

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

**LCB File No. R118-13**

Workshop October 17, 2013

Explanation – Language in *italics* is new; language in red ~~fomitted-material~~ is language to be omitted.

AUTHORITY: §1, NRS 639.070

**Amendment of Nevada Administrative Code (NAC) Chapter 639.** The proposed amendment would bring certain sections of NAC Chapter 639 relating to the advanced practice of nursing in line with the statutory amendments enacted by the Nevada Legislature through AB 170. The proposed amendments would replace the term “advanced practitioner of nursing” with “advanced practice registered nurse” and make various other changes to provisions relating to the advanced practice of nursing.

**Section 1. Propose to amend NAC 639.220 as follows:**

**NAC 639.220 Schedule of fees; penalty for late renewal; exemptions from certain fees.** (NRS 639.070, 639.170)

1. The Board hereby adopts the following schedule of fees:

For the examination of an applicant for registration as a pharmacist.....	Actual cost of the examination
For the investigation or registration of an applicant as a registered pharmacist.....	\$180
For the investigation, examination or registration of an applicant as a registered pharmacist by reciprocity.....	180
For the investigation or issuance of an original license to conduct a retail pharmacy.....	500
For the biennial renewal of a license to conduct a retail pharmacy.....	500
For the investigation or issuance of an original license to conduct an institutional pharmacy.....	500
For the biennial renewal of a license to conduct an institutional pharmacy...	500
For the investigation or issuance of an original license to conduct a pharmacy in a correctional institution.....	500
For the biennial renewal of a license to conduct a pharmacy in a correctional institution.....	500
For the issuance of an original or duplicate certificate of registration as a registered pharmacist.....	50
For the biennial renewal of registration as a registered pharmacist.....	180
For the reinstatement of a lapsed registration (in addition to the fees for renewal for the period of lapse).....	100

For the initial registration of a pharmaceutical technician or pharmaceutical technician in training.....	40
For the biennial renewal of registration of a pharmaceutical technician or pharmaceutical technician in training.....	40
For the investigation or registration of an intern pharmacist.....	40
For the biennial renewal of registration as an intern pharmacist.....	40
For the investigation or registration of an advanced <del>practitioner of nursing</del> <i>practice registered nurse</i> or a physician assistant to prescribe drugs that are not controlled substances.....	80
For the biennial renewal of registration of an advanced <del>practitioner of nursing</del> <i>practice registered nurse</i> or a physician assistant to prescribe drugs that are not controlled substances.....	80
For authorization of a physician, advanced <del>practitioner of nursing</del> <i>practice registered nurse</i> , physician assistant, euthanasia technician, ambulatory surgical center, facility for treatment with narcotics, researcher, instructional user or any other authorized person to prescribe or possess controlled substances.....	80
For the biennial renewal of authorization of a physician, advanced <del>practitioner of nursing</del> <i>practice registered nurse</i> , physician assistant, euthanasia technician, ambulatory surgical center, facility for treatment with narcotics, researcher, instructional user or any other authorized person to prescribe or possess controlled substances.....	80
For the investigation or issuance of an original license to engage in business as an authorized warehouse, medical products provider or medical products wholesaler.....	500
For the biennial renewal of a license to engage in business as an authorized warehouse, medical products provider or medical products wholesaler.....	500
For the investigation or issuance of an original license to a manufacturer or wholesaler.....	500
For the biennial renewal of a license for a manufacturer or wholesaler.....	500
For the reissuance of a license issued to a pharmacy, when no change of ownership is involved, but the license must be reissued because of a change in the information required thereon.....	50
For authorization of a practitioner to dispense controlled substances or dangerous drugs, or both, for each location where the practitioner will dispense controlled substances or dangerous drugs, or both.....	300
For the biennial renewal of authorization of a practitioner to dispense controlled substances or dangerous drugs, or both, for each location where the practitioner will dispense controlled substances or dangerous drugs, or both.....	300

2. The penalty for failure to pay the renewal fee for any license, permit or certificate within the statutory period, as provided in subsection 4 of NRS 639.170, is 50 percent of the renewal fee for each period of delinquency in addition to the renewal fee for each period of delinquency.

3. Any person who has been registered as a pharmacist in this State for at least 50 years is not required to pay the fee for the biennial renewal of a certificate of registration as a registered pharmacist.

4. The provisions of this section concerning the fee for the biennial renewal of the authorization to dispense controlled substances or dangerous drugs do not apply to an advanced ~~practitioner of nursing~~ *practice registered nurse* who is required to pay a fee pursuant to NAC 639.870.

5. A health center:

(a) Which is a federally qualified health center as defined in 42 U.S.C. § 1396d(l)(2)(B), as that section existed on March 1, 2000, that provides health care primarily to medically underserved persons in a community; and

(b) Which is not a medical facility as defined in NRS 449.0151,

is not required to pay the fee for the collective certification of advanced ~~practitioner of nursing~~ *practice registered nurses* in the employ of a public or nonprofit agency as set forth in subsection 1.

6. A practitioner employed by or serving as an independent contractor of a health center:

(a) Which is a federally qualified health center as defined in 42 U.S.C. § 1396d(l)(2)(B), as that section existed on March 1, 2000, that provides health care primarily to medically underserved persons in a community; and

(b) Which is not a medical facility as defined in NRS 449.0151, is not required to pay a fee to the Board for a change of address or for an additional address at which the practitioner dispenses drugs.

7. A practitioner who is exempt from the payment of a fee pursuant to subsection 6 shall notify the Board in writing of each change of address or additional address, or both.

[Bd. of Pharmacy, § 639.050, eff. 6-26-80]—(NAC A 6-25-82; 6-16-86; 2-18-88; 4-28-88; 8-10-89; 9-11-91; 10-17-91; 11-15-93; 1-10-94; 7-7-94; 11-9-95; 5-22-96; R155-99, 3-1-2000; R011-01, 11-1-2001; R012-02, 5-31-2002; R081-04, 8-25-2004; R217-05, 5-4-2006; R114-08, 9-18-2008; R119-09, 1-28-2010)

## **Section 2. Propose to amend NAC 639.752 as follows:**

### **NAC 639.752 Restrictions on filling or dispensing certain prescriptions. (NRS 639.070)**

1. Except as otherwise provided in this section and NRS 639.235, a pharmacist shall not fill a prescription for, or dispense, a dangerous drug or a controlled substance if the prescription is:

(a) Written by a practitioner who is not licensed to practice in this State, but is authorized by the laws of another state to prescribe;

(b) For a patient who resides in a state other than the state in which the prescribing practitioner's practice is located;

(c) Requested to be furnished in a manner other than by dispensing directly to the patient, or an agent of the patient, in person; and

(d) To be paid for in full, in cash or cash equivalent, at the time the prescription is dispensed,  
 unless the pharmacist first verifies the prescription as set forth in subsection 2.

2. A pharmacist who verifies a prescription pursuant to this section must:

(a) Speak with the patient or the prescribing practitioner;

(b) Establish that:

(1) The prescription is authentic; and

(2) A bona fide relationship between the patient and the prescribing practitioner did exist when the prescription was written; and

(c) Record on the prescription or in the prescription record in the pharmacy's computer:

- (1) The name of the person with whom the pharmacist spoke concerning the prescription;
- (2) The date and time of the conversation; and
- (3) The date and time the patient was examined by the prescribing practitioner.

3. Subsection 1 does not apply to a pharmacist who refills a prescription he or she has previously filled if the pharmacist verified the prescription before filling it the first time.

4. For the purposes of this section, a bona fide relationship between the patient and the prescribing practitioner shall be deemed to exist:

(a) If the patient was physically examined by the practitioner within the 6 months immediately preceding the date the prescription was issued; or

(b) If the patient is incarcerated in a local correctional institution or a facility or institution operated by the Department of Corrections and was examined through the use of a telephone or a videoconferencing system by a practitioner who is a physician licensed pursuant to chapter 630 or 633 of NRS and:

(1) The medical history of the patient is available to the physician;

(2) A nurse or an advanced ~~practitioner of nursing~~ *practice registered nurse* licensed pursuant to chapter 632 of NRS or a physician assistant licensed pursuant to chapter 630 or 633 of NRS is physically present with the patient when the physician examines the patient and that nurse, advanced ~~practitioner of nursing~~ *practice registered nurse* or physician assistant is trained in the use of the telephone or videoconferencing system; and

(3) The physician enters the results of the examination into the medical chart of the patient that is maintained by the local correctional institution or the facility or institution operated by the Department of Corrections.

5. As used in this section:

(a) "Cash equivalent" includes, without limitation:

- (1) A check;
- (2) A credit card;
- (3) A draft;
- (4) An electronic funds transfer; and

(5) A prescription drug discount card or other device obtained pursuant to the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108-173, or any regulations adopted pursuant thereto.

(b) "Local correctional institution" has the meaning ascribed to it in NAC 211.070.

(Added to NAC by Bd. of Pharmacy by R112-99, eff. 11-3-99; A by R156-04, 10-22-2004; R212-09, 8-13-2010)

**Section 3. Propose to amend NAC 639.841 as follows:**

**NAC 639.841 "Collaborating physician" defined.** (NRS 639.070) As used in NAC 639.841 to 639.900, inclusive, unless the context otherwise requires, "collaborating physician" has the meaning ascribed to it in NAC 632.038.

(Added to NAC by Bd. of Pharmacy by R015-03, eff. 10-21-2003)

**Section 4. Propose to amend NAC 639.846 as follows:**

**NAC 639.846 Change in location of practice or collaborating physician.** (NRS 639.070)

If a change in the location of practice or the collaborating physician of an advanced ~~practitioner of nursing~~ *practice registered nurse* occurs, the advanced ~~practitioner of nursing~~ *practice registered nurse* shall submit the change in writing to the Board.

(Added to NAC by Bd. of Pharmacy, eff. 12-3-84; A 10-17-86; 6-14-90; 10-17-91; 10-24-97; R015-03, 10-21-2003)—(Substituted in revision for NAC 639.863)

**Section 5. Propose to amend NAC 639.850 as follows:**

**NAC 639.850 Certificate of registration: Application; appearance before Board; collaborating physician.** (NRS 639.070, 639.2351)

1. The application of an advanced ~~{practitioner of nursing}~~ *practice registered nurse* for a certificate of registration to prescribe controlled substances, poisons, dangerous drugs and devices must include:

- (a) The name, address, social security number and telephone number of the applicant;
- (b) A copy of the certificate issued by the State Board of Nursing which authorizes the applicant to prescribe controlled substances, poisons, dangerous drugs and devices;
- (c) The name, address and telephone number of the applicant's collaborating physician, *if one is required*; and
- (d) Any other information requested by the Board.

2. Each advanced ~~{practitioner of nursing}~~ *practice registered nurse* who applies for a certificate of registration ~~{and his or her collaborating physician}~~ may be required by the Board to appear personally before the Board for a determination and an assignment of the specific authority to be granted to the advanced ~~{practitioner of nursing}~~ *practice registered nurse* .

3. ~~{Each advanced practitioner or nursing to whom a certificate of registration is issued must be registered to a collaborating physician}~~ *An advanced practice registered nurse who is authorized to prescribe controlled substances, poisons, dangerous drugs and devices pursuant to NRS 639.2351 shall not prescribe a controlled substance listed in schedule II unless:*

- (a) The advanced practice registered nurse has at least 2 years or 2,000 hours of clinical experience; or*
- (b) The controlled substance is prescribed pursuant to a protocol approved by a collaborating physician.*

(Added to NAC by Bd. of Pharmacy, eff. 12-3-84; A 10-17-86; 6-14-90; 10-17-91; 1-10-94; 11-9-95; R007-01 & R017-01, 11-1-2001; R012-02, 5-31-2002; R015-03, 10-21-2003)

**Section 6. Propose to amend NAC 639.854 as follows:**

**NAC 639.854 Scope of authority to prescribe.** (NRS 639.070, 639.2351)

1. Except as otherwise provided in subsection 2, an advanced ~~{practitioner of nursing}~~ *practice registered nurse* who is authorized to prescribe controlled substances, poisons, dangerous drugs and devices or to prescribe poisons, dangerous drugs and devices may prescribe a controlled substance, poison, dangerous drug and device or a poison, dangerous drug and device, as applicable, only:

- (a) For a legitimate medical purpose *within the scope of practice in which he or she is trained, qualified and competent, subject to the scope of practice, or limitations thereto, if any, set by the Nevada State Board of Nursing*; and
- (b) ~~{In such amounts as are authorized by his or her collaborating physician, except that the}~~ *In* amounts ~~{must}~~ not *to* exceed a 365-day supply.

2. The limitation set forth in paragraph (b) of subsection 1 does not apply to any method of birth control prescribed by an advanced ~~{practitioner of nursing}~~ *practice registered nurse* .

(Added to NAC by Bd. of Pharmacy by R015-03, eff. 10-21-2003)

**Section 7. Propose to amend NAC 639.858 as follows:**

**NAC 639.858 Authorization to write prescription in form of chart order or physician's order.** (NRS 639.070) If an advanced ~~practitioner of nursing~~ *practice registered nurse* is authorized by a correctional institution, hospital or any other licensed medical facility, he or she may write a prescription in the form of a chart order or physician's order at the correctional institution, hospital or licensed medical facility.

(Added to NAC by Bd. of Pharmacy, eff. 9-12-91; A 10-24-97)

**Section 8. Propose to amend NAC 639.870 as follows:**

**NAC 639.870 Certificate of registration: Application; fee; period of validity; appearance before Board; collaborating physician; late renewal.** (NRS 639.070, 639.1375)

1. The application of an advanced ~~practitioner of nursing~~ *practice registered nurse* for a certificate of registration to dispense controlled substances, poisons, dangerous drugs and devices must include:

(a) The name, address, social security number and telephone number of the applicant;

(b) A copy of the certificate issued by the State Board of Nursing which authorizes the applicant to dispense controlled substances, poisons, dangerous drugs and devices;

(c) The name, address and telephone number of the applicant's collaborating physician, *if any*;

(d) Written verification from the State Board of Nursing that the applicant has passed an examination on Nevada law relating to pharmacy; and

(e) Any other information requested by the Board.

2. Each application for the issuance or the biennial renewal of a certificate of registration must be accompanied by a nonrefundable fee of \$300. The biennial certificate of registration covers the period beginning on November 1 of each even-numbered year.

3. Each advanced ~~practitioner of nursing~~ *practice registered nurse* who applies for a certificate of registration, and his or her collaborating physician, *if one is required*, must appear personally before the Board for a determination and an assignment of the specific authority to be granted to the advanced ~~practitioner of nursing~~ *practice registered nurse* if the advanced ~~practitioner of nursing~~ *practice registered nurse*:

(a) Will be operating in a practice not previously licensed by the Board;

(b) Responded affirmatively to any of the questions on the application regarding his or her character or competency; or

(c) Is requested to do so by the Board.

4. Each advanced ~~practitioner of nursing~~ *practice registered nurse* to whom a certificate of registration is issued must be registered to a collaborating physician, *unless*:

*(a) The advanced practice registered nurse will not prescribe any controlled substance listed in schedule II;*

*(b) The advanced practice registered nurse has at least 2 years or 2,000 hours of clinical experience; or*

*(c) Any controlled substance listed on schedule II that the advanced practice registered nurse prescribes is prescribed pursuant to a protocol approved by a collaborating physician.*

5. An advanced ~~practitioner of nursing~~ *practice registered nurse* who fails to renew his or her certificate of registration within the time prescribed by statute or regulation must pay, in addition to the fee for renewal required by subsection 2, a fee equal to 50 percent of the fee for the renewal of the certificate.

(Added to NAC by Bd. of Pharmacy, eff. 12-3-84; A 6-14-90; 10-17-91; 10-1-93; 1-10-94; R015-03, 10-21-2003; R122-09, 1-28-2010)

**Section 9. Propose to amend NAC 639.879 as follows:**

**NAC 639.879 Scope of authority to dispense.** (NRS 639.070, 639.1375)

1. An advanced ~~practitioner of nursing~~ *practice registered nurse* who dispenses drugs to a patient shall do so in accordance with:

(a) All applicable statutes and regulations; and

(b) The agreement between the advanced ~~practitioner of nursing~~ *practice registered nurse* and his or her collaborating physician, *if applicable*.

2. Except as otherwise provided in subsection 3, an advanced ~~practitioner of nursing~~ *practice registered nurse* who is authorized to dispense controlled substances, poisons, dangerous drugs and devices or to dispense poisons, dangerous drugs and devices may dispense a controlled substance, poison, dangerous drug and device or a poison, dangerous drug and device, as applicable, only:

(a) For a legitimate medical purpose *within the scope of practice in which he or she is trained, qualified and competent, subject to the scope of practice, or limitations thereto, if any, set by the Nevada State Board of Nursing; or*

(b) *Where the advanced practice registered nurse is required to have a collaborating physician pursuant to NRS 632.237(3), H*in such amounts as are authorized by his or her collaborating physician, except that the amounts of any controlled substance or dangerous drug must not exceed a 30-day supply.

3. An advanced ~~practitioner of nursing~~ *practice registered nurse* who is authorized to dispense dangerous drugs may dispense any method of birth control in any quantity ordered by prescription.

(Added to NAC by Bd. of Pharmacy, eff. 6-14-90; A 10-17-91; 5-22-96; R015-03, 10-21-2003; R060-05, 12-29-2005)

**Section 10. Propose to amend NAC 639.892 as follows:**

**NAC 639.892 Use of child-proof container.** (NRS 639.070, 639.1375) A controlled substance, dangerous drug or poison dispensed by an advanced ~~practitioner of nursing~~ *practice registered nurse determines such a container is not warranted for that particular patient, or* is instructed otherwise by his or her collaborating physician.

(Added to NAC by Bd. of Pharmacy, eff. 12-3-84; A 10-17-91; R015-03, 10-21-2003)

**Section 11. Propose to amend NAC 639.898 as follows:**

**NAC 639.898 Security and storage of controlled substances and drugs.** (NRS 639.070, 639.1375)

1. All controlled substances and dangerous drugs which are in the possession of an advanced ~~practitioner of nursing~~ *practice registered nurse* must be kept in a locked storage area. Access to the storage area must be restricted to the persons described in NRS 453.375.

2. Advanced ~~practitioners of nursing~~ *practice registered nurses* working intermittently at satellite facilities must transport the drugs, poisons and devices on each trip to and from those locations unless authorized by the Board to store them at those locations.

3. Biologicals and other drugs must be refrigerated if that requirement is stated on the manufacturer's label.

(Added to NAC by Bd. of Pharmacy, eff. 12-3-84; A 6-14-90; 10-17-91)

**Section 12. Propose to amend NAC 639.900 as follows:**

**NAC 639.900 Grounds for denial of application or suspension or revocation of registration.** (NRS 639.070, 639.210) The Board may deny the application of an advanced ~~practitioner of nursing~~ *practice registered nurse* for a certificate of registration or suspend or revoke his or her certificate of registration if the advanced ~~practitioner of nursing~~ *practice registered nurse*:

1. Is not of good moral character;
  2. Is guilty of habitual intemperance;
  3. Becomes or is under the influence of liquor, any depressant drug or a controlled substance while on duty, unless the drug or substance has been taken pursuant to a physician's prescription;
  4. Is guilty of unprofessional conduct or conduct contrary to the public interest;
  5. Is addicted to the use of any controlled substance;
  6. Has been convicted of a violation of any federal law or law of this or any other state relating to controlled substances;
  7. Has been convicted of a felony or other crime involving moral turpitude, dishonesty or corruption;
  8. Has willfully made to the Board or its authorized representative any false written statement which is material to the administration or enforcement of any provision of chapter 453, 454 or 639 of NRS;
  9. Has obtained a registration by filing any application, record or affidavit, or any information in support thereof, which is false or fraudulent;
  10. Has violated any provision of the Federal Food, Drug, and Cosmetic Act or any other state or federal law or regulation relating to prescription drugs;
  11. Has failed to renew his or her registration by failing to pay the renewal fee;
  12. Has failed to maintain the security of his or her drug supply;
  13. Has supplied patients with prescriptions that are presigned in blank; or
  14. Has violated any provision of chapter 453, 454, 585 or 639 of NRS or any regulation pertaining to the practice of pharmacy, controlled substances, dangerous drugs or devices.
- (Added to NAC by Bd. of Pharmacy, eff. 12-3-84; A 6-14-90; 10-17-91)

**Section 13. Propose to amend NAC 639.945 as follows:**

**NAC 639.945 Unprofessional conduct; owner responsible for acts of employees.** (NRS 639.070, 639.210)

1. The following acts or practices by a holder of any license, certificate or registration issued by the Board or any employee of any business holding any such license, certificate or registration are declared to be, specifically but not by way of limitation, unprofessional conduct and conduct contrary to the public interest:

(a) Manufacturing, compounding, selling, dispensing or permitting to be manufactured, compounded, sold or dispensed substandard drugs or preparations.

(b) Except as otherwise provided in NRS 639.2583 to 639.2808, inclusive, for substitutions of generic drugs, dispensing or causing to be dispensed a different drug or brand of drug in place of the drug or brand of drug ordered or prescribed, unless the express permission of the orderer or prescriber is obtained and, in the case of a written prescription, unless the following information is recorded on the prescription by the person obtaining permission:

- (1) The date on which the permission was granted;



- (2) The name of the practitioner granting the permission;
  - (3) The name of the person obtaining the permission;
  - (4) The name of the drug dispensed; and
  - (5) The name of the manufacturer or distributor of the drug.
- (c) Using secret formulas.
- (d) Failing strictly to follow the instructions of the person writing, making or ordering a prescription or chart order as to its filling or refilling, the content of the label of the prescription or giving a copy of the prescription or chart order to any person except as permitted by law.
- (e) Failing to confer with the person writing, making or ordering a prescription or chart order if there is an error or omission in it which should be questioned.
- (f) Operating a pharmacy at a location other than the location at which the pharmacy is licensed to operate.
- (g) Supplying or diverting drugs, biologicals, medicines, substances or devices which are legally sold in pharmacies or by wholesalers, so that unqualified persons can circumvent any law pertaining to the legal sale of such articles.
- (h) Performing or in any way being a party to any fraudulent or deceitful practice or transaction.
- (i) Performing any of his or her duties as the holder of a license, certificate or registration issued by the Board, or as the owner of a business or an entity licensed by the Board, in an incompetent, unskillful or negligent manner.
- (j) Aiding or abetting a person not licensed to practice pharmacy in the State of Nevada.
- (k) Performing any act, task or operation for which licensure, certification or registration is required without the required license, certificate or registration.
- (l) Violating any term or condition of a subpoena or order issued by the Board or the staff of the Board.
- (m) Failing to provide any document, data or information that is required to be made and maintained pursuant to chapters 453, 454, 585 and 639 of NRS and chapters 453, 454, 585 and 639 of NAC to a member of the Board or a member of the staff of the Board upon his or her request.
- (n) Dispensing a drug as a dispensing practitioner to a patient with whom the dispensing practitioner does not have a bona fide therapeutic relationship.
- (o) Prescribing a drug as a prescribing practitioner to a patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship.
2. The owner of any business or facility licensed, certified or registered by the Board is responsible for the acts of all personnel in his or her employ.
3. For the purposes of this section, a bona fide therapeutic relationship between the patient and practitioner shall be deemed to exist:
- (a) If the patient was physically examined by the practitioner within the 6 months immediately preceding the date the practitioner dispenses or prescribes a drug to the patient and, as a result of the examination, the practitioner diagnosed a condition for which a given drug therapy is prescribed; or
  - (b) If the patient is incarcerated in a local correctional institution or a facility or institution operated by the Department of Corrections and was examined through the use of a telephone or videoconferencing system by a practitioner who is a physician licensed pursuant to chapter 630 or 633 of NRS and:
    - (1) The medical history of the patient is available to the physician;

(2) A nurse or an advanced ~~practitioner of nursing~~ *practice registered nurse* licensed pursuant to chapter 632 of NRS or a physician assistant licensed pursuant to chapter 630 or 633 of NRS is physically present with the patient when the physician examines the patient and that nurse, advanced ~~practitioner of nursing~~ *practice registered nurse* or physician assistant is trained in the use of the telephone or videoconferencing system; and

(3) The physician enters the results of the examination into the medical chart of the patient that is maintained by the local correctional institution or the facility or institution operated by the Department of Corrections.

4. As used in this section, “local correctional institution” has the meaning ascribed to it in NAC 211.070.

[Bd. of Pharmacy, § 639.165, eff. 6-26-80]—(NAC A 6-16-86; R012-99, 11-3-99; R014-01, 11-1-2001; R156-04, 10-22-2004; R219-05, 5-4-2006; R212-09, 8-13-2010)