

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

LCB File No. R008-20

March 2, 2020

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

AUTHORITY: §§1 and 2, NRS 639.070 and 639.210.

A REGULATION relating to pharmacy; revising provisions governing unprofessional conduct or conduct contrary to the public interest; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the State Board of Pharmacy to suspend or revoke a certificate, license, registration or permit or deny the application of any person for a certificate, license, registration or permit if the person is guilty of unprofessional conduct or conduct contrary to the public interest. (NRS 639.210) Existing regulations provide that it is unprofessional conduct and conduct contrary to the public interest to: (1) dispense a drug as a dispensing practitioner to a patient with whom the dispensing practitioner does not have a bona fide therapeutic relationship; or (2) prescribe a drug as a prescribing practitioner to a patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship. (NAC 639.945) This regulation provides that it is not unprofessional conduct or conduct contrary to the public interest to prescribe or dispense a drug in accordance with certain federal guidelines. Those federal guidelines provide for the prescribing and dispensing of drugs for the treatment of certain sexually transmitted infections without a medical evaluation to the sexual partner of a person diagnosed with such an infection.

Section 1. Chapter 639 of NAC is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, the following publications are hereby adopted by reference:

(a) “Guidance on the Use of Expedited Partner Therapy in the Treatment of Gonorrhea,” available from the Centers for Disease Control and Prevention of the United States

Department of Health and Human Services at no cost on the Internet at <https://www.cdc.gov/std/ept/gc-guidance.htm>, or, if that Internet website ceases to exist, from the Board.

(b) “Expedited Partner Therapy in the Management of Sexually Transmitted Diseases: Review and Guidance,” available from the Centers for Disease Control and Prevention of the United States Department of Health and Human Services at no cost on the Internet at <https://www.cdc.gov/std/treatment/eptfinalreport2006.pdf>, or, if that Internet website ceases to exist, from the Board.

2. Except as otherwise provided in this subsection, the most current version of a publication adopted by reference pursuant to subsection 1 which is published will be deemed to be adopted by reference. The Board will periodically review and determine, within 30 days after the review, whether any change made to a publication listed in subsection 1 is appropriate for application in this State. If the Board does not disapprove a change to an adopted publication within 30 days after the review, the change is deemed to be approved by the Board.

Sec. 2. NAC 639.945 is hereby amended to read as follows:

639.945 1. The following acts or practices by a holder of any license, certificate or registration issued by the Board or any employee of any business holding any such license, certificate or registration are declared to be, specifically but not by way of limitation, unprofessional conduct and conduct contrary to the public interest:

(a) Manufacturing, compounding, selling, dispensing or permitting to be manufactured, compounded, sold or dispensed substandard drugs or preparations.

(b) Except as otherwise provided in NRS 639.2583 to 639.2808, inclusive, for substitutions of generic drugs, dispensing or causing to be dispensed a different drug or brand of drug in place of the drug or brand of drug ordered or prescribed, unless the express permission of the orderer or prescriber is obtained and, in the case of a written prescription, unless the following information is recorded on the prescription by the person obtaining permission:

- (1) The date on which the permission was granted;
- (2) The name of the practitioner granting the permission;
- (3) The name of the person obtaining the permission;
- (4) The name of the drug dispensed; and
- (5) The name of the manufacturer or distributor of the drug.

(c) Using secret formulas.

(d) Except as otherwise provided by subsection 2 of NRS 639.2396, failing strictly to follow the instructions of the person writing, making or ordering a prescription or chart order as to its filling or refilling, the content of the label of the prescription or giving a copy of the prescription or chart order to any person except as permitted by law.

(e) Failing to confer with the person writing, making or ordering a prescription or chart order if there is an error or omission in it which should be questioned.

(f) Operating a pharmacy at a location other than the location at which the pharmacy is licensed to operate.

(g) Supplying or diverting drugs, biologicals, medicines, substances or devices which are legally sold in pharmacies or by wholesalers, so that unqualified persons can circumvent any law pertaining to the legal sale of such articles.

(h) Performing or in any way being a party to any fraudulent or deceitful practice or transaction.

(i) Performing any of his or her duties as the holder of a license, certificate or registration issued by the Board, or as the owner of a business or an entity licensed by the Board, in an incompetent, unskillful or negligent manner.

(j) Aiding or abetting a person not licensed to practice pharmacy in the State of Nevada.

(k) Performing any act, task or operation for which licensure, certification or registration is required without the required license, certificate or registration.

(l) Violating any term or condition of a subpoena or order issued by the Board or the staff of the Board.

(m) Failing to provide any document, data or information that is required to be made and maintained pursuant to chapters 453, 454, 585 and 639 of NRS and chapters 453, 454, 585 and 639 of NAC to a member of the Board or a member of the staff of the Board upon his or her request.

(n) *Except as otherwise provided in subsection 2:*

(1) Dispensing a drug as a dispensing practitioner to a patient or animal or owner of an animal with whom the dispensing practitioner does not have a bona fide therapeutic relationship

†

~~(1)~~ ; or

(2) Prescribing a drug as a prescribing practitioner to a patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship.

2. *It is not unprofessional conduct or conduct contrary to the public interest for a practitioner to prescribe or dispense a drug under the circumstances described in paragraph*

(n) of subsection 1 if the drug is prescribed or dispensed in accordance with either publication adopted by reference in section 1 of this regulation.

3. The owner of any business or facility licensed, certified or registered by the Board is responsible for the acts of all personnel in his or her employ.

~~3.1~~ 4. For the purposes of this section, a bona fide therapeutic relationship between the patient and practitioner shall be deemed to exist if the patient was examined in person, electronically, telephonically or by fiber optics within or outside of this State or the United States by the practitioner within the 6 months immediately preceding the date the practitioner dispenses or prescribes a drug to the patient and, as a result of the examination, the practitioner diagnosed a condition for which a given drug therapy is prescribed.