

**ADOPTED REGULATION OF THE  
STATE BOARD OF PHARMACY**

**LCB File No. R119-02**

Effective October 24, 2002

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

AUTHORITY: § 1, NRS 639.255.

**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 this section, the board may impose a fine against a pharmacist or pharmacy pursuant to paragraph (f) of subsection 1 of NRS 639.255 according to the following schedule:*

- (a) For failing to counsel a patient..... \$750*
- (b) For failing to maintain documentation of counseling given to a patient..... 750*
- (c) For an error in a prescription that resulted in a negative outcome to the patient or discomfort to the patient, but did not require intervention or treatment by a medical facility or a physician..... 500*
- (d) For an error in a prescription that resulted in a significant negative outcome to the patient or required intervention or treatment by a medical facility or a physician .....1,000*
- (e) For an error in a prescription that resulted in or contributed to a patient's death .....5,000*
- (f) Working as a pharmacist or employing a pharmacist to work in a pharmacy without a certificate of registration.....200 per day*

*(g) Working as a pharmaceutical technician or employing a pharmaceutical technician to work in a pharmacy without a certificate of registration .....100 per day*

*(h) For failing to make or maintain a biennial inventory of controlled substances.....1,000*

*2. The board may impose a fine for a violation listed in subsection 1 that is less than or greater than the amount set forth in that subsection for that violation after giving consideration to any aggravating and mitigating factors that relate to the violator's role in and responsibility for the conduct for which the fine is being imposed, and the unique circumstances of each case.*

*3. If a pharmacy or pharmacist commits a violation listed in subsection 1 more than once during any 36-month period, the board may impose a fine for any subsequent violation in an amount that is greater than the amount set forth in subsection 1 for that violation.*

*4. If a pharmacy under common ownership with one or more pharmacies commits a violation listed in subsection 1, and any pharmacy under that common ownership thereafter commits the same violation within any 36-month period, the board may impose a fine for those subsequent violations in an amount that is greater than the amount set forth in subsection 1 for that violation.*

*5. The board may, as it deems appropriate, impose a fine for a violation not listed in subsection 1 that is commensurate with the severity of the violation.*

*6. No fine imposed by the board will exceed \$10,000.*

*7. If, within an accusation, a member of the board's staff groups similar violations into one cause of action, that grouping is for administrative convenience only and does not affect the authority of the board to take disciplinary action for each separate violation.*

*8. This section will be construed and applied so as to preserve the discretion of the board to take any disciplinary action authorized by NRS 639.255.*

**NOTICE OF ADOPTION OF PROPOSED REGULATION  
LCB File No. R119-02**

The State Board of Pharmacy adopted regulations assigned LCB File No. R119-02 which pertain to chapter 639 of the Nevada Administrative Code on September 12, 2002.

**Notice date:** 8/12/2002  
**Hearing date:** 9/12/2002

**Date of adoption by agency:** 9/12/2002  
**Filing date:** 10/24/2002

**INFORMATIONAL STATEMENT**

The informational statement required by NRS 233B.066 numerically conforms to the subsections of the statute as follows:

1. A DESCRIPTION OF HOW PUBLIC COMMENT WAS SOLICITED, A SUMMARY OF PUBLIC RESPONSE, AND AN EXPLANATION HOW OTHER INTERESTED PERSONS MAY OBTAIN A COPY OF THE SUMMARY.

Public comment was solicited through public notices posted in county courthouses and through mailings to interested parties.

All interested parties may obtain a summary of public response by written or verbal request to: Nevada State Board of Pharmacy, 555 Double Eagle Court, Suite 1100, Reno, Nevada, 89511.

2. THE NUMBER OF PERSONS WHO: (A) ATTENDED EACH HEARING; (B) TESTIFIED AT EACH HEARING; AND (C) SUBMITTED TO THE AGENCY WRITTEN STATEMENTS.

The number of persons who attended the hearing was 3.  
The number of persons who testified at the hearing was 3.  
The number of agency submitted statements was 1.

3. A DESCRIPTION OF HOW COMMENT WAS SOLICITED FROM AFFECTED BUSINESSES, A SUMMARY OF THEIR RESPONSE, AND AN EXPLANATION HOW OTHER INTERESTED PERSONS MAY OBTAIN A COPY OF THE SUMMARY.

Comments were solicited from affected businesses through posting of public notices in the county courthouses, by direct mailings to all interested persons who have requested notices of board of pharmacy meeting agendas and by direct mailings to professional and trade associations.

All interested parties may obtain a summary of public response by written or verbal request to: Nevada State Board of Pharmacy, 555 Double Eagle Court, Suite 1100, Reno, Nevada, 89511.

4. IF THE REGULATION WAS ADOPTED WITHOUT CHANGING ANY PART OF THE PROPOSED REGULATION, A SUMMARY OF THE REASONS FOR ADOPTING THE REGULATION WITHOUT CHANGE.

The proposed regulation was adopted with minor changes.

5. THE ESTIMATED ECONOMIC EFFECT OF THE REGULATION ON THE BUSINESS WHICH IT IS TO REGULATE AND ON THE PUBLIC. THESE MUST BE STATED SEPARATELY, AND IN EACH CASE MUST INCLUDE:

A) BOTH ADVERSE AND BENEFICIAL EFFECTS.

This regulation should have no economic impact on affected businesses providing they do not have disciplinary action. If there is discipline imposed upon those businesses the fining schedule will ensure equitable consideration is given to all persons and facilities being fined in disciplinary matters.

B) BOTH IMMEDIATE AND LONG-TERM EFFECTS.

This regulation will maintain consistency in the fining process both immediately and in the long-term economic effect on business and will have no economic impact on the public.

6. 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.

7. A DESCRIPTION OF ANY REGULATIONS OF OTHER STATE OR GOVERNMENT AGENCIES WHICH THE PROPOSED REGULATION OVERLAPS OR DUPLICATES AND A STATEMENT EXPLAINING WHY THE DUPLICATION OR OVERLAPPING IS NECESSARY. IF THE REGULATION OVERLAPS OR DUPLICATES A FEDERAL REGULATION, 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.

8. IF THE REGULATION INCLUDES PROVISIONS WHICH ARE MORE STRINGENT THAN A FEDERAL REGULATION WHICH 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.

9. IF THE REGULATION PROVIDES A NEW FEE OR INCREASES AN EXISTING FEE, THE TOTAL ANNUAL AMOUNT THE AGENCY EXPECTS TO COLLECT AND THE MANNER IN WHICH THE MONEY WILL BE USED.

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