ADOPTED REGULATION OF THE

STATE BOARD OF PHARMACY

LCB File No. R037-06

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 and 639.0745.

A REGULATION relating to computer systems for the issuance and transmission of prescriptions; revising the provision governing the use of such computer systems; and providing other matters properly relating thereto.

Section 1. NAC 639.7102 is hereby amended to read as follows:

639.7102 1. Except as otherwise provided in subsection 8, a practitioner may:

(a) Issue a prescription using a computer system approved by the Board; and

(b) Transmit the prescription using that computer system to a pharmacy specified by the patient for whom the practitioner issues the prescription.

2. The Board will approve the computer system of a practitioner if the computer system:

(a) Requires ~~[, before each use of the device that is used to enter information into the computer system,]~~ a fingerprint scan, retinal scan, personal identification number or other unique identification of the practitioner ~~[;]~~ ***to activate the computer system by which a prescription will be entered and to reactivate the computer system if the computer system has not been in use for 15 minutes or longer;***

(b) Maintains a record of:

(1) Each prescription that the practitioner issues using the computer system; and

(2) Each pharmacy to which the practitioner submits the prescription;

(c) Is able to print a written prescription that complies with NRS 639.2353 and NAC 453.440;

(d) Places on the face of the prescription, if it is printed from the computer system of the practitioner or the pharmacy to which the practitioner transmits the prescription, or if it is displayed on the monitor of the computer of the pharmacy, a mark that uniquely identifies the practitioner, including, without limitation, the practitioner's signature or a security code which is known to or verifiable by the pharmacy;

(e) Requires the practitioner, before the computer system places the words "Dispense As Written" on the face of the prescription, to make a specific entry into the computer system for the prescription; and

(f) Except as otherwise provided in subsection 3, transmits to the pharmacy specified by the patient the prescription and any other confidential information relating to the patient in a manner that ensures that the prescription or other confidential information may not be altered by a person other than the pharmacist.

3. The provisions of paragraph (f) of subsection 2 do not prohibit a practitioner from using a routing company to transmit a prescription pursuant to this section. A routing company:

(a) May, for the purpose of verifying an audit conducted of the routing company, store any prescription or other confidential information it receives or transmits pursuant to this subsection in a form that is secure and ensures the confidentiality of the information.

(b) May not add a provision to, delete a provision from or otherwise modify a prescription or any other confidential information that it receives or transmits pursuant to this subsection.

4. A pharmacy that receives a prescription from a practitioner using a computer system which is approved by the Board may fill that prescription if:

(a) The pharmacy prints a copy of the prescription and files the copy in the same manner in which the pharmacy files any other prescription maintained by it; or

(b) The computer system of the pharmacy:

(1) Maintains the prescription in a manner that ensures that the prescription is numbered consecutively in accordance with NAC 639.914;

(2) Is able to print a copy of the prescription; and

(3) Prohibits the modification of the prescription unless the computer system:

(I) Automatically prepares a notation within the records of the computer system indicating that the pharmacy has modified the prescription and automatically records the modification; and

(II) Requires the pharmacy to prepare a record indicating the identity of the person who modified the prescription.

5. If a pharmacy fills a prescription pursuant to paragraph (b) of subsection 4, a pharmacist employed by the pharmacy shall, each day:

(a) Store the prescription or cause the prescription to be stored on a tape, disk or other device that is used for the storage of information by a computer; and

(b) Store the tape, disk or device:

(1) At a location other than the pharmacy; or

(2) In any other manner that:

(I) Protects the tape, disk or device from loss or damage; and

(II) Ensures that any confidential information included in the tape, disk or device remains confidential.

6. If a practitioner prints a prescription using a computer system that is approved pursuant to this section, the practitioner shall:

(a) Except as otherwise provided in paragraph (b), manually sign the printed prescription; or

(b) If the prescription includes a mark that uniquely identifies the practitioner in accordance with paragraph (d) of subsection 2, print the prescription on security paper.

7. Except as otherwise provided in subsection 8, a practitioner may transmit a prescription or any other confidential information relating to a patient to an insurer or any entity other than a pharmacy pursuant to this section if, before transmitting the prescription or confidential information:

(a) The practitioner submits a written notice to the patient:

(1) Identifying the insurer or entity; and

(2) Indicating that the practitioner intends to transmit the prescription or confidential information to the insurer or entity; and

(b) The patient consents in writing to the transmission of the prescription or confidential information to:

(1) The insurer or entity; and

(2) The pharmacy specified by the patient pursuant to this section.

8. A prescription for a controlled substance set forth in schedule II may not be transmitted using a computer system pursuant to this section.

9. The provisions of this section do not prohibit a computer system that is approved pursuant to this section from being used to transmit:

(a) An ICD-9-CM code set forth in the *International Classification of Diseases, 9th* ~~[revision,]~~ ***Revision,*** *Clinical Modification*; or

(b) Any other information that is not related to the issuance, filling or transmission of a prescription for a patient or the transmission of any confidential information relating to the patient pursuant to this section.

10. As used in this section:

(a) "Routing company" means any business that:

(1) Receives a prescription or any other confidential information from a practitioner in accordance with a contract between:

(I) The routing company and the practitioner or a company that provides computer software for the management of the practitioner's practice; or

(II) A patient of the practitioner and a third-party payor; and

(2) Transmits the prescription or confidential information:

(I) Directly to the pharmacy specified by the patient; or

(II) Through the company that provides computer software for the management of the business operations of the pharmacy.

(b) "Security paper" means any paper that is approved by the staff of the Board and that includes features ~~[that]~~ ***which*** ensure that the paper:

(1) May not be duplicated without creating an indication on the paper that the paper has been duplicated; and

(2) May be authenticated as having been issued by a practitioner or the office of the practitioner.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R037-06

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 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.

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.