

**APPROVED REGULATION OF THE
STATE BOARD OF PHARMACY**

LCB File No. R013-18

Effective June 26, 2018

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

AUTHORITY: §§1, 2 and 5-7, NRS 453.221 and 639.070; §3, NRS 639.070 and 639.23916; §4, NRS 639.070 and 639.23507.

A REGULATION relating to controlled substances; requiring a practitioner to enroll with the State Board of Pharmacy for Internet access to the database that tracks each prescription for certain controlled substances; authorizing a practitioner or hospital to designate certain delegates to access the database to obtain a patient utilization report; authorizing the Executive Secretary of the Board on behalf of the Board to suspend or terminate before a hearing the Internet access of a practitioner or other person to the database in certain situations; setting forth the notice and hearing requirements for a practitioner or other person to use if his or her Internet access to the database is suspended or terminated; setting forth certain requirements for the disclosure of information from the database; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Board of Pharmacy to adopt regulations relating to the registration and control of the dispensing of controlled substances in Nevada. (NRS 453.221) Existing law further authorizes the Board to adopt regulations that: (1) are necessary for the protection of the public relating to the practice of pharmacy; (2) authorize the Executive Secretary of the Board to issue certificates, licenses and permits required for the practice of pharmacy or for the dispensing of controlled substances; and (3) govern the dispensing of poisons, drugs, chemicals and medicines. (NRS 639.070) Existing law provides that the Board and the Investigation Division of the Department of Public Safety will develop a computerized program to track each prescription for a controlled substance listed in schedule II, III, IV or V that is filled by a pharmacy or dispensed by a practitioner. (NRS 453.162)

Existing law requires a practitioner or other person who dispenses any controlled substance to obtain biennially a registration that is issued by the Board. Existing law provides that a person must present proof that he or she is authorized to access the database of the computerized program that tracks each prescription for a controlled substance before the Board issues or renews a registration to dispense any controlled substance. (NRS 453.226) **Section 2** of this regulation requires a practitioner or other person who is required to register with the Board to dispense controlled substances to enroll with the Board for Internet access to the database of

the computerized program. **Section 2** sets forth that: (1) the Board will deem such enrollment as proof that the practitioner is authorized to access the database of the computerized program; and (2) access to the database of the computerized program is a revocable privilege.

Existing law requires a practitioner other than a veterinarian to obtain from the database of the computerized program a patient utilization report before issuing an initial prescription for a controlled substance and at least once every 90 days thereafter for the duration of the course of treatment. Existing law requires the Board to adopt regulations that allow a hospital to designate members of the hospital staff to act as delegates for the purposes of accessing the database of the computerized program and obtaining patient utilization reports from the computerized program on behalf of a physician while he or she is providing service in a hospital emergency department. (NRS 639.23507) Existing law authorizes the Board to adopt any regulations necessary to enforce the provisions requiring a practitioner to obtain a patient utilization form from the database of the computerized program. (NRS 639.23916) **Sections 3 and 4** of this regulation authorize a practitioner and a hospital, respectively, to designate certain persons as delegates for the purpose of accessing the database of the computerized program to obtain: (1) a patient utilization report on behalf of a practitioner; or (2) a patient utilization report on behalf of a physician providing service in a hospital emergency department. **Sections 3 and 4** require such a delegate to complete certain courses of training before he or she may access the database of the computerized program. **Sections 3 and 4** hold the practitioner or hospital, respectively, liable for any action of the delegate relating to accessing the database of the computerized program.

Section 5 of this regulation authorizes the Executive Secretary of the Board on behalf of the Board to suspend or terminate, before a hearing, the Internet access of a practitioner or other person to the database of the computerized program if the practitioner or other person accesses the database in violation of certain provisions. **Section 6** of this regulation sets forth the notice and hearing requirements that must occur if a practitioner's or other person's Internet access to the database of the computerized program is suspended or terminated pursuant to **section 5**.

Existing law requires the information obtained from the database of the computerized program to be disclosed upon the request of a person about whom the information requested concerns or upon the request of that person's attorney. (NRS 453.164) **Section 7** of this regulation provides that the Board will disclose the information obtained from the database, in response to a request made pursuant to existing law, only to the person about whom the information requested concerns or to that person's attorney.

Section 1. Chapter 453 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this regulation.

Sec. 2. 1. *A practitioner or other person who is required to register with the Board pursuant to subsection 1 of NRS 453.226 to dispense controlled substances must also enroll*

with the Board pursuant to this section for Internet access to the database of the program established pursuant to NRS 453.162.

2. To enroll pursuant to this section for Internet access to the database, the practitioner or other person must apply to the Board on an application provided by the Board. For purposes of subsection 1 of NRS 453.226, the Board will deem such enrollment as proof that the practitioner or other person is authorized to access the database.

3. Access to the database is a revocable privilege, and no holder of such access to the database of the program acquires any vested right therein or thereunder.

Sec. 3. *1. Except as otherwise provided in section 4 of this regulation, a practitioner other than a veterinarian may designate not more than two members of his or her staff to act as delegates for the purpose of accessing the database of the computerized program established pursuant to NRS 453.162 to obtain a patient utilization report pursuant to NRS 639.23507 on behalf of the practitioner.*

2. A delegate designated pursuant to subsection 1 must complete the course of training required pursuant to subsection 5 of NRS 453.164 before the delegate is provided with Internet access to the database.

3. The practitioner shall be liable for any action of the delegate relating to accessing the database.

Sec. 4. *1. A hospital may designate members of the staff of the hospital to act as delegates for the purpose of accessing the database of the computerized program established pursuant to NRS 453.162 to obtain a patient utilization report pursuant to NRS 639.23507 on behalf of a physician providing service in a hospital emergency department.*

2. A delegate designated pursuant to subsection 1 must complete the course of training required pursuant to subsection 5 of NRS 453.164 before the delegate is provided with Internet access to the database.

3. The hospital shall be liable for any action of the delegate relating to accessing the database.

Sec. 5. 1. The Executive Secretary of the Board on behalf of the Board may suspend or terminate, before a hearing, the Internet access of a practitioner or other person to the database of the program established pursuant to NRS 453.162 if the practitioner or other person accesses the database in violation of any provision of NRS 453.162 to 453.165, inclusive, 639.23507 or 639.23915.

2. As used in this section, "practitioner" does not include a hospital or other institution which is licensed, registered or otherwise authorized in this State to distribute, dispense, conduct research with respect to, administer or use in teaching or chemical analysis a controlled substance in the course of professional practice or research.

Sec. 6. 1. If Internet access to the database of the program established pursuant to NRS 453.162 is suspended or terminated pursuant to section 5 of this regulation, the Board will provide written notice to the practitioner or other person whose Internet access to the database of the program is suspended or terminated:

(a) If practicable, before the suspension or termination occurs; or

(b) If notice cannot be provided before the suspension or termination occurs, as soon as practicable after the suspension or termination occurs.

2. In the event of a suspension or termination of Internet access to the database of the program pursuant to section 5 of this regulation, the Board will conduct a hearing at the next

regularly scheduled meeting of the Board, but in any event, the hearing must be instituted and determined within 45 days after the date of the suspension or termination unless a continuance is requested by the practitioner or other person whose Internet access to the database of the program is suspended or terminated.

Sec. 7. *The Board will disclose information obtained from the database in response to a request made pursuant to paragraph (a) of subsection 8 of NRS 453.164 only to the person about whom the information requested concerns or his or her attorney.*