ADOPTED REGULATION OF THE

STATE BOARD OF PHARMACY

LCB File No. R083-20

AUTHORITY: §§1-4, NRS 639.070, 639.23535.

A REGULATION relating to pharmacy; requiring completion of a form to be exempted from certain requirements; revising provisions relating to certain controlled substances; 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. (NRS 639.070) Beginning January 1, 2021, existing law requires that a prescription for a controlled substance be given to a pharmacy by electronic transmission, with limited exceptions. Existing law authorizes the Board to grant an exemption to the requirement to transfer a prescription for a controlled substance electronically for up to 1 year if the Board determines the practitioner is unable to transmit a prescription electronically for certain reasons. (NRS 639.23535) **Section 2** of this regulation requires a practitioner who is exempted from the electronic transmission requirements to complete a form certifying that the practitioner is exempt from such requirements and to maintain the form in a manner that makes the form available to the Board upon request.

Existing regulations authorize a prescription for a dangerous drug or certain controlled substances to be transmitted to a pharmacy electronically in certain circumstances. (NAC 639.7105) **Section 3** of this regulation removes the authorization to transmit prescriptions for certain controlled substances to a pharmacy electronically. Existing regulations authorize a prescription for certain controlled substances to be transmitted to a pharmacy by a facsimile machine. (NAC 453.430) **Section 1** of this regulation removes this authorization.

Section 4 of this regulation sets the effective date of this regulation to be January 1, 2021, or the date the regulation is filed with the Secretary of State, whichever occurs later. **Section 4** also expires **section 2** by limitation on December 31, 2021.

Section 1. NAC 453.430 is hereby amended to read as follows:

453.430 1. An individual practitioner may not issue a prescription in order to obtain controlled substances for the purpose of general dispensing to patients.

2. A prescription may not be issued for dispensing any narcotic drug to a person dependent on a narcotic drug for the purpose of continuing the person's dependence upon the drug except in the course of an authorized clinical investigation in the development of a program for rehabilitating narcotic addicts.

3. The administering or dispensing directly, but not the prescribing, of any narcotic drugs to a person dependent on a narcotic drug for the purpose of continuing the person's dependence upon the drug is permissible in the course of conducting a federally authorized clinical investigation in the development of a program for rehabilitating narcotic addicts if the activity is within the course of professional practice or research.

~~[4. A prescription for a controlled substance listed in schedule III, IV or V may be transmitted by a practitioner or his or her agent by a facsimile machine to a pharmacy pursuant to the provisions of NAC 639.711.]~~

Sec. 2. Chapter 639 of NAC is hereby amended by adding thereto a new section to read as follows:

1. A practitioner who is exempted from the requirements of subsection 1 of NRS 639.23535 by the Board must complete a form furnished by the Board certifying that the practitioner is exempt from such requirements pursuant to subsection 2 of NRS 639.23535.

2. The certification form required pursuant to subsection 1 must be maintained by the practitioner in a form and manner that is readily retrievable by the practitioner and made available to the Board upon request.

Sec. 3. NAC 639.7105 is hereby amended to read as follows:

639.7105 Except as otherwise provided in NAC 639.648 and 639.711:

1. A prescription for a dangerous drug ~~[or a controlled substance listed in schedule II, III, IV or V]~~ may be transmitted to a pharmacy electronically by a practitioner or, if the prescription is for a dangerous drug, the 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 for a controlled substance to a pharmacy electronically unless:

(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.

3. The designated agent of a practitioner shall not transmit a prescription for a dangerous drug to a pharmacy electronically unless:

(a) The practitioner prescribes the dangerous drug;

(b) The designated agent receives training from the practitioner regarding the electronic transmission of prescriptions and the practitioner keeps written documentation of such training at his or her office; and

(c) The practitioner documents in the medical record of the patient for whom the prescription is being transmitted electronically the intention of the practitioner to prescribe the dangerous drug and to have his or her designated agent transmit the prescription electronically.

4. If the designated agent of a practitioner transmits a prescription electronically to a pharmacy, the practitioner shall review the electronic prescription file not later than 24 hours after the electronic transmission.

5. In addition to the requirements set forth in NRS 639.2353 ***, 639.23535*** and 639.2589, a prescription that is transmitted electronically to a pharmacy must include:

(a) The telephone number of the prescribing practitioner;

(b) The time and date of the transmission; and

(c) The name of the pharmacy to which the prescription is sent.

6. In addition to the requirements set forth in subsection 5 and NRS 639.2353 ***, 639.23535*** and 639.2589, a prescription for a controlled substance that is transmitted electronically to a pharmacy must include:

(a) The registration number from the Drug Enforcement Administration of the prescribing practitioner; and

(b) If the technological capability exists to require such information to be transmitted electronically:

(1) The Nevada controlled substance registration number of the prescribing practitioner;

(2) The indication for use or the diagnosis code; and

(3) The date of the last physical examination of the patient.

7. A pharmacist who receives a prescription that is transmitted electronically shall keep a paper or electronic copy of the prescription for at least 2 years after the pharmacist receives the prescription. The copy of the prescription that is kept must be readily accessible to:

(a) Personnel of the pharmacy who are authorized to access records of prescriptions kept by the pharmacy; and

(b) Members, employees, agents and designees of the Board.

8. A pharmacist shall not dispense a prescription that is transmitted electronically until the pharmacist determines that the prescription complies with the requirements of state and federal law.

9. A prescription that is transmitted and complies with the provisions of this section shall be deemed an original prescription.

10. The Board may suspend the privilege of a practitioner to transmit prescriptions electronically or take any other appropriate action if the Board reasonably suspects that the practitioner or the designated agent of the practitioner has transmitted a prescription electronically that is:

(a) Unlawful;

(b) Fraudulent; or

(c) Not for a legitimate medical purpose.

Sec. 4. 1. This regulation becomes effective upon the later of:

(a) January 1, 2021; or

(b) The date this regulation is filed with the Secretary of State.

2. Section 2 of this regulation expires by limitation on December 31, 2021.