional training and experience must be provided in accordance with subsection 4 of NAC 639.7425. Except as otherwise provided in NRS 639.23277 and NAC 639.395, the dispensing practitioner shall not allow the person to be registered as a dispensing technician to enter the room or cabinet in which drugs are stored or perform any function described in subsection 4 or 5 of NAC 639.742 without the dispensing practitioner observing the act by the person to be registered as a dispensing technician until that person has completed the 200 additional hours of training and experience.

3. As used in this section, "dispensing practitioner" does not include a licensed veterinarian to whom the Board has issued a certificate of registration pursuant to NAC 639.7423 to dispense controlled substances or dangerous drugs, or both, not for human consumption.

Sec. 13. NAC 639.7445 is hereby amended to read as follows:

639.7445 If a dispensing practitioner allows any person to perform any act in violation of NAC 639.742 to 639.7445, inclusive, ***and section 3 of this regulation,*** the dispensing practitioner is subject to discipline relating to his or her registration as a dispensing practitioner, including, without limitation, the temporary and immediate suspension of his or her registration as a dispensing practitioner until:

1. The violation is remedied; or

2. If an accusation has been made pursuant to NRS 639.241, the Board holds a hearing.

Sec. 14. NAC 639.945 is hereby amended to read as follows:

639.945 1. The following acts or practices by a holder of any license, certificate or registration issued by the Board or any employee of any business holding any such license, certificate or registration are declared to be, specifically but not by way of limitation, unprofessional conduct and conduct contrary to the public interest:

(a) Manufacturing, compounding, selling, dispensing or permitting to be manufactured, compounded, sold or dispensed substandard drugs or preparations.

(b) Except as otherwise provided in NRS 639.2583 to 639.2808, inclusive, for substitutions of generic drugs, dispensing or causing to be dispensed a different drug or brand of drug in place of the drug or brand of drug ordered or prescribed, unless the express permission of the orderer or prescriber is obtained and, in the case of a written prescription, unless the following information is recorded on the prescription by the person obtaining permission:

(1) The date on which the permission was granted;

(2) The name of the practitioner granting the permission;

(3) The name of the person obtaining the permission;

(4) The name of the drug dispensed; and

(5) The name of the manufacturer or distributor of the drug.

(c) Using secret formulas.

(d) Except as otherwise provided by subsection 2 of NRS 639.2396, failing strictly to follow the instructions of the person writing, making or ordering a prescription or chart order as to its filling or refilling, the content of the label of the prescription or giving a copy of the prescription or chart order to any person except as permitted by law.

(e) Failing to confer with the person writing, making or ordering a prescription or chart order if there is an error or omission in it which should be questioned.

(f) Operating a pharmacy at a location other than the location at which the pharmacy is licensed to operate.

(g) Supplying or diverting drugs, biologicals, medicines, substances or devices which are legally sold in pharmacies or by wholesalers, so that unqualified persons can circumvent any law pertaining to the legal sale of such articles.

(h) Performing or in any way being a party to any fraudulent or deceitful practice or transaction.

(i) Performing any of his or her duties as the holder of a license, certificate or registration issued by the Board, or as the owner of a business or an entity licensed by the Board, in an incompetent, unskillful or negligent manner.

(j) Aiding or abetting a person not licensed to practice pharmacy in the State of Nevada.

(k) Performing any act, task or operation for which licensure, certification or registration is required without the required license, certificate or registration.

(l) Violating any term or condition of a subpoena or order issued by the Board or the staff of the Board.

(m) Failing to provide any document, data or information that is required to be made and maintained pursuant to chapters 453, 454, 585 and 639 of NRS and chapters 453, 454, 585 and 639 of NAC to a member of the Board or a member of the staff of the Board upon his or her request.

(n) Dispensing a drug as a dispensing practitioner to a patient ***or animal or owner of an animal*** with whom the dispensing practitioner does not have a bona fide therapeutic relationship.

(o) Prescribing a drug as a prescribing practitioner to a patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship.

2. The owner of any business or facility licensed, certified or registered by the Board is responsible for the acts of all personnel in his or her employ.

3. For the purposes of this section, a bona fide therapeutic relationship between the patient and practitioner shall be deemed to exist if the patient was examined in person, electronically, telephonically or by fiber optics within or outside of this State or the United States by the practitioner within the 6 months immediately preceding the date the practitioner dispenses or prescribes a drug to the patient and, as a result of the examination, the practitioner diagnosed a condition for which a given drug therapy is prescribed.

Sec. 15. NAC 639.647 is hereby repealed.

TEXT OF REPEALED SECTION

639.647 "Licensed veterinarian" defined. "Licensed veterinarian" has the meaning ascribed to it in NRS 638.007.