

LCB File No. R076-00

PROPOSED REGULATION OF THE STATE BOARD OF PHARMACY

June 23, 2000

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption and Amendment of
Regulations of the Nevada State Board of Pharmacy

The Nevada State Board of Pharmacy will hold a public hearing at 9:00 a.m., on Thursday, July 26, 2000, at the Nevada State Board of Pharmacy office, 4220 South Maryland Parkway, Las Vegas, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption and amendment of regulations that pertain to chapters 639 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.060:

Amendment of Nevada Administrative Code 639.500 and New Language

1. The need for and the purpose of the proposed regulation or amendment.

Requirements for a pharmacy that is privately owned and non-publicly traded. A new application will be detailed and thoroughly reviewed to ensure the requirements can be met before a pharmacy license is issued.

2. Either the terms or the substance of the regulations to be adopted and amended.

A copy of the proposed regulation amendment is attached to this notice.

3. The estimated economic effect of the regulation on the business which it is to regulate and on the public:

(a) Both adverse and beneficial effects.

There will be no adverse or beneficial effects on the public, and providing the business can meet the requirements for application, there will be no adverse effects on the business.

(b) Both immediate and long-term effects.

The immediate effect will be to screen non-publicly traded pharmacy applications before they are licensed so in the long term the Board does not have to perform in depth

investigations to ensure appropriate pharmacy operation.

4. The estimated cost to the agency for enforcement of the proposed regulation.

There will be no cost incurred by the board for enforcement of this regulation.

5. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The Board of Pharmacy is not aware of any similar regulations of other state or government agencies that the proposed regulation overlaps or duplicates.

6. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The Board of Pharmacy is not aware of this regulation being required by federal law.

7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The Board of Pharmacy is not aware of any similar regulations of the same activity in which the Federal regulation is more stringent.

8. Whether the proposed regulation establishes a new fee or increases an existing fee.

This regulation does not provide a new or increase of fees.

Persons wishing to comment upon the proposed action of the Board may appear at the scheduled public hearing or may address their comments, data, views, or arguments in written form to the Nevada State Board of Pharmacy, 555 Double Eagle Court, Suite 1100, Reno, Nevada 89511-8991, or at e-mail address: pharmacy@govmail.state.nv.us. Written submissions must be received by the Board at least five days before the scheduled public hearing. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Board may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted and amended will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted and amended will be available in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. The text of each regulation will include the entire text of any section of the Nevada Administrative Code which is proposed for amendment or repeal. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative

Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

Nevada State Board of Pharmacy
Reno, Nevada

Nevada State Board of Pharmacy
Las Vegas, Nevada

Mineral County Courthouse
Hawthorne, Nevada

Elko County Courthouse
Elko, Nevada

Carson City Courthouse
Carson City, Nevada

Washoe County Courthouse
Reno, Nevada

Section 1. NAC 639.500 shall be amended as follows:

1. ~~[A registered pharmacist]~~ *any person*, as that term is defined in NRS ~~[639.015]~~ *0.039*, *the State of Nevada, or any of its political subdivisions* may own more than one pharmacy. ~~[Unless he obtains a waiver from the board pursuant to NRS 639.220, a registered pharmacist may act as a managing pharmacist of only one pharmacy.]~~

2. *Every applicant to own a pharmacy that will be located in Nevada shall submit a complete and accurate application on a form provided by the board along with the requisite fees. Incomplete forms or forms submitted without the requisite fees shall be returned by board staff. The application form for applicants in which a majority interest of the applicant is owned by a pharmacist licensed and resident in Nevada or by a publicly traded corporation may differ from the application form for any other applicant.*

3. *Every applicant to own a pharmacy that will be located in Nevada shall designate at least one natural person who shall be primarily responsible for the daily operations of the pharmacy, and the person so designated shall possess knowledge and experience in the ownership, management, record keeping, and operation of the pharmacy. Applicants in which a majority interest of the applicant is owned by a pharmacist licensed and resident in Nevada or by a publicly-traded corporation will not be required to designate a natural person who shall possess knowledge and experience in the ownership, management, record keeping, and operation of the pharmacy.*

4. *A natural person shall be deemed to possess knowledge and experience in the ownership, management, record keeping, and operation of the pharmacy where the natural person has:*

(a) Been employed at least 6,000 hours in a pharmacy or pharmaceutical wholesaler in a capacity related to the dispensing, distribution, and record keeping regarding prescription drugs; and

(b) Received a score of 75% or better on an examination provided by the board regarding federal and state pharmacy laws and pharmacy practices.

5. *The natural person who shall be primarily responsible for the daily operation of the pharmacy shall be:*

(a) Employed full-time in the operation of the pharmacy;

(b) Employed in such a capacity in only one pharmacy;

(c) Resident in the State of Nevada; and

(d) At least 21 years of age.

6. *No pharmacy that must designate a natural person primarily responsible for the operation of a pharmacy under this section may open or operate its pharmacy without the designated natural person actually employed full-time in the operation of the pharmacy. Should the designated natural person leave the employ of the pharmacy, the pharmacy shall notify the board of the person's departure and shall designate another natural person within 48 hours. A pharmacy that operates without a designated natural person under this section may be subject to immediate suspension of its license until it employs a designated natural person, and such suspension will work as an involuntary closure under NAC 639.570 entitling the board staff to involuntarily close such a pharmacy temporarily.*