

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

LCB File No. R164-20

April 28, 2022

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

AUTHORITY: §§ 1-6 and 10, NRS 639.070; §§ 7-9, NRS 639.070, 639.071 and 639.072.

A REGULATION relating to pharmacy; prescribing requirements governing the practice of pharmacy outside the site of a licensed pharmacy; authorizing a registered pharmacist who is employed by or under contract with a licensed pharmacy to engage in the practice of pharmacy outside the site of a licensed pharmacy without additional approval by the State Board of Pharmacy; requiring certain registered pharmacists to obtain the approval of the Board in order to engage in the practice of pharmacy outside the site of a licensed pharmacy; revising provisions relating to the provision of remote chart order processing services to a hospital or correctional institution; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Pharmacy to adopt regulations governing the practice of pharmacy, including the dispensing, sale, storage, handling, sanitation and security of poisons, drugs, chemicals and medicines. (NRS 639.070) Existing regulations prohibit a pharmacist from engaging in the practice of pharmacy except at the site of a licensed pharmacy unless the pharmacist is approved by the Board to engage in the practice of pharmacy outside such a site. (NAC 639.401, 639.403) **Section 3** of this regulation authorizes a registered pharmacist who is employed by or under contract with a pharmacy, other than an institutional pharmacy, or who is an employee of the State Government to engage in the practice of pharmacy outside the site of a licensed pharmacy without obtaining the approval of the Board. **Section 3** requires that a registered pharmacist engaging in the practice of pharmacy under those conditions have access to patient data maintained by the pharmacy for which the registered pharmacist serves as an employee or contractor. **Section 5** of this regulation requires a registered pharmacist who is not employed by or under contract with a pharmacy to apply for and obtain the approval of the Board in order to engage in the practice of pharmacy outside the site of a licensed pharmacy. **Section 2** of this regulation prescribes the requirements applicable to any registered pharmacist engaging in the practice of pharmacy outside the site of a licensed pharmacy, regardless of whether the registered pharmacist is employed by or under contract with a licensed pharmacy. Such requirements include certain limitations on the services that such a registered pharmacist is authorized to provide. **Sections 5 and 6** of this regulation clarify that the requirements of **section 2** apply to a registered pharmacist who is not employed by or under

contract with a licensed pharmacy. **Section 10** of this regulation repeals a requirement that a licensed pharmacy must obtain the approval of the Board before using the services of a registered pharmacist to engage in the practice of pharmacy at a site other than the site of the licensed pharmacy and provisions relating to such approval. **Section 4** of this regulation removes a reference to a repealed section.

Existing regulations require certain pharmacies that are within a hospital or correctional institution to provide chart order processing services to the hospital or correctional institution by: (1) operating at all times; (2) employing a pharmacist who is available at all times that the pharmacy is not operating; or (3) contracting with an off-site pharmaceutical service provider that is available at all times that the pharmacy is not operating. (NAC 639.4915) Existing regulations prescribe qualifications and standards of practice for a pharmacist who is employed by an off-site pharmaceutical service provider to provide remote chart order processing services to a hospital or correctional institution. (NAC 639.4916) **Section 8** of this regulation removes specific provisions concerning the manner in which a pharmacy within a hospital or correctional institution is authorized to provide chart order processing services to the hospital or correctional institution. **Section 9** of this regulation makes the qualifications and standards of practice that currently exist for a pharmacist who is employed by an off-site pharmaceutical service provider to provide remote chart order processing services to a hospital or correctional institution applicable to any registered pharmacist who is employed by or under contract with a pharmacy in a hospital or correctional institution to provide such services. **Section 9** also makes certain revisions to those qualifications and standards of practice, including requiring such a registered pharmacist to comply with the requirements of **section 2** to the same extent as any other registered pharmacist who engages in the practice of pharmacy at a location other than the site of a licensed pharmacy. **Section 10** removes additional provisions governing off-site pharmaceutical service providers.

Section 1. Chapter 639 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *While engaging in the practice of pharmacy at a location other than the site of a licensed pharmacy pursuant to the provisions of NAC 639.403 or section 3 of this regulation, a registered pharmacist may perform only:*

(a) The functions described in paragraphs (b), (c), (d), (g) and (h) of subsection 1 of NRS 639.0124, as amended by section 1 of Senate Bill No. 229, chapter 290, Statutes of Nevada 2021, at page 1660, section 2 of Senate Bill No. 325, chapter 492, Statutes of Nevada 2021, at page 3201, and section 5 of Senate Bill No. 190, chapter 504, Statutes of Nevada 2021, at page 3270; and

(b) The administration of immunizations pursuant to a written protocol established in accordance with NAC 639.297 to 639.2978, inclusive.

2. A registered pharmacist who engages in the practice of pharmacy at a location other than the site of a licensed pharmacy pursuant to the provisions of NAC 639.403 or section 3 of this regulation shall:

(a) Provide written notice of the site of practice to the Executive Secretary in accordance with NAC 639.225;

(b) Ensure that the records of the registered pharmacist are made readily accessible to members of the Board and employees, agents and designees of the Board; and

(c) Comply with all applicable federal and state laws and regulations, including, without limitation:

(1) The Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and the regulations adopted pursuant thereto, and any other applicable federal or state law concerning the privacy of information regarding health care; and

(2) Requirements relating to the maintenance of records.

3. A registered pharmacist who engages in the practice of pharmacy at a location other than the site of a licensed pharmacy pursuant to the provisions of NAC 639.403 or section 3 of this regulation shall not maintain an inventory of drugs at that location.

4. A registered pharmacist shall not engage in the practice of pharmacy at a location other than the site of a licensed pharmacy pursuant to the provisions of NAC 639.403 or section 3 of this regulation if he or she:

(a) Serves as a managing pharmacist; or

(b) Provides pharmaceutical services at:

- (1) A facility for modified medical detoxification, as defined in NRS 449.00385;*
- (2) An independent center for emergency medical care, as defined in NRS 449.013;*
- (3) A facility for intermediate care, as defined in NRS 449.0038;*
- (4) A facility for skilled nursing, as defined in NRS 449.0039; or*
- (5) A surgical center for ambulatory patients, as defined in NRS 449.019.*

Sec. 3. 1. A registered pharmacist who is employed by or under contract with a pharmacy, other than an institutional pharmacy, or who is an employee of the State Government may engage in the practice of pharmacy at a location other than the site of a licensed pharmacy in accordance with this section and section 2 of this regulation.

2. A registered pharmacist described in subsection 1 shall not engage in the practice of pharmacy at a location other than the site of a licensed pharmacy unless he or she is provided with the same computerized system and access to data regarding a patient for whom a prescription has been submitted that is available to a registered pharmacist in the pharmacy. Such data must include, without limitation:

- (a) The height, weight and age of the patient and any allergies that the patient may have;*
- (b) The medical records regarding any medications prescribed to the patient;*
- (c) The results of any relevant laboratory tests;*
- (d) The health history and notes regarding physical examinations, to the extent that the information is available in the computerized system of the pharmacy;*
- (e) Any notes provided by a physician, nurse or other medical staff, to the extent that those notes are available in the computerized system of the pharmacy;*
- (f) A legible copy of the prescription that is available through a scanned image in the computerized system of the pharmacy or by facsimile machine; and*

(g) Any other information that is available in the computerized system of the pharmacy that is relevant or necessary for the registered pharmacist to provide pharmaceutical services.

Sec. 4. NAC 639.401 is hereby amended to read as follows:

639.401 Except as otherwise provided in NAC 639.403 and ~~639.412,~~ *section 3 of this regulation,* a registered pharmacist may engage in the practice of pharmacy only at the site of a licensed pharmacy.

Sec. 5. NAC 639.403 is hereby amended to read as follows:

639.403 ~~1.—Except as otherwise provided in subsection 2, a~~ *A* registered pharmacist ~~may apply to~~ *who is not employed by or under contract with a pharmacy and who is not an employee of the State Government shall not engage in the practice of pharmacy at a site other than the site of a licensed pharmacy unless he or she obtains the approval of* the Board to engage in the practice of pharmacy at a site other than the site of a licensed pharmacy. ~~by submitting~~ *To request such approval, the registered pharmacist must submit* an application on a form prescribed by the Board. An application must be approved before a *registered* pharmacist may commence any practice pursuant to this section. The application must include, without limitation:

~~(a)~~ *1.* The name of the *registered* pharmacist;

~~(b)~~ *2.* A description of the services that the *registered* pharmacist intends to provide at the site ~~1,~~ *, which must not include services other than the services authorized by section 2 of this regulation to be performed at the site;*

~~(c)~~ *3.* The location at which the *registered* pharmacist will provide the services;

~~(d)~~ *4.* An identification of the types of patients or other persons to whom the *registered* pharmacist intends to provide the services;

~~{(e)}~~ 5. An identification of the types of pharmacies or other entities to whom the *registered* pharmacist intends to provide the services;

~~{(f)}~~ 6. A description of all resources, both paper and electronic, that will be available to the *registered* pharmacist in the course of providing the services;

~~{(g)}~~ 7. The days and hours during which the *registered* pharmacist intends to provide the services;

~~{(h)}~~ 8. An explanation of the policy of the *registered* pharmacist for users of the services when the *registered* pharmacist is unavailable;

~~{(i)}~~ 9. An explanation of the policy of the *registered* pharmacist regarding the confidentiality and security of the patient data that will be gathered, made and maintained as part of the services which are provided, including, without limitation, paper and electronic records;

~~{(j)}~~ Whether the services provided will be affiliated with, an adjunct of or otherwise related to a licensed pharmacy; and

~~{(k)}~~ 10. *The identity of the business under which the services will be performed, as registered with the Secretary of State pursuant to chapter 76 of NRS; and*

11. A description of the business plan for the services provided.

~~{2.}—A registered pharmacist may not submit an application pursuant to subsection 1 if he or she provides services:~~

~~—(a) Pursuant to the provisions of NAC 449.15347;~~

~~—(b) Pursuant to the provisions of NAC 449.6138;~~

~~—(c) Pursuant to the provisions of NAC 449.722;~~

~~—(d) Pursuant to the provisions of NAC 449.74531;~~

~~—(e) Pursuant to the provisions of NAC 449.9905 and 639.4996;~~

- ~~—(f) Pursuant to the provisions of subsection 2 of NAC 639.465;~~
- ~~—(g) Pursuant to the provisions of NAC 639.690;~~
- ~~—(h) Voluntarily or without compensation, regardless of whether the services are provided individually or through an employer; or~~
- ~~—(i) Pursuant to a medication therapy management program approved pursuant to 42 C.F.R. § 423.153(d).~~
- ~~—3.— A registered pharmacist who administers immunizations pursuant to a written protocol established in accordance with NAC 639.297 to 639.2978, inclusive, is not required to submit an application pursuant to this section for purposes of administering the immunizations at the authorized location.]~~

Sec. 6. NAC 639.406 is hereby amended to read as follows:

639.406 1. Upon submission of an application pursuant to NAC 639.403, the Board will schedule a hearing before the Board. At the hearing, the Board will consider the application and any other relevant information to determine whether the practice and services proposed in the application will be provided in a manner that is safe and in the best interests of the health, safety and welfare of the public. The Board may consider, without limitation, the following factors in determining whether to approve, deny or modify such an application:

- (a) The information contained in the application;
- (b) The education, experience and expertise of the applicant;
- (c) The disciplinary history of the applicant, if any; and
- (d) Whether the applicant has sufficient malpractice or other liability insurance.

2. At the hearing, the Board may request that the applicant modify his or her application.

3. If the Board approves an application, the Board will provide the applicant with documentation indicating the approval and setting forth the terms and conditions , *in addition to those prescribed by section 2 of this regulation*, under which the applicant may provide the services approved by the Board.

4. If the Board denies an application, the Board will provide the applicant with a written notice of the denial indicating the reasons for the denial and identifying any deficiencies in the application.

Sec. 7. NAC 639.491 is hereby amended to read as follows:

639.491 As used in NAC 639.491 to ~~639.4917,~~ **639.4916**, inclusive, unless the context otherwise requires, the words and terms defined in NAC 639.4911 to 639.4914, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NAC 639.4915 is hereby amended to read as follows:

639.4915 A pharmacy located within a hospital or correctional institution that is required to have a full-time managing pharmacist pursuant to NAC 639.465 shall provide chart order processing services to the hospital or correctional institution ~~[- The pharmacy shall provide the chart order processing services by:~~

~~—1.— Operating] at all times . [- or~~

~~—2.— Employing a pharmacist who is on duty at all times that the pharmacy is operating and either:~~

~~—(a) Employing a pharmacist who is available at all times that the pharmacy is not operating;~~

~~or~~

~~—(b) Contracting with an off-site pharmaceutical service provider that is available at all times that the pharmacy is not operating.]~~

Sec. 9. NAC 639.4916 is hereby amended to read as follows:

639.4916 1. A *registered* pharmacist who is employed by ~~an off-site pharmaceutical service provider~~ *or under contract with a pharmacy located within a hospital or correctional institution* to provide *the* remote chart order processing services to ~~a~~ *the* hospital or correctional institution ~~pursuant to~~ *that the pharmacy is required by* NAC 639.4915 *to provide* must:

(a) ~~Be licensed to practice in Nevada;~~

~~(b)~~ Be trained in the policies and procedures of the hospital or correctional institution regarding all policies and procedures of the hospital or correctional institution with which the *registered* pharmacist must comply, including, without limitation, the provision of pharmaceutical services, security and confidentiality of patient records;

~~(c) Except as otherwise provided in subsection 3, be~~ *and*

(b) Be provided with the same computerized system and access to data regarding a patient for whom a chart order has been submitted that would be available to a *registered* pharmacist employed by the pharmacy located within the hospital or correctional institution, including, without limitation:

- (1) The height, weight and age of the patient and any allergies that the patient may have;
- (2) The medical records regarding any medications prescribed to the patient;
- (3) The results of any relevant laboratory tests ; ~~to the extent that those results are available in the computerized system of the hospital or correctional institution;~~
- (4) The health history and notes regarding physical examinations, to the extent that the information is available in the computerized system of the hospital or correctional institution;

(5) Any notes provided by a physician, nurse or other medical staff of the institution, to the extent that those notes are available in the computerized system of the hospital or correctional institution;

(6) A legible copy of the chart order that is available through a scanned image in the computerized system of the hospital or correctional institution or by facsimile machine; and

(7) Any other information that is available in the computerized system of the hospital or correctional institution that is relevant or necessary for the *registered* pharmacist to provide pharmaceutical services . ~~}; and~~

~~—(d) Demonstrate to the off-site pharmaceutical service provider that the pharmacist is competent and knowledgeable in the use of the computerized system of the hospital or correctional institution and in providing pharmaceutical services in a hospital or correctional institution.~~

2. Before a *registered* pharmacist who is employed by ~~{an off-site pharmaceutical service provider}~~ *or under contract with a pharmacy located within a hospital or correctional institution* provides remote chart order processing services to ~~{a}~~ *the* hospital or correctional institution, the *registered* pharmacist must review any relevant information regarding the patient for whom a chart order has been submitted. The *registered* pharmacist must, before approving a chart order to be filled, evaluate:

- (a) The overutilization or underutilization of a medication;
- (b) Therapeutic duplication;
- (c) The appropriateness of the prescribed dosage and route of administration;
- (d) The appropriateness of the directions for use of the medication;
- (e) The appropriateness of the duration of the treatment with the prescribed medication;

(f) Any contraindications of the medication and a particular disease, ailment or allergy of the patient;

(g) Any contraindications or interactions between multiple medications prescribed for the patient; and

(h) The potential abuse or misuse of a medication.

3. *A registered pharmacist who is employed by or under contract with a pharmacy located within a hospital or correctional institution to provide remote chart order processing services to the hospital or correctional institution shall comply with the requirements of section 2 of this regulation to the same extent as a registered pharmacist engaging in the practice of pharmacy at a location other than the site of a licensed pharmacy pursuant to the provisions of NAC 639.403 or section 3 of this regulation.*

4. In an emergency, a *registered* pharmacist *who is employed by or under contract with a pharmacy located within a hospital or correctional institution to provide remote chart order processing services to the hospital or correctional institution* may render remote chart order processing services without being provided with all of the information required by paragraph ~~(e)~~ (b) of subsection 1 if the *registered* pharmacist believes, in his or her professional judgment, that he or she has received sufficient information from the staff of the hospital or correctional institution to render the services.

~~4.~~ 5. A *registered* pharmacist who is employed by ~~an off-site pharmaceutical service provider~~ *or under contract with a pharmacy located within a hospital or correctional institution to provide remote chart order processing services to the hospital or correctional institution* may refuse to approve the filling of a chart order if, in the judgment of the *registered* pharmacist, the chart order is not safe or reasonable for the patient. A *registered* pharmacist who

refuses to approve the filling of a chart order pursuant to this subsection must notify the hospital or correctional institution as soon as practicable that he or she has refused to approve the filling of the chart order.

~~{5.}~~ **6.** Each time that a *registered* pharmacist who is employed by ~~{an off-site pharmaceutical service provider}~~ *or under contract with a pharmacy located within a hospital or correctional institution to provide remote chart order processing services to the hospital or correctional institution* provides remote chart order processing services pursuant to this section, the *registered* pharmacist shall make a notation in the computerized system of the hospital or correctional institution that indicates:

- (a) The name or other identifier of the *registered* pharmacist;
- (b) The date and time that the *registered* pharmacist provided the services and, if applicable, approved the filling of a chart order; and
- (c) The specific services provided by the *registered* pharmacist.

~~{6.}~~ **7.** The managing pharmacist of a pharmacy ~~{that has a contract with or is owned by the same entity as an off-site pharmaceutical service provider}~~ *located within a hospital or correctional institution* may limit the remote chart order processing services provided ~~{by a pharmacist employed by the off-site pharmaceutical service provider.}~~ *pursuant to this section.*

Sec. 10. NAC 639.412, 639.415, 639.418, 639.4913 and 639.4917 are hereby repealed.

TEXT OF REPEALED SECTIONS

639.412 Application for licensed pharmacy to use services of one or more pharmacists at site other than licensed pharmacy. (NRS 639.070)

1. Except as otherwise provided in subsection 2, a licensed pharmacy may apply to the Board to use the services of one or more registered pharmacists, including, without limitation, pharmacists employed by or under contract with the pharmacy, to engage in the practice of pharmacy at a site other than the site of the licensed pharmacy by submitting an application on a form prescribed by the Board. The application must include, without limitation:

- (a) The name of the pharmacy;
- (b) A description of the services that the pharmacy intends to provide at the site;
- (c) The location at which the pharmacy will provide the services;
- (d) An identification of the types of patients or other persons or entities to whom the pharmacy intends to provide the services;
- (e) A description of all resources, both paper and electronic, that will be available to the pharmacy in the course of providing the services;
- (f) The days and hours during which the pharmacy intends to provide the services;
- (g) An explanation of the policy of the pharmacy for users of the service when a pharmacist is unavailable;

(h) An explanation of the policy of the pharmacy regarding the confidentiality and security of the patient data that will be gathered, made and maintained as part of the services which are provided, including, without limitation, paper and electronic records; and

(i) A description of the business plan for the services provided.

2. A pharmacy may not submit an application pursuant to subsection 1 to use the services of a registered pharmacist who is prohibited from submitting an application pursuant to subsection 2 of NAC 639.403.

639.415 Hearing to approve or deny application from licensed pharmacy. (NRS 639.070)

1. Upon submission of an application pursuant to NAC 639.412, the Board will schedule a hearing before the Board. At the hearing, the Board will consider the application and any other relevant information to determine whether the practice and services proposed in the application will be provided in a manner that is safe and in the best interests of the health, safety and welfare of the public. The Board may consider, without limitation, the following factors in determining whether to approve, deny or modify such an application:

(a) The information contained in the application;

(b) The disciplinary history of the applicant, if any; and

(c) Whether the applicant has sufficient malpractice or other liability insurance.

2. At the hearing, the Board may request that the applicant modify the application.

3. If the Board approves an application, the Board will provide the pharmacy whose application is approved with documentation indicating the approval and setting forth the terms and conditions under which the pharmacists employed by or under contract with the pharmacy may offer the services approved by the Board.

4. If the Board denies an application, the Board will provide the applicant with a written notice of the denial indicating the reasons for the denial and identifying any deficiencies in the application.

639.418 Grounds for revocation, suspension or placement of restrictions on approval granted to licensed pharmacy to use services of one or more pharmacists at site other than licensed pharmacy. (NRS 639.070, 639.210) The Board may revoke, suspend or place restrictions on the approval granted to a licensed pharmacy to use the services of one or more registered pharmacists to engage in the practice of pharmacy at a site other than the site of the licensed pharmacy pursuant to NAC 639.415 based upon proof that:

1. The pharmacy has violated the terms and conditions under which the pharmacy was approved by the Board to provide the services; or
2. During the course of providing the services approved by the Board, the pharmacy has committed one or more acts that are grounds for disciplinary action pursuant to this chapter or chapter 639 of NRS.

639.4913 “Off-site pharmaceutical service provider” defined. (NRS 639.070) “Off-site pharmaceutical service provider” means a pharmacy that provides remote chart order processing services to a hospital or correctional institution that is owned by the same entity as the pharmacy or with which the pharmacy has contracted to provide remote chart order processing services.

639.4917 Policies and procedures of off-site pharmaceutical service providers. (NRS 639.070) Each off-site pharmaceutical service provider shall establish and follow policies and procedures for:

1. Protecting the confidentiality and integrity of patient information;

2. Assuring that pharmacists employed by the off-site pharmaceutical service provider comply with the provisions of NAC 639.4916;
3. Complying with all applicable state and federal statutes, regulations and rules, including, without limitation, maintaining records;
4. Ensuring that its records are made readily accessible to members of the Board and employees, agents and designees of the Board;
5. Conducting an ongoing program for the improvement of the provision of pharmaceutical services that is designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, improve patient care and resolve problems identified by the program;
6. Performing an annual review of the program conducted pursuant to subsection 5;
7. Assuring that the pharmacists employed by the off-site pharmaceutical service provider are able to communicate with identified employees of the hospital or correctional institution as necessary to provide pharmaceutical services, including, without limitation, communicating with pharmacists employed by the hospital or correctional institution; and
8. The provision of pharmaceutical services at times when the off-site pharmaceutical service provider temporarily or permanently cannot provide such services.