Chapter 639 of NAC

LCB File No. T002-06

ADOPTED TEMPORARY REGULATION OF THE STATE BOARD OF PHARMACY

Filed with the Secretary of State on September 29, 2006

PHARMACY LICENSURE CHANGES

Section 1. NAC 639.5007 shall be amended to as follows:

1. If a license to conduct a pharmacy is issued for an applicant that is required to designate a natural person as a representative of the pharmacy pursuant to NAC 639.5005, the ~~[license is subject to the following restrictions:~~

~~(a) The license expires 90 days after the date the license is issued by the Board.~~

~~(b) The license entitles the pharmacy to purchase prescription drugs only to the extent necessary to fill prescriptions actually received by the pharmacy.~~

~~(c) The license prohibits the pharmacy from selling, transferring, distributing, dispensing or otherwise providing prescription drugs to anyone except to a patient who has a legal prescription.~~

~~2. A pharmacy subject to the provisions of this section may receive an unrestricted license after the pharmacy provides the Board with a copy of a fully executed contract with a long-term care facility, home care facility or other similar facility in which the pharmacy has contracted to be the primary provider of prescription drugs. The net proceeds for the pharmacy from such a contract must be at least 75 percent of the monthly payroll for the employees employed by or otherwise compensated by the pharmacy.~~

~~3. Before the Board issues an unrestricted license pursuant to this section, the Board will inspect the pharmacy and the records of the pharmacy to confirm that the pharmacy has complied with the requirements of this section and all other applicable laws.~~

~~4. If a restricted license expires, whether after the original period of 90 days or after any subsequent extension, because the pharmacy has not been able to comply with the requirements of this section:~~

~~(a) The Board will not issue an unrestricted license to the pharmacy; and~~

~~(b) The pharmacy is subject to involuntary closure pursuant to the provisions of NAC 639.570.~~

~~5. The owner of a pharmacy that has been involuntarily closed pursuant to subsection 4 and NAC 639.570 may not reapply for a pharmacy license sooner than 1 year after the date of the expiration of the restricted license.~~

~~6. A pharmacy that has been issued a restricted license pursuant to this section may apply for one extension of the license, which may not exceed 90 days. To apply for an extension of a restricted license, the pharmacy must:~~

~~(a) Apply in writing not later than 60 days after the date when the restricted license was issued on a form provided by the Board;~~

~~(b) Be in compliance with this section and all applicable laws; and~~

~~(c) Demonstrate that it has made a good faith effort to obtain a contract to provide pharmaceutical services.~~~~]~~ ***board may place conditions upon the grant of the license. The conditions may include, but are not limited to:***

(a) Making the license temporary for a period of time;

(b) Making the grant of a permanent and unrestricted license conditional upon the satisfaction of other conditions;

(c) Restricting the practices of the pharmacy to certain activities;

(d) Restricting the drugs that may be purchased by the pharmacy to only those drugs necessary to fill prescriptions;

(e) Prohibiting the pharmacy from selling, transferring, distributing, dispensing or otherwise providing prescription drugs to anyone except to a patient who has a legal prescription;

(f) Requiring occasional or random audits of the practices of the pharmacy to assure that it is complying with other conditions;

(g) Requiring the pharmacy to prove or acquire certain contractual relationships, such as contracts with a long-term care facility, home care facility or other similar facility in which the pharmacy has contracted to be the primary provider of prescription drugs;

(h) Requiring the pharmacy to prove that it can pay for its overhead with the pharmacy practices allowed by the board;

(i) Such other terms and conditions as the board deems necessary and appropriate to assure that the license is used only to conduct legitimate pharmacy practice.

NOTICE OF ADOPTION OF TEMPORARY REGULATION
LCB File No. T002-06

The State Board of Pharmacy adopted temporary regulations assigned LCB File No. T002-06 which pertain to chapter 639 of the Nevada Administrative Code on September 7, 2006.

Date of adoption by agency: 9/7/2006
Hearing date: 9/7/2006 **Filing date:** 9/29/2006

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.

There was no public response expressed relative to this proposed regulation.

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

There was no public response expressed relative to this proposed regulation.

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.

There was no response from affected businesses relative to this proposed regulation.

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 without change as no testimony was offered.

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 or on the public.

B) BOTH IMMEDIATE AND LONG-TERM EFFECTS.

This regulation will have no immediate or long-term economic effects on business or the public.

6. THE ESTIMATED COST TO THE AGENCY FOR ENFORCEMENT OF THE PROPOSED REGULATION.

There will be no additional or special costs 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.