LCB File No. R035-09

PROPOSED REGULATION OF THE
STATE BOARD OF PHARMACY

NAC 639.7125 Use of fulfillment pharmacy by dispensing pharmacy.
1. A prescription may be filled or refilled by a fulfillment pharmacy for a dispensing pharmacy if:
   (a) The dispensing pharmacy enters the data concerning the prescription into its computer system and transfers that data to the computer system of the fulfillment pharmacy in a secure and confidential manner;
   (b) The computer system of the dispensing pharmacy:
      (1) [Transmits to the computer system of the fulfillment pharmacy the National Drug Code number of a generic drug in stock that the dispensing pharmacy would have used to fill or refill the prescription if the prescription had not been transmitted to the fulfillment pharmacy] *Must transmit the current NDC that is available to the fulfillment pharmacy and if that current NDC is not available then the prescription will be transmitted back to the dispensing pharmacy to be filled or refilled;*
      (2) Makes and retains a record documenting the date and time that the prescription is transmitted to the fulfillment pharmacy and the identity of the fulfillment pharmacy; and
      (3) If applicable, automatically reduces the number of refills of the prescription;
   (c) The computer systems of the dispensing pharmacy and the fulfillment pharmacy are operated in compliance with the applicable provisions of this chapter and chapter 639 of NRS;
   (d) The fulfillment pharmacy labels the container in which the prescription will be dispensed in compliance with NRS 639.2801 using a label from the dispensing pharmacy or a label that contains the same information as the dispensing pharmacy would have been required to place on the label if the dispensing pharmacy had filled or refilled the prescription;
   (e) For each prescription that is being filled for the first time [by the fulfillment pharmacy], a pharmacist employed by the dispensing pharmacy *shall*:
      (1) Verifies the correctness of the data in the computer system of the dispensing pharmacy concerning the prescription before the prescription is transmitted to the fulfillment pharmacy to be filled, if:
         (I) The computer system of the dispensing pharmacy is capable of recording the identification of the pharmacist and the date and time when the pharmacist performed the verification; and
         (II) The pharmacist properly records in the computer system of the dispensing pharmacy his verification of the data *or notes the verification directly on the prescription hardcopy*; or
      (2) Verifies the correctness of the prescription drug ordered by the prescription when it is received from the fulfillment pharmacy and the pharmacist makes a written notation on the prescription or in the record of the prescription in the computer system of the dispensing pharmacy that includes his name and the date on which he performed the verification; and
   (f) For each prescription that is being refilled by the fulfillment pharmacy, a pharmacist *or person* employed by the dispensing pharmacy:

(1) Makes a record, by hand on a written document or in the record of the prescription in the computer system of the dispensing pharmacy, that includes:

(I) The date that the request to refill the prescription was sent to the fulfillment pharmacy;

(II) The date that the prescription drug ordered to refill the prescription was received by the dispensing pharmacy from the fulfillment pharmacy; and

[(III) The date that the prescription drug was dispensed to the patient or an agent of the patient; and]

[(2)] *G. The pharmacist* [V] *v*erifies the correctness of the prescription drug ordered to refill the prescription when the prescription drug is received from the fulfillment pharmacy if, in his professional judgment, the pharmacist determines such verification is necessary.

[2. If a fulfillment pharmacy fills or refills a prescription pursuant to this section with a generic drug that is manufactured by a different manufacturer than the manufacturer used by the dispensing pharmacy, the fulfillment pharmacy shall show on the label of the container in which the prescription will be dispensed the name of the manufacturer of the generic drug used to fill or refill the prescription and the computer system of the fulfillment pharmacy must transmit to the computer system of the dispensing pharmacy the National Drug Code number and the price of that generic drug. If the computer system of the fulfillment pharmacy is incapable of transmitting such data to the dispensing pharmacy, the fulfillment pharmacy shall not fill or refill the prescription and shall notify the dispensing pharmacy that the fulfillment pharmacy cannot fill or refill the prescription.]

[3]*2*. If a dispensing pharmacy:

(a) Does not include prescription drugs ordered by prescriptions that are filled or refilled by a fulfillment pharmacy in the inventory of the dispensing pharmacy, the dispensing pharmacy shall, not later than 30 days after receipt of a prescription drug ordered by a prescription that was filled or refilled by a fulfillment pharmacy:

(1) Return the prescription drug to the fulfillment pharmacy that filled or refilled the prescription if the prescription drug has not been dispensed to a patient or an agent of a patient; and

(2) Ensure that a pharmacist employed by the dispensing pharmacy records the date that the prescription drug was returned to the fulfillment pharmacy on a written document that is maintained at the dispensing pharmacy or in the record of the prescription in the computer system of the dispensing pharmacy.

(b) Includes prescription drugs ordered by prescriptions that are filled or refilled by a fulfillment pharmacy in the inventory of the dispensing pharmacy, the dispensing pharmacy shall:

(1) Not take possession of a prescription drug ordered by a prescription that was filled or refilled by a fulfillment pharmacy unless the prescription drug is accompanied by an invoice;

(2) File and process an invoice for each prescription drug that it receives from a fulfillment pharmacy in the same manner as the dispensing pharmacy files and processes invoices for prescription drugs that it receives from a wholesaler; and

(3) Process and treat each prescription drug ordered by a prescription that is filled or refilled by a fulfillment pharmacy in the same manner as the dispensing pharmacy processes and treats prescription drugs that originate from the inventory of the dispensing pharmacy.

[4] *3*. The transmission of a prescription by a dispensing pharmacy to a fulfillment pharmacy pursuant to this section is not a transfer of a prescription.

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[5] *4*. A dispensing pharmacy shall ensure that:

   (a) A patient has been counseled in compliance with NRS 639.266 and NAC 639.707 and 639.708; and

   (b) All communications with the patient are made by and through the dispensing pharmacy.

   [6]*5*. If a prescription is transmitted to and filled or refilled by a fulfillment pharmacy pursuant to this section, both the dispensing pharmacy and the fulfillment pharmacy are individually responsible for ensuring that *their portion of* the prescription has been filled or refilled correctly.

   [7]*6*. A dispensing pharmacy shall not transmit, and a fulfillment pharmacy shall not fill or refill, a prescription pursuant to this section for any controlled substance listed in schedule II.

   [8] *7*. As used in this section:

   (a) "Dispensing pharmacy" means a pharmacy licensed by the Board that:

      (1) Sends a prescription to a fulfillment pharmacy to be filled or refilled by the fulfillment pharmacy; and

      (2) Dispenses the prescription drug ordered by the prescription and filled or refilled by the fulfillment pharmacy to the ultimate user *unless the fulfillment pharmacy is a mail order pharmacy*.

   (b) "Fulfillment pharmacy" means a pharmacy licensed by the Board that fills or refills prescriptions on behalf of a dispensing pharmacy.

   (c) "Wholesaler" has the meaning ascribed to it in NRS 639.016.

   (d) "Mail order pharmacy" means a pharmacy licensed by the Board that dispenses the majority of its prescriptions though the mail or common carrier to the ultimate user.