

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

**LCB File No. R152-05**

Effective December 29, 2005

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

AUTHORITY: §§1 and 2, NRS 639.070 and 639.220.

A REGULATION relating to pharmacies; requiring meal periods and rest periods for employees of 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 this section and NRS 639.220:*

*(a) The owner of a pharmacy shall permit each employee of the pharmacy to take meal periods and rest periods as required by NRS 608.019 or any applicable collective bargaining agreement; and*

*(b) A pharmacy may schedule a regular time during which a pharmacist employed by the pharmacy may take a meal period.*

*2. If there is more than one pharmacist on duty at the time that a pharmacist takes a meal period, the pharmacist who is taking the meal period may, at his discretion, remain on the premises of the pharmacy or leave the premises of the pharmacy.*

*3. Except as otherwise provided in NRS 639.220, if a pharmacist is the only pharmacist on duty at the time he takes a meal period, the pharmacist may, at his discretion, remain on the premises of the pharmacy or leave the premises of the pharmacy. If the pharmacist*

*chooses to remain on the premises of the pharmacy, the pharmacist may not be interrupted or disturbed to conduct his work as a pharmacist, unless the pharmacist has agreed to such an interruption. If the pharmacist chooses to leave the premises of the pharmacy, the pharmacist shall:*

*(a) Close and secure the pharmacy pursuant to NAC 639.520; and*

*(b) Post a sign that is visible to the public stating the time the pharmacist will return from the meal break.*

*4. A pharmacy that is closed and secured during the meal period of a pharmacist pursuant to subsection 3 may accept a prescription during the meal period if:*

*(a) The prescription is placed by the patient or the patient's agent or representative in a secure container or receptacle that ensures that the prescription cannot be seen, removed or damaged until it is retrieved by a pharmacist or other authorized employee of the pharmacy; or*

*(b) An authorized employee of the pharmacy personally accepts and secures the prescription from the patient or the patient's agent or representative outside the closed and secured premises of the pharmacy.*

*5. A pharmacy may require a pharmacist to remain on the premises of the pharmacy during a rest period, but may not require the pharmacist to serve the public during the rest period. The pharmacist may, at his discretion, agree to have his rest period interrupted.*

*6. The provisions of this section do not affect any other provision of law regarding the practice of pharmacy.*

**Sec. 2.** NAC 639.545, 639.550, 639.555, 639.560 and 639.565 are hereby repealed.

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**TEXT OF REPEALED SECTIONS**

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**639.545 Absence of pharmacist from pharmacy to take meals: Authorization required.  
(NRS 639.070, 639.220)**

1. The Board will authorize a pharmacist to be absent from a pharmacy during business hours for the purpose of taking meals if:

(a) It finds that the pharmacy is so remotely located that relief pharmacists are not available;  
and

(b) No absence will be for more than 1 hour and there will not be more than two absences in any 24-hour period.

2. An application for an authorized absence must be made to the Board in writing together with payment of a filing fee of \$50.

3. An application for an authorization to be absent for the purpose of taking meals which is submitted after June 26, 1980, will be granted only after a physical inspection of the prescription department by an inspector of the Board and a certification by the Executive Secretary that the security measures set forth in NAC 639.560 have been complied with.

**639.550 Violation of authorized absence to take meals; modification or revocation of permit. (NRS 639.070, 639.220)**

1. A pharmacist who violates NAC 639.545, pertaining to authorized absence, is subject to:

(a) The methods of discipline set out in NRS 639.255;

- (b) The revocation of the permit for authorized absence; or
- (c) Both discipline and revocation.

↳ Each day of violation constitutes a separate violation.

2. If the Board, after a hearing, finds that a permit which authorizes absence for meals is detrimental to the health, safety, peace, morals, comfort and general welfare of the public, the permit may be modified or revoked.

**639.555 Absence of pharmacist from pharmacy while store remains open. (NRS 639.070, 639.220)**

1. No pharmacy may remain closed and without a pharmacist on duty during the time that any general merchandising area within the same store is open for business without first giving notice to the Board, paying an inspection fee of \$75 and being authorized to do so.

2. Once the Board receives such a notice and the inspection fee, an inspector of the Board will conduct an inspection of the prescription department and the Executive Secretary may certify compliance with the security requirements set forth in NAC 639.560.

**639.560 Absence of pharmacist from pharmacy: Security. (NRS 639.070, 639.220)**

Before the Executive Secretary may authorize a pharmacist to be absent from a pharmacy during business hours for the purpose of taking meals or may authorize a pharmacy to remain closed and without a pharmacist on duty while the store in which it is located is open for business:

1. The prescription department must be separated from the merchandising or public areas of the premises occupied by the pharmacy by a solid partition extending from the floor to the ceiling;

2. The doors which permit access by the pharmacist must be secured by dead-bolt locks which can be opened from the outside only with a key, and the key must be in the physical possession of the pharmacist; and

3. The doors to the prescription department must be locked at all times when the pharmacist is absent from the pharmacy.

**639.565 Absence of pharmacist from pharmacy: Posting of sign. (NRS 639.070, 639.220)** Whenever the registered pharmacist in charge of any licensed pharmacy is legally absent from the pharmacy, he must notify the public of his absence and the length of time of the absence by posting a suitable sign to public view in the pharmacy. The sign must be not less than 8 1/2 inches in height by 14 inches in width and have letters not less than 1 inch in height, and it must read substantially as follows:

PHARMACIST NOT ON DUTY

From ..... o'clock ..... M to ..... o'clock ..... M

From ..... o'clock ..... M to ..... o'clock ..... M

The hours of the authorized absence must be entered in the spaces provided.

**NOTICE OF ADOPTION OF PROPOSED REGULATION  
LCB File No. R152-05**

The State Board of Pharmacy adopted regulations assigned LCB File No. R152-05 which pertain to chapter 639 of the Nevada Administrative Code on October 27, 2005.

**Notice date:** 9/26/2005  
**Hearing date:** 9/21/2005

**Date of adoption by agency:** 10/27/2005  
**Filing date:** 12/29/2005

**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   3  .

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.

All response from affected businesses relative to this proposed regulation expressed support for the amendment.

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 as all testimony offered was in support for the amendment.

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 may have an economic impact on affected businesses if they choose to close the pharmacy for meal breaks, however there should be no economic effect 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.

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.