

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

LCB File No. R014-14

June 24, 2014

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

AUTHORITY: §§1 and 2, NRS 639.070.

A REGULATION relating to pharmacy; revising provisions governing the presentation of identification by a person who picks up a controlled substance; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the State Board of Pharmacy to adopt regulations governing the dispensing of poisons, drugs, chemicals and medicines. (NRS 639.070) Existing regulations require an employee of a pharmacy to request the person to whom a controlled substance will be dispensed pursuant to a lawful prescription to present certain identification before the employee dispenses the controlled substance. In certain circumstances, an employee is not required to request such a person to present identification. (NAC 639.748)

Section 1 of this regulation clarifies that, under certain circumstances, identification must be requested from a person who picks up a controlled substance and that the identification presented must be a valid form of identification. **Section 1** also revises the information relating to a person who picks up a controlled substance that an employee is required to record in certain circumstances. **Section 1** also revises the circumstances in which an employee is not required to request a person who picks up a controlled substance to present identification.

Section 1. NAC 639.748 is hereby amended to read as follows:

639.748 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}~~ *who picks up* the controlled substance ~~{will be dispensed}~~ to present a current *and valid* form of identification issued by a

federal, state or local governmental agency that contains a photograph of the person. 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~~
 - (b) The prescription is for a patient who is an inpatient at a health care facility , facility for long-term care or facility for hospice care where ~~the patient~~ he or she is being treated ~~;~~ ;*
 - (c) The person who picks up the controlled substance is personally known to an employee of the pharmacy; or*
 - (d) The employee is dispensing the controlled substance by mail and has obtained or verified the identification of the patient through the prescription benefit plan of the patient.*

3. ~~The~~ *If the provisions of subsection 1 apply, the employee dispensing the controlled substance* shall:

- (a) Make a ~~photocopy~~ *copy* of the identification presented to the employee; or
- (b) Record the full name of the person ~~to whom~~ *who picks up* the controlled substance , ~~his dispensed and~~ the identification number , *if any*, indicated on his or her identification ~~, if any,~~ *presented to the employee and the federal, state or local governmental agency that issued the identification. The employee shall record that information on ~~the~~ :*

- (1) *The* prescription ~~to the~~;
- (2) *The* refill log ~~to the~~;
- (3) *The* counseling log ~~to a~~;
- (4) A computer record related to the patient ; or ~~any other~~
- (5) A document that is readily retrievable ~~to~~ *and accessible for inspection by law*

enforcement or any member, employee, agent or designee of the Board.

4. If a ~~photocopy~~ *copy* 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.

5. *As used in this section:*

(a) *“Facility for hospice care” has the meaning ascribed to it in NRS 449.0033.*

(b) *“Facility for long-term care” means:*

(1) *A residential facility for groups as defined in NRS 449.017; and*

(2) *A facility for skilled nursing as defined in NRS 449.0039.*

(c) *“Health care facility” has the meaning ascribed to it in NRS 449.2414.*

(d) *“Valid form of identification” does not include:*

(1) *A driver authorization card obtained in accordance with NRS 483.291; or*

(2) *A driver authorization card, driving privilege card or other similar card issued by*

another jurisdiction.

Sec. 2. NAC 639.753 is hereby amended to read as follows:

639.753 1. A pharmacist may decline to fill a prescription that satisfies the requirements of this chapter and chapter 639 of NRS only if the pharmacist reasonably believes, in his or her professional judgment, that:

(a) The filling of the prescription would be unlawful;

(b) The filling of the prescription would be imminently harmful to the medical health of the patient;

(c) The prescription is fraudulent; or

(d) The prescription is not for a legitimate medical purpose.

2. If a pharmacist declines to fill a prescription pursuant to this section, the pharmacist shall speak with the prescribing practitioner in a timely manner to discuss and resolve the concerns of the pharmacist regarding the prescription. Before the pharmacist speaks with the prescribing practitioner, the pharmacist may, based on his or her professional judgment:

(a) Retain the prescription and not return the prescription to the patient;

(b) Return the prescription to the patient;

(c) Make a ~~photocopy~~ copy of the prescription and return the prescription to the patient; and

(d) Unless the prescription is for a controlled substance that is listed in schedule II, dispense a quantity of the drug prescribed, not to exceed a 3 days' supply, to allow a reasonable period for the pharmacist to speak with the prescribing practitioner about the concerns of the pharmacist regarding the prescription.

3. After speaking with the prescribing practitioner, the pharmacist may fill the prescription if the pharmacist reasonably believes, in his or her professional judgment, that the prescription is:

(a) Lawful;

(b) Not imminently harmful to the medical health of the patient;

(c) Not fraudulent; and

(d) For a legitimate medical purpose.

4. If, after speaking with the prescribing practitioner, the pharmacist reasonably believes, in his or her professional judgment, that the prescription does not meet one or more of the standards

set forth in subsection 3, the pharmacist shall retain the prescription and may not return the prescription to the patient.