

# PROPOSED REGULATION OF THE STATE BOARD OF PHARMACY

## LCB File No. R072-19

September 30, 2019

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

AUTHORITY: §§1, 5 and 6, NRS 639.070; §§2 and 3, NRS 639.070 and 639.1371; §4, NRS 639.070 and 639.0727.

A REGULATION relating to pharmacy; revising provisions governing the requirements for, application for and registration of pharmaceutical technicians, pharmaceutical technicians in training and dispensing technicians; and providing other matters properly relating thereto.

### Legislative Counsel's Digest:

Existing law authorizes the State Board of Pharmacy to adopt regulations necessary for the protection of the public, appertaining to the practice of pharmacy and the lawful performance of its duties. (NRS 639.070) Existing law also requires the Board to adopt regulations concerning the requirements to register as a pharmaceutical technician or dispensing technician. (NRS 639.0727, 639.1371)

Existing regulations prohibit a person from registering as a pharmaceutical technician or a pharmaceutical technician in training if he or she has: (1) been convicted of any felony or misdemeanor involving moral turpitude, dishonesty or the unlawful possession, sale or use of drugs; or (2) a history of drug abuse. (NAC 639.240, 639.242) **Sections 2 and 3** of this regulation instead provide that the Board may deny an application to register as a pharmaceutical technician or pharmaceutical technician in training, respectively, if the applicant has been convicted of any such crime or has a history of drug abuse.

Existing regulations require a dispensing practitioner applying to register a person as a dispensing technician to submit proof to the Board that the candidate: (1) has not been convicted of any felony or misdemeanor involving moral turpitude, dishonesty or the unlawful possession, sale or use of drugs; and (2) does not have a history of drug abuse. (NAC 639.7425) **Section 4** of this regulation provides instead that the Board may deny an application to register a person as a dispensing technician if the candidate has been convicted of any such crime or has a history of drug abuse.

**Sections 1, 5 and 6** of this regulation make conforming technical changes.

**Section 1.** NAC 639.010 is hereby amended to read as follows:

As used in this chapter, unless the context otherwise requires:

1. “Board” means the State Board of Pharmacy.
2. “Controlled substances” has the meaning ascribed to it in NRS 0.031.
3. “Dangerous drug” has the meaning ascribed to it in NRS 454.201.
4. “Direct supervision” means the direction given by a supervising pharmacist who is:
  - (a) On the premises of the pharmacy or telepharmacy at all times when the person he or she is supervising is working at the pharmacy or telepharmacy or at a remote site or satellite consultation site; and
  - (b) Aware of the activities of that person related to the preparation and dispensing of medications, including the maintenance of appropriate records.
5. “Executive Secretary” means the Executive Secretary employed by the Board pursuant to NRS 639.040.
6. “Pharmaceutical technician” means a person who performs technical services in a pharmacy under the direct supervision of a pharmacist and is registered with the Board pursuant to NAC 639.240.
7. “Pharmaceutical technician in training” means a person who is registered with the Board pursuant to NAC 639.242 in order to obtain the training and experience required to be a pharmaceutical technician pursuant to subparagraph (3) of paragraph ~~(e)~~ (c) of subsection 2 of NAC 639.240, or who is enrolled in a program of training for pharmaceutical technicians that is approved by the Board.
8. “Practitioner” has the meaning ascribed to it in NRS 639.0125.
9. “Prescription drug” means a drug or medicine as defined in NRS 639.007 which:
  - (a) May be dispensed only upon a prescription order that is issued by a practitioner; and

(b) Is labeled with the symbol “Rx only” pursuant to federal law or regulation.

10. “Public or nonprofit agency” means a health center as defined in 42 U.S.C. § 254b(a) which:

(a) Provides health care primarily to medically underserved persons in a community;

(b) Is receiving a grant issued pursuant to 42 U.S.C. § 254b or, although qualified to receive such a grant directly from the Federal Government, is receiving money from such a grant under a contract with the recipient of that grant; and

(c) Is not a medical facility as defined in NRS 449.0151.

11. “Surgical center for ambulatory patients” has the meaning ascribed to it in NRS 449.019.

**Sec. 2.** NAC 639.240 is hereby amended to read as follows:

1. No person may perform the duties of a pharmaceutical technician until the person has been issued a certificate of registration.

2. An applicant for registration as a pharmaceutical technician must:

(a) Be 18 years of age or older;

(b) Be a high school graduate or the equivalent; *and*

(c) ~~Not have been convicted of any felony or a misdemeanor involving moral turpitude, dishonesty or the unlawful possession, sale or use of drugs;~~

~~(d) Have no history of drug abuse; and~~

~~(e)~~ Have complied with one of the following requirements:

(1) The successful completion of a program of training for pharmaceutical technicians, including, but not limited to, a program of training offered by a postsecondary school, that is approved by the Board pursuant to NAC 639.256.

(2) Registration in another state as a pharmaceutical technician, if the requirements for registration in that state are equivalent to the requirements of this State, and the successful completion of at least 240 hours of employment as a pharmaceutical technician in a pharmacy in that state, which must be verified by the managing pharmacist of the pharmacy.

(3) If the state in which the applicant has been employed does not offer registration, licensure or certification as a pharmaceutical technician:

(I) The successful completion of at least 1,500 hours of experience in a pharmacy in that state performing the duties set forth in paragraph (c) of subsection 3 of NRS 639.1371 during the 3 years immediately preceding the date on which his or her application was submitted;

(II) The successful completion of at least 350 hours of employment in a pharmacy in this State; and

(III) The acquisition of a written statement to the Board from the managing pharmacist of the pharmacy referred to in sub-subparagraph (II) stating that the applicant, during his or her employment, demonstrated competence to perform the tasks assigned to him or her.

↪ Such an applicant must register as a pharmaceutical technician in training before he or she completes the requirements of sub-subparagraph (II).

(4) The successful completion of at least 1,500 hours of training and experience as a pharmaceutical technician in training. A pharmaceutical technician in training may accumulate certified hours of training from each place of employment.

(5) The successful completion of a program of training for pharmaceutical technicians conducted by a branch of the Armed Forces of the United States, the Indian Health Service of the United States Department of Health and Human Services or the United States Department of Veterans Affairs.

(6) Certification by the Pharmacy Technician Certification Board or the National Healthcareer Association as a pharmacy technician if:

(I) The applicant successfully completes a program of training for pharmaceutical technicians conducted by a postsecondary school in another state;

(II) The program is accredited or otherwise approved by the appropriate regulatory authority in that state; and

(III) The applicant successfully completes at least 240 hours of employment as a pharmaceutical technician in training in a pharmacy in another state, which must be verified by the managing pharmacist of the pharmacy.

3. An applicant who attended a school outside the United States must submit to an organization which evaluates educational credentials a copy of the transcript of his or her academic record from that school for a determination of whether the grades the applicant received are substantially equivalent to the grades required for an applicant who attended a school, or a program of training for pharmaceutical technicians that is accredited by the American Society of Health-System Pharmacists, in the United States. The applicant must ensure that a copy of the organization's evaluation of the transcript is submitted to the Board.

4. *The Board may deny an application for registration as a pharmaceutical technician if the applicant has:*

*(a) Been convicted of any felony or a misdemeanor involving moral turpitude, dishonesty or the unlawful possession, sale or use of drugs; or*

*(b) A history of drug abuse.*

5. Upon receipt of an application and the required fee, the Executive Secretary shall, unless he or she has good cause to deny the registration, issue a certificate of registration to the pharmaceutical technician.

**Sec. 3.** NAC 639.242 is hereby amended to read as follows:

1. An applicant for registration as a pharmaceutical technician in training must:

(a) Be 18 years of age or older;

(b) Be a high school graduate or the equivalent; *and*

(c) ~~Not have been convicted of any felony or a misdemeanor involving moral turpitude, dishonesty or the unlawful possession, sale or use of drugs;~~

~~—(d) Have no history of drug abuse; and~~

~~—(e)~~ Participate in training while on the job and acquire experience that is commensurate with the duties of his or her employment.

2. *The Board may deny an application for registration as a pharmaceutical technician in training if the applicant has:*

*(a) Been convicted of any felony or a misdemeanor involving moral turpitude, dishonesty or the unlawful possession, sale or use of drugs; or*

*(b) A history of drug abuse.*

3. A person may perform the duties of a pharmaceutical technician while the person is receiving the training and experience required by paragraph ~~(e)~~ (c) of subsection 1 if he or she is registered with the Board.

~~{3-}~~ 4. Upon receipt of an application and the required fee, the Executive Secretary shall, unless he or she has good cause to deny the registration, issue a registration certificate for a

pharmaceutical technician in training to the managing pharmacist of the pharmacy where the trainee will be employed.

~~4.~~ **5.** Registration as a pharmaceutical technician in training is effective for 24 months after the date of issuance unless an extension is granted by the Board.

~~5.~~ **6.** The registration certificate of a pharmaceutical technician in training who is receiving the training and experience required by paragraph ~~(e)~~ **(c)** of subsection 1 will specify the pharmacy where he or she will be employed. Termination of that employment voids the registration, and the trainee must reapply for registration before his or her services may be used by another pharmacy. This subsection does not prohibit a trainee from accumulating certified hours of training from each place of employment.

~~6.~~ **7.** The managing pharmacist of the pharmacy where a pharmaceutical technician in training is employed to receive the training and experience required by paragraph ~~(e)~~ **(c)** of subsection 1 shall file with the Board a signed affidavit certifying:

- (a) The number of hours of training and experience the trainee has successfully completed;
- (b) The specific training and experience the trainee has completed; and
- (c) That the trainee is competent to perform the duties of a pharmaceutical technician.

**Sec. 4.** NAC 639.7425 is hereby amended to read as follows:

1. Except as otherwise provided in NAC 639.7423, no person may act as a dispensing technician unless the person is:

- (a) A registered pharmaceutical technician; or
- (b) Employed at a facility to which a certificate of registration has been issued pursuant to NAC 639.742 and the dispensing practitioner at that facility has registered the person as a dispensing technician.

2. A dispensing practitioner may apply to the Board to register a person as a dispensing technician by submitting to the Board the fee required by NAC 639.744 and proof satisfactory to the Board that the person:

(a) Is 18 years of age or older; *and*

(b) Has received a high school diploma or its equivalent . †

~~—(c) Has not been convicted of any felony or misdemeanor involving moral turpitude, dishonesty or the unlawful possession, sale or use of drugs; and~~

~~—(d) Does not have a history of drug abuse.†~~

3. *The Board may deny an application to register a person as a dispensing technician if the person has:*

*(a) Been convicted of any felony or a misdemeanor involving moral turpitude, dishonesty or the unlawful possession, sale or use of drugs; or*

*(b) A history of drug abuse.*

4. Upon determining that a person for whom application for registration as a dispensing technician has been made by a dispensing practitioner satisfies the requirements of subsection 2, the Board will issue to the person a provisional registration as a dispensing technician for that practitioner.

~~†~~ 5. A person acting as a dispensing technician pursuant to a provisional registration must complete at least 500 hours of training and experience provided by the dispensing practitioner relating to the skills that the person will be performing as a dispensing technician for that dispensing practitioner. Only that training and experience received by the person after the provisional registration is issued may be applied to satisfy the 500-hour requirement. In providing the training and experience, the dispensing practitioner shall supervise the training and

experience of the person by observing the work of the person on a random basis at least three times each day during which the person is receiving training and experience.

~~15.1~~ 6. A provisional registration issued to a person acting as a dispensing technician expires 12 months after it is issued or upon the expiration of the certificate of registration of the dispensing practitioner to whom the dispensing technician is registered, whichever is earlier. If a person acting as a dispensing technician pursuant to a provisional registration:

(a) Fails to complete the required 500 hours of training and experience before the expiration of the provisional registration, the person shall not act as a dispensing technician unless he or she is issued a new provisional registration pursuant to this section. Any hours of training and experience completed by the person while acting as a dispensing technician pursuant to a provisional registration that has expired may not be used to satisfy the 500-hour requirement for a new provisional registration.

(b) Completes the required 500 hours of training and experience before the expiration of the provisional registration, the dispensing practitioner shall file with the Board a signed affidavit certifying:

- (1) The number of hours of training and experience successfully completed by the person.
- (2) The specific training and experience received by the person.
- (3) That the person is, in the opinion of the dispensing practitioner, competent to perform the duties of a dispensing technician.

~~16.1~~ 7. The Board, upon receiving the affidavit of the dispensing practitioner pursuant to subsection ~~15.1~~ 6, will issue to the person a certificate of registration as a dispensing technician for that practitioner.

~~7.1~~ **8.** A dispensing technician shall complete at least 1 hour of in-service training during the 2-year period immediately preceding the renewal of the registration of the dispensing technician. The training must be a jurisprudence program approved or presented by the Board that relates to the practice of pharmacy or the law concerning pharmacy in this State. The dispensing technician shall retain a copy of the certificate from the Board or approved program certifying the completion of such in-service training. The copy must be:

- (a) Retained for at least 2 years; and
- (b) Readily accessible to a member of the Board or a person conducting an inspection or investigation on behalf of the Board.

**Sec. 5.** NAC 639.743 is hereby amended to read as follows:

1. Except as otherwise provided in NRS 639.23277 and NAC 639.395, a person to whom a dispensing practitioner is providing training and experience pursuant to subsection ~~4~~ **5** of NAC 639.7425 must not be allowed access to the room or cabinet in which drugs are stored unless accompanied by the dispensing practitioner. After the person has completed his or her training and experience and the Board has received an affidavit from the dispensing practitioner pursuant to subsection ~~5~~ **6** of NAC 639.7425:

(a) The person may access the room or cabinet in which drugs are stored without being accompanied by the dispensing practitioner, so long as the dispensing practitioner is on-site at the facility; and

(b) The dispensing practitioner is not required to observe the work of the person.

2. A dispensing practitioner who allows a dispensing technician to perform any function described in subsection 4 or 5 of NAC 639.742 is responsible for the performance of that function by the dispensing technician. All such functions performed by a dispensing technician

must be performed at the express direction and delegation of the dispensing practitioner. Each prescription with respect to which a dispensing technician performed such a function:

(a) Must be checked by the dispensing practitioner, and the dispensing practitioner shall indicate on the label of the prescription and in his or her record regarding the prescription that the dispensing practitioner has checked the work performed by the dispensing technician; and

(b) Must not be dispensed to the patient without the initials of the dispensing practitioner thereon. A prescription which has been so initialed must be handed to the patient only by the dispensing practitioner or an employee authorized by the dispensing practitioner.

**Sec. 6.** NAC 639.7435 is hereby amended to read as follows:

1. The registration of a dispensing technician is nontransferable and limited to the dispensing practitioner to whom the dispensing technician is registered. The registration of a dispensing technician expires at the same time that the certificate of registration of the dispensing practitioner expires. If a dispensing practitioner and the dispensing technician registered to that practitioner leave the facility at which they are registered, and the dispensing technician continues his or her employment with that practitioner at a different site, the dispensing practitioner shall, as soon as practicable, notify the Board of the change of address of employment of the dispensing technician.

2. If a dispensing technician no longer works as a dispensing technician for the dispensing practitioner to whom the dispensing technician is registered, the registration of the dispensing technician terminates. Except as otherwise provided in NAC 639.7423, if that person is subsequently employed by another dispensing practitioner to work as a dispensing technician, the employing dispensing practitioner must, before the person may act as a dispensing technician for that practitioner:

(a) Register the person with the Board, showing the site of employment and the name of the dispensing practitioner; and

(b) Ensure that the person receives an additional 200 hours of training and experience provided by the dispensing practitioner. The additional training and experience must be provided in accordance with subsection ~~4~~ 5 of NAC 639.7425. Except as otherwise provided in NRS 639.23277 and NAC 639.395, the dispensing practitioner shall not allow the person to be registered as a dispensing technician to enter the room or cabinet in which drugs are stored or perform any function described in subsection 4 or 5 of NAC 639.742 without the dispensing practitioner observing the act by the person to be registered as a dispensing technician until that person has completed the 200 additional hours of training and experience.