

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

LCB File No. R112-99

September 14, 1999

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

AUTHORITY: §1, NRS 453.221 and 639.070; §§2-6, NRS 639.070.

Section 1. Chapter 453 of NAC is hereby amended by adding thereto a new section to read as follows:

As used in NRS 453.256 and 453.385, the board will interpret the term “facsimile machine” to include, without limitation, a computer that has a facsimile modem through which documents can be sent and received.

Sec. 2. Chapter 639 of NAC is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this regulation.

Sec. 3. *As used in NRS 639.0745 and 639.2353, the board will interpret the term “facsimile machine” to include, without limitation, a computer that has a facsimile modem through which documents can be sent and received.*

Sec. 4. 1. *Except as otherwise provided in NRS 639.235 and this section, a prescription must not be filled or dispensed if the prescription is:*

- (a) Written by a practitioner who is not licensed to practice in this state;*
- (b) For a patient who resides in a state other than Nevada or the state in which the practitioner’s practice is located; and*

(c) Requested to be furnished in a manner inconsistent with NAC 639.710.

2. A prescription described in subsection 1 that is not a controlled substance listed in schedule II, III or IV may be filled and dispensed if:

(a) The patient has sought payment for the prescription from a managed care system or insurance plan in which the patient is enrolled that has contracted with the pharmacy for the provision of pharmaceutical services; or

(b) A pharmacist has spoken with the patient and the practitioner and has ascertained that the prescription is valid and that a bona fide therapeutic relationship exists between the patient and the practitioner. In determining whether a bona fide therapeutic relationship exists, the pharmacist shall ascertain the date and place at which the practitioner physically examined the patient and shall record that information on the prescription or in another readily retrievable record.

3. As used in this section, “bona fide therapeutic relationship” means a relationship in which a practitioner has physically examined a patient and, as a result of the examination, has diagnosed a condition for which a given drug therapy is prescribed.

Sec. 5. NAC 639.525 is hereby amended to read as follows:

639.525 The prescription department in each licensed pharmacy must contain the following minimum work area and equipment for the compounding and dispensing of drugs:

1. A prescription counter on which to work, with a free working surface of not less than 18 inches in width and not less than 12 square feet in area, with a length of working surface of not less than 8 feet. This working surface must be reserved for and restricted solely to the compounding and dispensing of drugs.

2. A free floor space behind the prescription counter that is not less than 8 feet in length and 3 feet in width.

3. A refrigerator that is equipped with a thermometer to ensure proper control of temperature, a sink that is suitable for cleaning the required pharmaceutical equipment and is supplied with hot and cold running water, soap and detergent, and a clean and sanitary disposal container for wastes.

4. If the pharmacy compounds prescriptions that require the measurement of weight, scales and balances for medium and light weighing, at least one of which must be sensitive to 1/2 grain, with weights, including, without limitation, apothecary and avoirdupois, from 1/2 grain to 4 ounces and from 0.02 gm to 100 gm.

5. If the pharmacy prepares sterile products, a laminar airflow hood that is certified at least annually.

6. Capsule and tablet counters and other devices and equipment necessary to compound and dispense drugs.

7. A facsimile machine that:

(a) Uses paper of such quality; and

(b) Prints in such a manner,

FLUSH that documents printed by the machine are usable and readable for at least 2 years. *As used in this subsection, "facsimile machine" includes, without limitation, a computer that has a facsimile modem through which documents can be sent and received.*

Sec. 6. NAC 639.711 is hereby amended to read as follows:

639.711 1. A prescription for a controlled substance listed in schedule II must not be transmitted by a practitioner or his designated agent by a facsimile machine to a pharmacy unless the prescription is:

(a) For a controlled substance that will be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion;

(b) For issuance to a resident of a facility for long-term care; or

(c) For issuance to a resident of a facility that provides hospice care which has been licensed by this state or certified by Medicare pursuant to Title XVIII of the Social Security Act. Such a prescription must state that the resident receives hospice care.

2. A dangerous drug or a controlled substance listed in schedule III, IV or V may be transmitted by a practitioner or his designated agent by a facsimile machine to a pharmacy.

3. A practitioner or his designated agent shall not transmit a prescription by a facsimile machine to a pharmacy unless the patient:

(a) Consents to the use of the facsimile machine; and

(b) Approves the pharmacy where the facsimile prescription will be transmitted.

4. A pharmacist shall not dispense a facsimile prescription unless it is signed by a practitioner and transmitted to a pharmacy by the practitioner or his designated agent.

5. In addition to the requirements set forth in NRS 639.2353 and 639.2589, a facsimile prescription must include:

(a) The telephone number of the facsimile machine;

(b) The telephone number of the practitioner;

(c) The time and date of its transmission; and

(d) The words “faxed to” preceding the name of the pharmacy to which the facsimile prescription is sent.

6. A facsimile prescription must be kept by the pharmacist for 2 years after it is received by him. If the paper is not of sufficient quality to last for at least 2 years, the facsimile prescription must be reproduced on permanent paper or the pharmacist must reduce the prescription to writing and attach the original transmission of the prescription to the reproduced copy or the prescription reduced to writing.

7. A facsimile prescription which complies with the provisions of this section shall be deemed an original prescription.

8. As used in this section:

(a) “Facsimile machine” means a device which transmits or receives a reproduction or facsimile of a document or photograph which is transmitted electronically or telephonically by telecommunications lines ~~[]~~, *including, without limitation, a computer that has a facsimile modem through which documents can be sent and received.*

(b) “Facsimile prescription” means an electronically produced image of a written prescription which is transmitted by a facsimile machine.