ADOPTED REGULATION OF THE

STATE BOARD OF PHARMACY

LCB File No. R036-06

Effective May 4, 2006

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

AUTHORITY: §1, NRS 639.070.

A REGULATION relating to pharmacy; setting forth certain circumstances under which a pharmacist may decline to fill a prescription; 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. A pharmacist may decline to fill a prescription that satisfies the requirements of this chapter and chapter 639 of NRS only if the pharmacist reasonably believes, in his professional judgment, that:

(a) The filling of the prescription would be unlawful;

(b) The filling of the prescription would be potentially harmful to the medical health of the patient;

(c) The prescription is fraudulent; or

(d) The prescription is not for a legitimate medical purpose.

2. If a pharmacist declines to fill a prescription pursuant to this section, the pharmacist shall speak with the prescribing practitioner in a timely manner to discuss and resolve the concerns of the pharmacist regarding the prescription. Before the pharmacist speaks with the prescribing practitioner, the pharmacist may, based on his professional judgment:

(a) Retain the prescription and not return the prescription to the patient;

(b) Return the prescription to the patient;

(c) Make a photocopy of the prescription and return the prescription to the patient; and

(d) Unless the prescription is for a controlled substance that is listed in schedule II, dispense a quantity of the drug prescribed, not to exceed a 3 days' supply, to allow a reasonable period for the pharmacist to speak with the prescribing practitioner about the concerns of the pharmacist regarding the prescription.

3. If, after speaking with the prescribing practitioner, the pharmacist reasonably believes, in his professional judgment, that the prescription is:

(a) Lawful;

(b) Not potentially harmful to the medical health of the patient;

(c) Not fraudulent; and

(d) For a legitimate medical purpose,

➥ the pharmacist may fill the prescription.

4. If, after speaking with the prescribing practitioner, the pharmacist reasonably believes, in his professional judgment, that the prescription is:

(a) Unlawful;

(b) Fraudulent; or

(c) Not for a legitimate medical purpose,

➥ the pharmacist shall retain the prescription and may not return the prescription to the patient.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R036-06

The State Board of Pharmacy adopted regulations pertaining to Chapter 639 of the Nevada Administrative Code on April 20, 2006.

Notice date: 3/15/2006 **Date of adoption by agency:** 4/10/2006
Hearing date: 4/20/2006 **Filing date:** 5/4/2006

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 were six persons that were sworn and gave testimony. One person approved the language as written, one person wanted stronger language to include the issue of conscience, and four persons opposed the language as being too broad. They made suggestions that the Board agreed to and these suggestions were incorporated into the language submitted to LCB

All interested parties may obtain a summary of public response by written or verbal request to: Nevada State Board of Pharmacy, 555 Double Eagle Court, Suite 1100, Reno, Nevada, 89521.

2. 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 __6___.
The number of persons who testified at the hearing was __6___.
The number of agency submitted statements was __0___.

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.

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.