

**PROPOSED REGULATION OF THE
STATE BOARD OF PHARMACY**

LCB File No. R034-02

April 9, 2002

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

AUTHORITY: §§1 and 2, NRS 639.070, 639.1373 and 639.1375.

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

1. A practitioner who wishes to dispense controlled substances or dangerous drugs must apply to the board on an application provided by the board for a certificate of registration to dispense controlled substances or dangerous drugs. A practitioner must submit a separate application for each site of practice from which he wishes to dispense controlled substances or dangerous drugs.

2. The board will not issue or renew a certificate of registration to dispense controlled substances or dangerous drugs to a practitioner whose site of practice is within 5 miles of a pharmacy unless:

(a) The site of practice is owned or operated by a corporation that is exempt from federal taxation pursuant to section 501(c)(3) of the Internal Revenue Code; or

(b) The practitioner demonstrates to the satisfaction of the board that his patients have a compelling need for the particular dispensing services he will provide.

3. In considering whether a practitioner has satisfactorily demonstrated that his patients have a compelling need for the particular dispensing services he will provide, the board may consider, without limitation:

(a) The location of the site of practice of the practitioner;

(b) The specialty or type of practice of the practitioner;

(c) The types of controlled substances or dangerous drugs the practitioner wishes to dispense;

(d) The ownership of the practice or the site of practice of the practitioner, and the source of money that will be used to pay the practitioner;

(e) The background of the practitioner or the owner of the practice or the site of practice of the practitioner, including, without limitation:

(1) Administrative or other legal actions, if any, by the board or any other state, federal or local governmental agency against the practitioner or owner;

(2) The criminal history of the practitioner or owner;

(3) The involvement of the practitioner or owner in the sale of drugs via the Internet or the illicit sale of drugs; and

(4) Other similar matters involving the background or activities of the practitioner or owner;

(f) The need in the community that would be served by the practitioner for the specialty or type of practice of the practitioner and whether that need is already being served; and

(g) Any other factor the board finds helpful in determining whether the proposed dispensing services are bona fide and whether quality patient care would be promoted by the dispensing services.

Sec. 2. NAC 639.745 is hereby amended to read as follows:

639.745 1. Each practitioner who is registered with the board to dispense controlled substances and dangerous drugs and dispenses such products for use by his patients outside his presence, shall:

(a) Keep complete, accurate and readily retrievable records of each *controlled substance and dangerous* drug purchased and dispensed. ~~[Each written prescription must be serially numbered and kept in numerical order in a single file for all dispensing practitioners, including the physician assistants and prescribing nurses practicing at the same location.~~

~~—(b) Ensure that each prescription entry contains:]~~ *The record for each such product dispensed to a patient must include:*

(1) The name of the patient and, if not readily available from the practitioner's records, the patient's address ; ~~[-]~~

(2) The name, strength and quantity of the prescribed controlled substance or dangerous drug ~~[-]~~

~~—(3) The name of the prescribing practitioner and classification of his license.~~

~~—(4) The practitioner's registration number issued by the Drug Enforcement Administration of the United States Department of Justice, if the product is a controlled substance.~~

~~—(5) The initials of the dispensing practitioner, if the dispensing practitioner did not prescribe the controlled substance or dangerous drug.~~

~~—(6)];~~

(3) The directions for use ~~[-]~~

~~—(7)];~~

(4) The date the prescription was issued ~~[-]~~

~~(8) The signature of the prescribing practitioner.~~

~~(e)~~; and

(5) A unique identifying number.

(b) Maintain a separate file for the records concerning the purchase of each controlled substance listed in schedule II and a separate file for the records concerning the dispensing of each controlled substance listed in schedule II. Each prescription for a controlled substance or dangerous drug must be maintained in a separate file pursuant to the requirements set forth in NAC 453.480.

~~(d)~~ *(c)* Keep all controlled substances and dangerous drugs in a locked storage area. Access to the storage area must be restricted to the persons described in NRS 453.375.

~~(e)~~ *(d)* Ensure that each package or container in which a controlled substance is dispensed, except samples in the manufacturer's packages, is clearly labeled pursuant to the requirements set forth in NRS 639.2801.

~~(f)~~ *(e)* Ensure that the package or container in which a controlled substance or dangerous drug is dispensed complies with all state and federal packaging requirements.

(f) Count the controlled substance or dangerous drug from a stock bottle if one is used, place the controlled substance or dangerous drug in a dispensing container, place a label on the dispensing container and give the dispensing container to the patient. The practitioner may not delegate any duty described in this paragraph to any other person or employee.

2. A practitioner may dispense dangerous drugs or controlled substances only after the patient has been informed by the practitioner that the patient may request a written prescription and have it filled at another location of the patient's choosing.

3. A record regarding the dispensing of a controlled substance or dangerous drug made and kept pursuant to this section must be maintained on paper or in a computer. If the record is:

(a) Maintained on paper, the record must:

(1) Be in the form of a prescription in conformance with NRS 639.2353 and NAC 453.440;

(2) Set forth on the front of the prescription a certification initialed and dated by the patient that the patient has been informed by the practitioner in accordance with subsection 2 and that the patient has agreed to have the practitioner dispense the controlled substance or dangerous drug; and

(3) Be serially numbered and kept in numerical order in a single file for all dispensing practitioners, including, without limitation, physician assistants and advanced practitioners of nursing, practicing at the same location.

(b) Maintained in a computer, the record must:

(1) Be in the form of a prescription in conformance with NRS 639.2353 and NAC 453.440;

(2) Set forth on the front of the prescription a certification initialed and dated by the patient that the patient has been informed by the practitioner in accordance with subsection 2 and that the patient has agreed to have the practitioner dispense the controlled substance or dangerous drug; and

(3) Be searchable for any item required by paragraph (a) of subsection 1 to be included in the record.