

**LCB File No. T029-00**

**ADOPTED TEMPORARY REGULATION OF THE  
STATE BOARD OF PHARMACY**

(Effective November 21, 2000)

**Section 1.** Chapter 639 of NAC is hereby amended by adding thereto a new section to read as follows:

*1. An applicant to operate a pharmacy that will be required by LCB file No. R076-00 to designate a natural person who is responsible for the operation of the pharmacy shall be issued a license that shall be subject to the following restrictions:*

*(a) The license shall expire 90 days from the date it is issued by the board.*

*(b) The license shall entitle the pharmacy to purchase prescription drugs only to fill prescriptions actually received by the pharmacy.*

*(c) The pharmacy may not sell, transfer, distribute, dispense, or otherwise provide prescription drugs to anyone except to patients subject to a prescription.*

*2. A pharmacy subject to the provisions of this section will receive an unrestricted license when it provides to the board office copies of fully executed contracts with long term care facilities, home care facilities, or other such facilities for which the pharmacy shall be the primary provider of prescription drugs. The net proceeds from the contracts must equal at least 75% of the monthly payroll of all people employed by or otherwise compensated by the pharmacy.*

*3. Before the board issues an unrestricted license under this section, the board shall inspect the pharmacy and its records to assure that the pharmacy has complied with the terms of this section and all other applicable laws.*

*4. If a restricted license expires, whether in the original 90-day period or in any subsequent extension, because the pharmacy has not been able to comply with the terms of this section, then the pharmacy's restricted license is void, the pharmacy will not receive an unrestricted license, and the pharmacy will be subject to involuntary closure pursuant to the provisions of NAC 639.570. The owner of a pharmacy involuntarily closed under this subsection may not apply for another pharmacy license for a period of one year from the date of the expiration of the restricted license.*

*5. A pharmacy with a restricted license under this section may apply for one extension of its restricted license for a period of no more than 90 additional days. To apply for an extension of its restricted license the pharmacy must:*

*(a) Apply in writing on a form provided by the board for the extension no later than 60 days from the date of issuance of the license;*

*(b) Be in compliance with this section and all applicable laws;*

*(c) Demonstrate that it has made good faith efforts to obtain contracts to provide pharmacy services.*

*6. Any pharmacy that will be required by LCB file No. R076-00 to designate a natural person who is responsible for the operation of the pharmacy that was licensed prior to the effective date of this section shall produce to the board no later than October 31, 2001 contracts with long term care facilities, home care facilities, or other such facilities for which the pharmacy shall be the primary provider of prescription drugs, the net proceeds of which must equal at least 90% of the monthly payroll of all people employed by or otherwise compensated by the pharmacy. Any pharmacy that does not provide the contracts required by this subsection shall be deemed revoked on October 31, 2001 and shall be involuntarily closed pursuant to NAC 639.570.*

**Section 2.** Chapter 639 of NAC is hereby amended by an uncodified new section to read as follows:

1. Except as otherwise provided in this subsection, an applicant for a license to conduct a pharmacy shall designate at least one natural person who will be the representative of the pharmacy. The board will not issue a license to an applicant that is required to designate a representative of a pharmacy pursuant to this section unless the board determines that the designated natural person meets the qualifications set forth in subsection 2 and approves that natural person to be the designated representative of the pharmacy. The requirement to designate a representative set forth in this subsection does not apply to:

(a) An applicant that is a publicly traded corporation; or

(b) An applicant in which a majority interest of the applicant is owned by a pharmacist who is:

(1) Licensed by the board; and

(2) A resident of this state~~[-];~~ *or*

*(c) An applicant whose pharmacy will be located within a larger retail store such as a grocery store, drug store, variety store, or department store under common ownership.*

2. Except as otherwise provided in subsection 3, the board will approve a natural person to be a representative of a pharmacy if the applicant for a license to conduct a pharmacy or the licensee presents proof satisfactory to the board that the natural person:

(a) Has been employed for at least 6,000 hours in a pharmacy or with a wholesaler in a capacity related to the dispensing and distribution of, and recordkeeping relating to, prescription drugs;

(b) Has received a score of at least 75 percent on an examination given by the board regarding federal and state laws and pharmacy practices; and

(c) Is at least 21 years of age.

3. The board may, based upon any of the grounds set forth in NRS 639.210, refuse to approve a natural person for service as the representative of a pharmacy, regardless of whether the person is otherwise qualified.

4. A representative of a pharmacy designated pursuant to this section:

(a) Must be actively involved in and aware of the actual daily operation of the pharmacy;

(b) Must be employed full time in a managerial level position in the pharmacy.

(c) Must be physically present at the site of the pharmacy during regular business hours, except when the absence of the representative is authorized, including sick leaves, vacation leaves and other authorized absences; and

(d) May serve in this representative capacity for only one pharmacy at a time.

5. A pharmacy that is required to designate a natural person as its representative pursuant to this section shall not open or operate the pharmacy unless that representative is actually employed full time in the operation of the pharmacy and is physically present at the site of the pharmacy during regular working hours, not including sick leave, vacation leave and other authorized absences from work. If the natural person designated as the representative of a pharmacy leaves the employ of the pharmacy, thus leaving the pharmacy without a representative in violation of this section, the pharmacy shall:

(a) Immediately cease conducting business until another qualified natural person is approved by the board to serve as the representative of the pharmacy; and

(b) Not later than 48 hours after that person leaves its employ, notify the board that the person designated as the representative of the pharmacy has left the employ of the pharmacy.

6. Before a pharmacy that is in violation of this section because the natural person designated as the representative of the pharmacy left the employ of the pharmacy may continue conducting business:

(a) The pharmacy must designate, on a form provided by the board, a new natural person to serve as the representative of the pharmacy; and

(b) The board must approve the natural person so designated.

7. A pharmacy that operates without a representative in violation of this section is subject to the immediate suspension of its license until it employs a qualified natural person to be its representative. The board will consider such a suspension to be an involuntary closure subject to the provisions of NAC 639.570, entitling the staff of the board to close the pharmacy until it designates and employs a qualified natural person as its representative.

*8. A pharmacy that was licensed prior to the effective date of this section shall submit an application no later than October 31, 2001 on a form provided by the board for the approval of a qualified natural person pursuant to the terms of this section. After October 31, 2001, any pharmacy that operates without a qualified natural person shall be subject to the provisions of subsection 7 of this section.*

**Section 3.** NAC ch. 639 shall be amended to add the following new language:

**1. Any drug purchased by a pharmacy that will be required by LCB file number R076-00 to designate a natural person who is responsible for the operation of a pharmacy must be shipped to and physically received by the pharmacy at the physical address to which the board has issued the pharmacy's license. No drugs purchased by a pharmacy may be drop-shipped to any address other than the pharmacy's physical address to which the board has issued the pharmacy's license or to a post office box.**

*2. A pharmacist employed by a pharmacy under this section must acknowledge on every invoice that the drugs on the invoice were physically received by the pharmacy at the physical address to which the board has issued the pharmacy's license.*

## INFORMATIONAL STATEMENT

(New language to amend LCB file R076-00)

November 14, 2000

### INFORMATIONAL STATEMENT

The informational statement required by NRS 233B.066 numerically conforms to the subsections of the statute as follows:

1. 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.

Public comment was solicited through public notices posted in county courthouses and through mailings to interested parties.

There was no public response expressed relative to this proposed regulation.

2. THE NUMBER OF PERSONS WHO: (A) ATTENDED EACH HEARING; (B) TESTIFIED AT EACH HEARING; AND (C) SUBMITTED TO THE AGENCY WRITTEN STATEMENTS.

There was no public response expressed relative to this proposed regulation.

3. 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.

Comments were solicited from affected businesses through posting of public notices in the county courthouses, by direct mailings to all interested persons who have requested notices of board of pharmacy meeting agendas and by direct mailings to professional and trade associations.

There was no response from affected businesses relative to this proposed regulation.

4. 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 proposed regulation was adopted without change as no testimony was offered.

5. 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 economic impact on affected businesses or on the public.

B) BOTH IMMEDIATE AND LONG-TERM EFFECTS.

This regulation will have no immediate or long-term economic effects on business or the public.

6. THE ESTIMATED COST TO THE AGENCY FOR ENFORCEMENT OF THE PROPOSED REGULATION.

Enforcement of the regulation will be performed during annual inspections of all pharmacies. There will be no additional cost incurred by the board.

7. 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.

8. 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.

9. 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.