

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

LCB File No. R146-03

Effective April 8, 2004

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

AUTHORITY: §1, NRS 453.221 and 639.070.

A REGULATION relating to pharmacies; requiring a person to whom a controlled substance is dispensed to present a current form of identification under certain circumstances; 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. Except as otherwise provided in this section, an employee of a pharmacy who is authorized to dispense controlled substances shall, before dispensing a controlled substance pursuant to a lawful prescription, request the person to whom the controlled substance will be dispensed to present a current form of identification issued by a federal, state or local governmental agency that contains a photograph of himself. The employee shall not dispense the controlled substance if:

(a) That person does not present such identification; or

(b) The employee reasonably believes that the identification presented has been altered or is false or otherwise invalid.

2. The provisions of subsection 1 do not apply if:

(a) The prescription is paid for, in whole or in part, by an insurer;

(b) The prescription is for a patient who has had a prescription for the same controlled substance previously filled by the pharmacy; or

(c) The pharmacy is a part of the health care facility where the patient is being treated.

3. The employee shall:

(a) Make a photocopy of the identification presented to him; or

(b) Record the full name of the person to whom the controlled substance is dispensed and the identification number indicated on his identification, if any, on the prescription, the refill log, the counseling log, a computer record related to the patient or any other document that is readily retrievable.

4. If a photocopy of the identification is made pursuant to paragraph (a) of subsection 3, it must be filed with the copy of the prescription that is maintained by the pharmacy.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R146-03**

The State Board of Pharmacy adopted regulations assigned LCB File No. R146-03 which pertain to chapter 639 of the Nevada Administrative Code on February 26, 2004.

Notice date: 1/8/2004
Hearing date: 2/26/2004

Date of adoption by agency: 2/26/2004
Filing date: 4/8/2004

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.

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 3.
The number of persons who testified at the hearing was 2.
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.

Both persons that commented expressed the requirement of obtaining positive identification to pick up controlled substance drugs under certain circumstances was burdensome and unnecessary. Comment was made that currently the language states that positive identification 'may' be requested and the new language will state that positive identification 'shall' be obtained. During discussion it was determined that it was no different than obtaining positive identification when a person writes a check.

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.

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 even though 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.

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.