ADOPTED REGULATION OF THE

STATE BOARD OF PHARMACY

LCB File No. R154-04

Effective October 22, 2004

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

AUTHORITY: §§1-3, NRS 639.070.

A REGULATION relating to pharmacies; establishing requirements for drive-through facilities at licensed pharmacies; 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 subsection 3, if a licensee provides pharmaceutical services by means of a drive-through facility, the drive-through facility must:

(a) Be constructed and maintained in a manner, and with materials, that secures the premises of the pharmacy from unlawful or unauthorized access.

(b) Be readily accessible to the personnel of the pharmacy who are authorized to be in the prescription department.

(c) Provide two-way visual and auditory communication between the personnel of the pharmacy and a patient receiving pharmaceutical services by means of the drive-through facility.

(d) Be equipped with a computer terminal that is part of the pharmacy's computerized system for recording information concerning prescriptions. The terminal must be so located within the prescription department that personnel of the pharmacy when providing

pharmaceutical services to a patient by means of the drive-through facility can use the computer terminal without losing visual or auditory communication with the patient.

(e) Be so equipped that a pharmacist, or intern pharmacist under the supervision of a pharmacist, can provide a patient receiving pharmaceutical services by means of the drive-through facility with the counseling required in NAC 639.707 without losing visual or auditory communication with the patient.

2. A licensee shall not provide pharmaceutical services by means of a drive-through facility that does not include a window, or other opening, in the exterior wall of the pharmacy unless the licensee first applies for, and obtains, the approval of the Board.

3. The Board may, upon application, and for good cause shown, waive or modify any requirement set forth in this section.

4. As used in this section:

(a) "Drive-through facility" means any combination of structural, mechanical, electronic or other elements located within and without the prescription department of a licensed pharmacy that enables the personnel of the pharmacy to provide pharmaceutical services to a patient who drives a vehicle to the pharmacy without the personnel of the pharmacy leaving the prescription department or the patient leaving his vehicle. The term includes, without limitation, a window or other opening in the exterior wall of a prescription department of a licensed pharmacy, alone, or in conjunction with one or more mechanical, electronic or other devices.

(b) "Licensee" means a person licensed by the Board pursuant to NRS 639.231 to conduct a pharmacy.

(c) "Patient" includes a person caring for a patient.

Sec. 2. NAC 639.912 is hereby amended to read as follows:

639.912 A pharmacist ~~[may]~~ ***shall*** use a computerized system which meets the requirements contained in NAC 639.910 to store and retrieve information concerning prescriptions. The use of a computerized system does not excuse the pharmacist from maintaining the physical records concerning prescriptions required by law. ~~[In order to]~~ ***To*** qualify for use pursuant to NAC 639.910 to 639.938, inclusive, a computerized system must be able to provide all ~~[of]~~ the information concerning the refilling of prescriptions required by law.

Sec. 3. The requirements set forth in subsection 1 of section 1 of this regulation do not apply to a drive-through facility that is in use on October 22, 2004, until:

1. The pharmacy or prescription department is remodeled and the remodeling is subject to the notification requirement of NAC 639.535;

2. The drive-through facility is remodeled, changed or altered in any way; or

3. December 31, 2007,

➥ whichever occurs first.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R154-04

The State Board of Pharmacy adopted regulations assigned LCB File No. R154-04 which pertain to chapter 639 of the Nevada Administrative Code on September 2, 2004

Notice date: 7/27/2004 **Date of adoption by agency:** 9/2/2004
Hearing date: 9/2/2004 **Filing date:** 10/22/04

INFORMATIONAL STATEMENT

The informational statement required by NRS 233B.066 numerically conforms to the subsections of the statute as follows:

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.

The number of persons who attended the hearing was 1.
The number of persons who testified at the hearing was 1.
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 amended slightly as a result of testimony offered at the hearing.

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 only a minor economic impact on affected businesses or on the public.

B) BOTH IMMEDIATE AND LONG-TERM EFFECTS.

This regulation should have only a minor economic impact on affected businesses and should have no economic impact on the public.

6. THE ESTIMATED COST TO THE AGENCY FOR ENFORCEMENT OF THE PROPOSED REGULATION.

Enforcement of the regulation will be performed during annual inspections of all pharmacies. There will be no additional cost incurred by the board.

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.