

LCB File No. R212-09

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

**PROPOSED AMENDMENT TO NAC 639.945
AMENDING BONA FIDE THERAPEUTIC RELATIONSHIP**

NAC 639.945 Unprofessional conduct; owner responsible for acts of employees. (NRS 639.070, 639.210)

1. The following acts or practices by a holder of any license, certificate or registration issued by the Board or any employee of any business holding any such license, certificate or registration are declared to be, specifically but not by way of limitation, unprofessional conduct and conduct contrary to the public interest:

(a) Manufacturing, compounding, selling, dispensing or permitting to be manufactured, compounded, sold or dispensed substandard drugs or preparations.

(b) Except as otherwise provided in NRS 639.2583 to 639.2807, inclusive, for substitutions of generic drugs, dispensing or causing to be dispensed a different drug or brand of drug in place of the drug or brand of drug ordered or prescribed, unless the express permission of the orderer or prescriber is obtained and, in the case of a written prescription, unless the following information is recorded on the prescription by the person obtaining permission:

- (1) The date on which the permission was granted;
- (2) The name of the practitioner granting the permission;
- (3) The name of the person obtaining the permission;
- (4) The name of the drug dispensed; and
- (5) The name of the manufacturer or distributor of the drug.

(c) Using secret formulas.

(d) Failing strictly to follow the instructions of the person writing, making or ordering a prescription or chart order as to its filling or refilling, the content of the label of the prescription or giving a copy of the prescription or chart order to any person except as permitted by law.

(e) Failing to confer with the person writing, making or ordering a prescription or chart order if there is an error or omission in it which should be questioned.

(f) Operating a pharmacy at a location other than the location at which the pharmacy is licensed to operate.

(g) Supplying or diverting drugs, biologicals, medicines, substances or devices which are legally sold in pharmacies or by wholesalers, so that unqualified persons can circumvent any law pertaining to the legal sale of such articles.

(h) Performing or in any way being a party to any fraudulent or deceitful practice or transaction.

(i) Performing any of his duties as the holder of a license, certificate or registration issued by the Board, or as the owner of a business or an entity licensed by the Board, in an incompetent, unskillful or negligent manner.

(j) Aiding or abetting a person not licensed to practice pharmacy in the State of Nevada.

(k) Performing any act, task or operation for which licensure, certification or registration is required without the required license, certificate or registration.

(l) Violating any term or condition of a subpoena or order issued by the Board or the staff of the Board.

(m) Failing to provide any document, data or information that is required to be made and maintained pursuant to chapters 453, 454, 585 and 639 of NRS and chapters 453, 454, 585 and 639 of NAC to a member of the Board or a member of the staff of the Board upon his request.

(n) Dispensing a drug as a dispensing practitioner to a patient with whom the dispensing practitioner does not have a bona fide therapeutic relationship.

(o) Prescribing a drug as a prescribing practitioner to a patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship.

2. The owner of any business or facility licensed, certified or registered by the Board is responsible for the acts of all personnel in his employ.

3. As used in this section *and except as otherwise provided in subsection 4*, “bona fide therapeutic relationship” means a relationship in which a practitioner has:

(a) Physically examined a patient; and

(b) As a result of the examination, diagnosed a condition for which a given drug therapy is prescribed,

↳ within the 6 months immediately preceding the date the practitioner dispenses or prescribes a drug to the patient.

4. physician licensed pursuant to NRS chapters 630 or 633 serving patients who are offenders incarcerated in correctional institutions located in the state of Nevada may serve the offender by telemedicine and will be deemed to have established a bona fide therapeutic relationship with the offender without physically examining the offender if:

(a) The physician has available to him a medical history of the offender;

(b) The physician has examined the offender either by telephone or videoconferencing system;

(c) The correctional institution employs a nurse, and advanced practitioner of nursing, or physician assistant licensed pursuant to Nevada law and trained in the use of any videoconferencing system and peripheral equipment connected to the videoconferencing system and is present with the offender when the physician is examining the patient in order to execute any orders the physician might make in the course of the examination; and

(d) The physician enters the information derived from the telephonic or videoconferenced examination into the offender’s chart maintained at the correctional institution.