

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

LCB File No. R008-19

September 3, 2019

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

AUTHORITY: §§1-4, NRS 639.070 and 639.0745.

A REGULATION relating to prescriptions; prescribing requirements relating to transferring information concerning a prescription; requiring the recording of certain information in the record of a transferred prescription; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the State Board of Pharmacy to adopt regulations concerning the transfer of information between pharmacies relating to prescriptions. (NRS 639.0745) Existing regulations prescribe requirements governing the transfer of information between pharmacies relating to a prescription for a dangerous drug or controlled substance. (NAC 639.713-639.7145) **Sections 1-4** of this regulation generally clarify which of these requirements apply to all transferred prescriptions and which requirements apply only to a prescription that is transferred after it has already been filled at least once.

Existing regulations prohibit the transfer of a prescription for a controlled substance listed in schedule II. (NAC 639.713) **Section 2** of this regulation instead prohibits the transfer of such a prescription more than one time.

Existing regulations require a pharmacist who transfers or receives information related to a prescription orally to record certain information in the record of the prescription. (NAC 639.714) **Section 3** of this regulation requires the recording of such information in the record of any transferred prescription. **Section 3** also adds to the information that must be recorded by the transferring pharmacist and the receiving pharmacist in the record of a transferred prescription for a controlled substance the registration number issued to the receiving pharmacy by the Drug Enforcement Administration. **Section 3** additionally requires a transferring pharmacy to take any measures necessary to ensure that the prescription cannot be refilled at that pharmacy. **Sections 1 and 4** of this regulation make conforming changes.

Section 1. NAC 639.580 is hereby amended to read as follows:

639.580 1. If the licensee of a pharmacy ceases to do business and permanently closes the pharmacy the licensee must:

(a) Place a sign in the front window of the pharmacy notifying the public of the name and address of the pharmacy to which the prescription files have been transferred. The sign must remain so placed for a period of 30 days unless sooner removed by the landlord or a new tenant.

(b) Return to the Executive Secretary his or her pharmacy license and license renewal certificates.

(c) Prepare separate inventories in duplicate of the controlled substances and dangerous drugs on the premises at the time of the closure and provide the purchaser thereof with copies of the inventories. Copies of the inventories must be retained by the seller and the purchaser for 2 years.

(d) If the licensee is transferring prescription files for controlled substances or dangerous drugs, comply with the provisions of NAC 639.713 ~~and~~, 639.714 ~~and~~ *and 639.7145, as applicable*, and ensure that:

(1) The information relating to the refill of each prescription is included on the prescription; or

(2) If the licensee maintains his or her prescription files on a computer system, the information relating to the refill of each prescription is accessible by the computer system of the pharmacy to which the information is transferred.

(e) Notify the Executive Secretary in writing of:

(1) The method of disposition of the controlled substances and dangerous drugs;

(2) The name of the purchaser; and

(3) The kinds and amounts transferred.

2. The licensee shall cooperate with the Board to promote the efficient administration of this section.

Sec. 2. NAC 639.713 is hereby amended to read as follows:

639.713 1. Except as otherwise provided in subsection 4, a transfer of information between pharmacies relating to a prescription for a dangerous drug or controlled substance for the purpose of filling and dispensing that prescription is subject to the following conditions:

(a) Information relating to a prescription , *including the total number of refills authorized* and any remaining number of refills , may be transferred *to another pharmacy* orally, by a facsimile machine in accordance with NAC 639.7145 or by computer ~~+~~ *in accordance with this section.*

(b) ~~An oral~~ *A* transfer must be communicated directly between two registered pharmacists.

(c) The original and the transferred prescriptions must be maintained for 2 years after the date on which the prescription was filled.

(d) Information relating to a prescription *that has previously been filled* may be transferred *to another pharmacy* by a computer if:

(1) The computer that transfers the information reduces, at the time the information is transferred, the number of refills authorized by the original prescription; and

(2) The computer that receives the information allows the transfer of the prescription for a controlled substance only once.

2. ~~A pharmacist who receives~~ *If* a prescription for a controlled substance which has *previously been filled is* transferred by a computer ~~shall~~ , *the pharmacist that receives the prescription must* inform the patient that the prescription may be transferred *to another pharmacy* only once.

3. A pharmacy shall not, without first notifying the Board:

(a) Sell, give or otherwise transfer all its prescription files, including information relating to patients and practitioners, to another pharmacy, including a pharmacy under its control or ownership; or

(b) Receive all the prescription files, including information relating to patients and practitioners, from another pharmacy, including a pharmacy under its control or ownership.

↪ A file transferred pursuant to this subsection is not a transfer of information between pharmacies for the purposes of subsection 1, regardless of whether the transfer occurs before or after the prescription is filled.

4. A prescription for a controlled substance listed in schedule II *that has previously been filled* must not be transferred pursuant to the provisions of this section.

Sec. 3. NAC 639.714 is hereby amended to read as follows:

639.714 1. Except as otherwise provided in subsection 3, a pharmacist who ~~orally~~ transfers the information relating to a prescription *to another pharmacy* pursuant to NAC 639.713 shall:

(a) Write the word “void” on the face of the prescription; and

(b) Record on the reverse side of the invalidated prescription the following information:

(1) The name of the pharmacist who transfers the information relating to the prescription;

(2) The date of the transfer;

(3) The name and address of the pharmacy to which the prescription is transferred; ~~and~~

(4) The name of the pharmacist who receives the information relating to the prescription

~~+~~; *and*

(5) If the prescription is for a controlled substance, the registration number issued by the Drug Enforcement Administration pursuant to 21 C.F.R. Part 1301 to the pharmacy to which the prescription is transferred.

2. The pharmacist who receives the information relating to the prescription that was transferred ~~orally~~ shall:

(a) ~~Reduce~~ *If the information was transferred orally, reduce* the transferred information to a written prescription;

(b) Write the word “transfer” on the face of the transferred prescription;

(c) If the prescription is for a controlled substance ~~H~~ *and the prescription has previously been filled*, inform the patient that the prescription may be transferred only once; and

(d) Record the following information on the transferred prescription:

(1) The name and address of the pharmacy from which the prescription was transferred;

(2) The name of the pharmacist who transferred the information relating to the prescription;

(3) ~~The~~ *The date on which the original prescription was issued;*

(4) If the prescription has previously been filled, the serial number of the original prescription ~~;~~

~~— (4) The date the original prescription was issued and the most recent date of dispensing, if different;~~ *, the date on which the prescription was most recently filled and the number of refills remaining;* and

(5) The number of refills authorized by the original prescription ~~;~~ *the date the prescription was most recently refilled and the number of refills remaining;* ~~;~~ *and*

(6) If the prescription is for a controlled substance, the registration number issued to the transferring pharmacy by the Drug Enforcement Administration pursuant to 21 C.F.R. Part 1301.

3. A pharmacy ~~[which maintains its records of prescriptions on a computer system]~~ shall ~~[invalidate in its system]~~ *take any measures necessary to ensure that* a prescription which has been ~~[orally]~~ transferred to another pharmacy ~~[If the]~~ *cannot be filled again by the transferring pharmacy, including, without limitation, invalidating the prescription in its computer system, if applicable.*

4. *Upon transferring a prescription to another pharmacy, a pharmacy which maintains its records of prescriptions on a computer system which* has the capability to maintain the information described in paragraph (b) of subsection 1 ~~[the pharmacy:]~~ :

- (a) Shall maintain that information on its computer; and
- (b) Is not required to record that information on the original transferred prescription.

Sec. 4. NAC 639.7145 is hereby amended to read as follows:

639.7145 1. Information relating to a prescription may be transferred from a pharmacy to another pharmacy by a facsimile machine pursuant to NAC 639.713 if:

- (a) The transmission from the transferring pharmacy:
 - (1) Includes the information required by subsection 2 of NRS 639.2353, which may be provided in the form of an accurate printout of the pharmacy's computerized record of the prescription; and

- (2) Except as otherwise provided in subsection 2, includes:

(I) A copy of the original prescription maintained in the records of the transferring pharmacy on which the pharmacist at the transferring pharmacy has signed the copy and written his or her license number; or

(II) The signature and handwritten license number of the pharmacist at the transferring pharmacy and a notation that specifically indicates that the pharmacist intends to transfer the prescription.

(b) The transmission is prepared and transmitted by a pharmaceutical technician or pharmacist at the transferring pharmacy.

~~{(c) Except as otherwise provided in subsection 3, the pharmacist at the transferring pharmacy processes the original prescription in the manner prescribed in paragraph (a) and subparagraphs (1), (2) and (3) of paragraph (b) of subsection 1 of NAC 639.714.}~~

2. A pharmacy may transfer prescriptions by facsimile machine to another pharmacy without complying with the provisions of subparagraph (2) of paragraph (a) of subsection 1 only upon application to and authorization by the Board. The Board may grant that authority to a pharmacy if the Board is satisfied that:

(a) The pharmacy's computer system will accurately represent the identity of the pharmacist responsible for the transfer; and

(b) The identity of the pharmacist responsible for the transfer cannot be falsified, modified, added or otherwise provided without the knowledge and assent of that pharmacist.

3. A pharmacy which maintains its records of prescriptions in a computer system shall invalidate in its system a prescription transferred by a facsimile machine to another pharmacy.

~~{A pharmacy which transfers a prescription by a facsimile machine is not required to process the original prescription in the manner prescribed in paragraph (c) of subsection 1 if the pharmacy~~

~~cancels the prescription stored in its computer system in a manner which ensures that the prescription cannot be refilled by that pharmacy.]~~