

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

**LCB File No. R035-19**

September 24, 2019

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

AUTHORITY: §§1 and 3, NRS 453.221 and 639.070; §2, NRS 453.163, 453.221 and 639.070; §4, NRS 453.221, 639.070 and 639.23916; §5, NRS 453.221, 639.070 and 639.23507.

A REGULATION relating to controlled substances; authorizing the managing pharmacist of a pharmacy to designate certain persons to access the database that tracks each prescription for certain controlled substances; authorizing certain practitioners who are not licensed in this State to access the database to obtain a patient utilization report; requiring a person who designates an employee to access the database to take certain actions upon the termination of the employment of the designee; 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 requires the Board and the Investigation Division of the Department of Public Safety to develop a computerized program to track each prescription for a controlled substance listed in schedule II, III, IV or V filled by a pharmacy or dispensed by a practitioner. (NRS 453.162)

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 further 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)

Existing regulations authorize a practitioner and a hospital 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. Existing regulations require such a delegate to complete certain courses of training before he or she may access the database of the computerized program. Existing regulations hold the practitioner or hospital, respectively, liable for any action of the delegate relating to accessing the database of the computerized program. (NAC 453.070, 453.074) **Section 2** of this regulation authorizes the managing pharmacist of a pharmacy to designate certain persons to act as a delegate to access the database on behalf of the pharmacy under similar circumstances. **Sections 2, 4 and 5** of this regulation require a person who designates a delegate to: (1) notify the Board whenever a delegate ceases to hold the position for which he or she was provided access to the database; and (2) cooperate with the Board to take any action necessary to terminate the access of the delegate to the database.

**Section 3** of this regulation authorizes certain physicians, dentists, podiatric physicians, advanced practice registered nurses, physician assistants, optometrists and pharmacists who are not licensed in this State to apply to the Board for access to the database to obtain patient utilization reports. **Section 3** requires such a person to complete certain courses of training before receiving access to the database of the computerized program. **Section 3** prohibits such a person from designating a delegate to access the database.

**Section 1.** Chapter 453 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

**Sec. 2. 1.** *A managing pharmacist pursuant to NRS 639.220 may designate an intern pharmacist, pharmaceutical technician or pharmaceutical technician in training employed by the pharmacy to act as a delegate to access the database of the computerized program established pursuant to NRS 453.162 on behalf of the pharmacy.*

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

*3. The managing pharmacist shall be liable for any action of the delegate designated pursuant to subsection 1 relating to accessing the database.*

4. *The managing pharmacist must:*

(a) *Immediately notify the Board when a delegate designated pursuant to subsection 1 ceases to be employed by the pharmacy; and*

(b) *Cooperate with the Board to take any action necessary to terminate the access of the delegate to the database.*

5. *As used in this section:*

(a) *“Intern pharmacist” has the meaning ascribed to it in NRS 639.0086.*

(b) *“Managing pharmacist” has the meaning ascribed to it in NRS 639.0087.*

(c) *“Pharmaceutical technician” has the meaning ascribed to it in NRS 639.0113.*

(d) *“Pharmaceutical technician in training” has the meaning ascribed to it in NRS 639.0115.*

*Sec. 3. 1. A physician, dentist, podiatric physician, advanced practice registered nurse, physician assistant or optometrist who is not licensed to practice in this State but is authorized to prescribe a controlled substance pursuant to 21 C.F.R. § 1306.03 or a pharmacist who is not licensed to practice in this State but is authorized to dispense a controlled substance pursuant to 21 C.F.R. § 1306.06 may apply to the Board on a form prescribed by the Board for Internet access to the database of the computerized program established pursuant to NRS 453.162 to obtain patient utilization reports for patients to whom they prescribe or dispense a controlled substance.*

*2. Before a person described in subsection 1 may receive Internet access to the database, he or she must complete the course of training developed pursuant to NRS 453.164. Such a person is subject to the laws and regulations of this State relating to the database.*

*3. A person described in subsection 1 who receives Internet access to the database of the computerized program established pursuant to NRS 453.162 may not designate a delegate pursuant to NAC 453.070.*

**Sec. 4.** NAC 453.070 is hereby amended to read as follows:

453.070 1. Except as otherwise provided in NAC 453.074, 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~~ *developed* 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.

*4. The practitioner must:*

*(a) Immediately notify the Board when a delegate ceases to be a member of the staff of the practitioner; and*

*(b) Cooperate with the Board to take any action necessary to terminate the access of the delegate to the database.*

**Sec. 5.** NAC 453.074 is hereby amended to read as follows:

453.074 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~~ *developed* 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.

4. *The hospital must:*

*(a) Immediately notify the Board whenever a delegate ceases to be a member of the staff of the hospital; and*

*(b) Cooperate with the Board to take any action necessary to terminate the access of the delegate to the database.*