R035-19
NAC Chapter 453
PMP Delegate Access

January 23, 2020

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

Current regulations require practitioners to register with the Board to access the Prescription Monitoring Program (PMP) database that tracks each prescription for certain controlled substances. The process to access the PMP and run the patient utilization report for review by the pharmacist prior to dispensing a controlled substance can take up to four minutes. The proposed amendment allows a managing pharmacist registered with the PMP to designate members of his or her staff to act as delegates for the purposes of accessing the PMP database and generating the patient utilization report for pharmacist review, and requires the managing pharmacist to take certain actions upon the termination of the employment of a designee. The proposed amendment is necessary to streamline the process for the pharmacist to access and review patient PMP reports and provide optimal patient care for the protection, health and safety of the public, and identify potential abuse or diversion.

Additionally, the proposed amendment will authorize certain practitioners who are not licensed in Nevada to register with the PMP and access the database to obtain a patient utilization report for patients they prescribe or dispense a controlled substance. The amendment is necessary to allow the sharing of data across state lines so practitioners can determine if prescribing a controlled substance is medically necessary and appropriate and to identify potential abuse or diversion.

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.

Elizabeth MacMenamin, VP, Government Affairs
Retail Association of Nevada
410 S. Mountain Street
Carson City, NV 89703 – (775-882-1700)
LizM@rannv.org
Ms. MacMenamin spoke in support of R035-19. Ms. MacMenamin thanked the Board for moving forward with this regulation making it easier for practitioners to access PMP information. She commended Board Staff and Nevada for being the first to implement the PMP in the United States.

Mary Staples, Director, Government Affairs
National Association of Chain Drug Stores
1776 Wilson Blvd., Suite 200
Arlington, VA 22209 – (703-549-3001)
mstaples@nacds.org
Ms. Staples submitted written public comment in support of R035-19. "Allowing delegates to run PDMP reports on behalf of pharmacists for their review serves to ease the administrative burdens associated with this slow process and encourage broader use of PDMP information by healthcare providers."

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: 8
The number of persons who testified at the hearing was: -1-
The number of agency submitted statements was: -1-
The name of persons who testified at the hearing:

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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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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.

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 amendment on pharmacies as the regulated entities or on the public. The proposed amendment benefits both pharmacists as regulated entities and the public by streamlining the process for pharmacists to access and review patient PMP reports and provide optimal patient care for the protection, health and safety of the public, and identify potential abuse or diversion. In addition, the amendment is necessary to allow the sharing of data across state lines so practitioners can determine if prescribing a controlled substance is medically necessary and appropriate and to identify potential abuse or diversion.

B) BOTH IMMEDIATE AND LONG-TERM EFFECTS.

Immediate or long-term economic effect on pharmacists as regulated entities and on the public will be positive. The proposed amendment is necessary to streamline the process for the pharmacist to access and review patient PMP reports and provide optimal patient care for the protection, health and safety of the public, and identify potential abuse or diversion. In addition, the amendment is necessary to allow the sharing of data across state lines so practitioners can determine if prescribing a controlled substance is medically necessary and appropriate and to identify potential abuse or diversion.

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.

There are no 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.