

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

**LCB File No. R036-16**

April 7, 2016

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

AUTHORITY: §1, NRS 453.1545, as amended by Senate Bill No. 459, chapter 26, Statutes of Nevada 2015 at page 114, and NRS 639.070.

A REGULATION relating to pharmacy; providing a penalty for the failure to transmit to the State Board of Pharmacy certain information concerning the dispensing of certain controlled substances; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing regulations set forth certain fines which the State Board of Pharmacy may impose against a pharmacist or pharmacy for certain violations of statute or regulation. (NAC 639.955) This regulation establishes a fine of \$100 per day for the failure to transmit to the Board certain information concerning the dispensing of certain controlled substances.

**Section 1.** NAC 639.955 is hereby amended to read as follows:

639.955 1. Except as otherwise provided in this section, the Board may impose a fine against a pharmacist or pharmacy pursuant to paragraph (f) of subsection 1 of NRS 639.255 according to the following schedule:

- (a) For failing to counsel a patient ..... \$750
- (b) For failing to maintain documentation of counseling given to a patient..... 750
- (c) For an error in a prescription that resulted in a negative outcome to the patient or discomfort to the patient, but did not require intervention or ..... 500

treatment by a medical facility or a physician .....	
(d) For an error in a prescription that resulted in a significant negative outcome to the patient or required intervention or treatment by a medical facility or a physician.....	1,000
(e) For an error in a prescription that resulted in or contributed to a patient's death .....	5,000
(f) Working as a pharmacist or employing a pharmacist to work in a pharmacy without a certificate of registration .....	200 per day
(g) Working as a pharmaceutical technician or employing a pharmaceutical technician to work in a pharmacy without a certificate of registration .....	100 per day
(h) For failing to make or maintain a biennial inventory of controlled substances .....	1,000
<i>(i) For failing to transmit the information required pursuant to NAC 639.926.....</i>	<i>100 per day</i>

2. The Board may impose a fine for a violation listed in subsection 1 that is less than or greater than the amount set forth in that subsection for that violation after giving consideration to any aggravating and mitigating factors that relate to the violator's role in and responsibility for the conduct for which the fine is being imposed, and the unique circumstances of each case.

3. If a pharmacy or pharmacist commits a violation listed in subsection 1 more than once during any 36-month period, the Board may impose a fine for any subsequent violation in an amount that is greater than the amount set forth in subsection 1 for that violation.

4. If a pharmacy under common ownership with one or more pharmacies commits a violation listed in subsection 1, and any pharmacy under that common ownership thereafter commits the same violation within any 36-month period, the Board may impose a fine for those subsequent violations in an amount that is greater than the amount set forth in subsection 1 for that violation.

5. The Board may, as it deems appropriate, impose a fine for a violation not listed in subsection 1 that is commensurate with the severity of the violation.

6. No fine imposed by the Board will exceed \$10,000.

7. If, within an accusation, a member of the Board's staff groups similar violations into one cause of action, that grouping is for administrative convenience only and does not affect the authority of the Board to take disciplinary action for each separate violation.

8. This section will be construed and applied so as to preserve the discretion of the Board to take any disciplinary action authorized by NRS 639.255.