

R015-18
NAC Chapter 639
Veterinarian Dispensing and Certificate of Registration
April 17, 2018

INFORMATIONAL STATEMENT

The informational statement required by NRS 233B.066 numerically conforms to the subsections of the statute as follows:

1. EXPLANATION OF THE NEED FOR THE ADOPTED REGULATION

The regulation distinguishes licensed veterinarians from other practitioners by establishing specific requirements for a licensed veterinarian to obtain a certificate of registration to dispense controlled substances and dangerous drugs; and revises the fees for a licensed veterinarian to dispense controlled substances for dangerous drugs. This regulation is necessary as result of Attorney General Opinion No. 2016-10, which concluded that all Nevada veterinarians that wish to dispense controlled substances or dangerous drugs must first apply to the Board of Pharmacy for a certificate of registration.

2. A DESCRIPTION OF HOW PUBLIC COMMENT WAS SOLICITED, A SUMMARY OF PUBLIC RESPONSE, AND AN EXPLANATION HOW OTHER INTERESTED PERSONS MAY OBTAIN A COPY OF THE SUMMARY.

The Board solicited comment on the proposed amendment by (1) posting notice, with links to the full text of the proposed amendment, to the LCB Administrative Regulation Notices webpage, (2) posting a copy of the full text of the proposed changes to the Board's website as part of the Board Hearing materials, (3) posting notice to the Nevada Public Notice website, operated by the Department of Administration, with a link back to a full text of the proposed amendment on the Board's website, and (4) posting notices and agendas in numerous public locations per NRS Chapter 233B.

The Board also solicited comment from Nevada dispensing practitioners, and from representatives of relevant industry associations that Board Staff deemed likely to have an interest in the proposed amendment. The Board further provided time for public comment at the workshop(s) concerning the proposed amendment.

3. THE NUMBER OF PERSONS WHO: (A) ATTENDED EACH HEARING; (B) TESTIFIED AT EACH HEARING; AND (C) SUBMITTED TO THE AGENCY WRITTEN STATEMENTS.

The number of persons who attended the hearing was: 28

The number of persons who testified at the hearing was: 1

The number of agency submitted statements was: -0-

The name of persons who testified at the hearing:

James Boyle, Esq., counsel representing Strategic Pharmacy Solutions

400 S. Fourth Street, 3rd Floor, Las Vegas, Nevada; Phone 702.791.0308;
E-Mail: Jboyle@nevadafirm.com

The names of the agencies that submitted statements:

Not Applicable

4. A DESCRIPTION OF HOW COMMENT WAS SOLICITED FROM AFFECTED BUSINESSES, A SUMMARY OF THEIR RESPONSE, AND AN EXPLANATION HOW OTHER INTERESTED PERSONS MAY OBTAIN A COPY OF THE SUMMARY.

The Board solicited comment on the proposed amendment by (1) posting notice, with links to the full text of the proposed amendment, to the LCB Administrative Regulation Notices webpage, (2) posting a copy of the full text of the proposed changes to the Board's website as part of the Board Hearing materials, (3) posting notice to the Nevada Public Notice website, operated by the Department of Administration, with a link back to a full text of the proposed amendment on the Board's website, and (4) posting notices and agendas in numerous public locations per NRS Chapter 233B.

The Board also solicited comment from Nevada dispensing practitioners, and from representatives of relevant industry associations that Board Staff deemed likely to have an interest in the proposed amendment. Further, the Board provided time for public comment at the workshop(s) concerning the proposed amendment.

James Boyle, Esq., counsel representing Strategic Pharmacy Solutions, requested clarification on Section 1.2(g). General Counsel clarified that while Sec. 1, subsection 2(g) requires that a veterinary facility at which controlled substances or dangerous drugs are possessed, administered, prescribed or dispenses shall "maintain a stock of prescription drugs necessary to serve the foreseeable needs of the veterinary practice," the requirement to "maintain a stock" may be complied with by consignment as permitted under LCB File No. R146-17.

Parties interested in obtaining a copy of the summary of the proposed amendment, or that wish to view the text of the proposed amendment, may access that information on the Board's website at bop.nv.gov, or by contacting the Board's office at (775) 850-1440.

5. IF THE REGULATION WAS ADOPTED WITHOUT CHANGING ANY PART OF THE PROPOSED REGULATION, A SUMMARY OF THE REASONS FOR ADOPTING THE REGULATION WITHOUT CHANGE.

The Board adopted LCB File R015-18 with a revision at Section 1.2(a), page 2; and Section 1.5(h) page 6. Revision at Section 1.2(a) clarifies original intent and Federal requirement that each veterinary practice that wishes to possess, administer, prescribe or dispense controlled substances or dangerous drugs have at least one veterinarian with a DEA registration. Revision at Section 1.5(h) necessary to correct a grammatical error.

Adopted with revisions:

Sec. 1.

2. A veterinary facility at which controlled substances or dangerous drugs are possessed, administered, prescribed or dispensed:

(a) Shall ensure that ~~every~~ at least one veterinarian who practices at that veterinary facility registers and maintains a registration with the Drug Enforcement Administration of the United States Department of Justice and the Board.

* * * *

(h) Maintain separate files for the records of the purchase of each controlled substance ~~for~~ listed in schedule II of controlled substances in NAC 453.520 and records of the dispensing of each controlled substance listed in schedule II of controlled substances in NAC 453.520.

6. THE ESTIMATED ECONOMIC EFFECT OF THE REGULATION ON THE BUSINESS WHICH IT IS TO REGULATE AND ON THE PUBLIC. THESE MUST BE STATED SEPARATELY, AND IN EACH CASE MUST INCLUDE:

A) BOTH ADVERSE AND BENEFICIAL EFFECTS.

There should be no adverse economic impact from this regulation on the public. This regulation results from Attorney General Opinion No. 2016-10, which concluded that all Nevada veterinarians that wish to dispense controlled substances or dangerous drugs must first apply to the Board of Pharmacy for a certificate of registration. While the regulation will have an economic impact on those veterinarians that pay the \$150 registration fee, that fee is only one-half of the \$300 maximum allowable fee permitted under NRS 639.170(1) and assessed all other dispensing practitioners under NAC 639.220.

B) BOTH IMMEDIATE AND LONG-TERM EFFECTS.

The Board anticipates that there will be no immediate or long-term economic effect on the public, or that any such effects will be negligible. This regulation results from Attorney General Opinion No. 2016-10, which concluded that all Nevada veterinarians that wish to dispense controlled substances or dangerous drugs must first apply to the Board of Pharmacy for a certificate of registration. While the regulation will have an economic impact on those veterinarians that pay the \$150 registration fee, that fee is

only one-half of the \$300 maximum allowable fee permitted under NRS 639.170(1) and assessed all other dispensing practitioners under NAC 639.220.

7. THE ESTIMATED COST TO THE AGENCY FOR ENFORCEMENT OF THE PROPOSED REGULATION.

The revenue generated from the \$150 registration fee will partially offset the costs of enforcement of this new regulation incurred by the Board of Pharmacy.

8. A DESCRIPTION OF ANY REGULATIONS OF OTHER STATE OR GOVERNMENT AGENCIES WHICH THE PROPOSED REGULATION OVERLAPS OR DUPLICATES AND A STATEMENT EXPLAINING WHY THE DUPLICATION OR OVERLAPPING IS NECESSARY. IF THE REGULATION OVERLAPS OR DUPLICATES A FEDERAL REGULATION, THE NAME OF THE REGULATING FEDERAL AGENCY.

The Board of Pharmacy is not aware of any similar regulations of other state or government agencies that the proposed regulation overlaps or duplicates.

9. IF THE REGULATION INCLUDES PROVISIONS WHICH ARE MORE STRINGENT THAN A FEDERAL REGULATION WHICH REGULATES THE SAME ACTIVITY, A SUMMARY OF SUCH PROVISIONS.

The Board of Pharmacy is not aware of any similar regulations of the same activity in which the federal regulation is more stringent.

10. IF THE REGULATION PROVIDES A NEW FEE OR INCREASES AN EXISTING FEE, THE TOTAL ANNUAL AMOUNT THE AGENCY EXPECTS TO COLLECT AND THE MANNER IN WHICH THE MONEY WILL BE USED.

This regulation does not provide a new or increase of fees.