ADOPTED REGULATION OF THE

STATE BOARD OF PHARMACY

LCB File No. R155-04

Effective December 20, 2004

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

AUTHORITY: §§1 and 2, NRS 639.0745.

A REGULATION relating to pharmacy; authorizing the transfer of a prescription from a pharmacy to another pharmacy by a facsimile machine; and providing other matters properly relating thereto.

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

1. Information relating to a prescription may be transferred from a pharmacy to another pharmacy by a facsimile machine pursuant to NAC 639.713 if:

(a) The transmission from the transferring pharmacy:

(1) Includes the information required by subsection 2 of NRS 639.2353, which may be provided in the form of an accurate printout of the pharmacy's computerized record of the prescription; and

(2) Except as otherwise provided in subsection 2, includes:

(I) A copy of the original prescription maintained in the records of the transferring pharmacy on which the pharmacist at the transferring pharmacy has signed the copy and written his license number; or

(II) The signature and handwritten license number of the pharmacist at the transferring pharmacy and a notation that specifically indicates that the pharmacist intends to transfer the prescription.

(b) The transmission is prepared and transmitted by a pharmaceutical technician or pharmacist at the transferring pharmacy.

(c) Except as otherwise provided in subsection 3, the pharmacist at the transferring pharmacy processes the original prescription in the manner prescribed in paragraph (a) and subparagraphs (1), (2) and (3) of paragraph (b) of subsection 1 of NAC 639.714.

2. A pharmacy may transfer prescriptions by facsimile machine to another pharmacy without complying with the provisions of subparagraph (2) of paragraph (a) of subsection 1 only upon application to and authorization by the Board. The Board may grant that authority to a pharmacy if the Board is satisfied that:

(a) The pharmacy's computer system will accurately represent the identity of the pharmacist responsible for the transfer; and

(b) The identity of the pharmacist responsible for the transfer cannot be falsified, modified, added or otherwise provided without the knowledge and assent of that pharmacist.

3. A pharmacy which maintains its records of prescriptions in a computer system shall invalidate in its system a prescription transferred by a facsimile machine to another pharmacy. A pharmacy which transfers a prescription by a facsimile machine is not required to process the original prescription in the manner prescribed in paragraph (c) of subsection 1 if the pharmacy cancels the prescription stored in its computer system in a manner which ensures that the prescription cannot be refilled by that pharmacy.

Sec. 2. NAC 639.713 is hereby amended to read as follows:

639.713 1. Except as otherwise provided in subsection 4, a transfer of information between pharmacies relating to a prescription for a dangerous drug or controlled substance for the purpose of filling and dispensing that prescription is subject to the following conditions:

(a) Information relating to a prescription and any remaining number of refills may be transferred orally ***,*** ~~[or]~~ by a ***facsimile machine in accordance with section 1 of this regulation or by a*** computer.

(b) An oral transfer must be communicated directly between two registered pharmacists.

(c) The original and the transferred prescriptions must be maintained for 2 years after the date on which the prescription was filled.

(d) Information relating to a prescription may be transferred by a computer if:

(1) The computer that transfers the information reduces, at the time the information is transferred, the number of refills authorized by the original prescription; and

(2) The computer that receives the information allows the transfer of the prescription for a controlled substance only once.

2. A pharmacist who receives a prescription for a controlled substance which has been transferred by a computer shall inform the patient that the prescription may be transferred only once.

3. A pharmacy shall not, without first notifying the Board:

(a) Sell, give or otherwise transfer all its prescription files, including information relating to patients and practitioners, to another pharmacy, including a pharmacy under its control or ownership; or

(b) Receive all the prescription files, including information relating to patients and practitioners, from another pharmacy, including a pharmacy under its control or ownership.

➥ A file transferred pursuant to this subsection is not a transfer of information between pharmacies for the purposes of subsection 1 ~~[.]~~ ***, regardless of whether the transfer occurs before or after the prescription is filled.***

4. A prescription for a controlled substance listed in schedule II must not be transferred pursuant to the provisions of this section.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R155-04

The State Board of Pharmacy adopted regulations assigned LCB File No. R155-04 which pertain to chapter 639 of the Nevada Administrative Code on October 14, 2004.

Notice date: 9/13/2004 **Date of adoption by agency:** 10/14/2004
Hearing date: 10/14/2004 **Filing date:** 12/20/2004

INFORMATIONAL STATEMENT

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 with minor changes suggested by the Board.

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.

There will be no additional or special costs incurred by the board for enforcement of this regulation.

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.