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STATE OF NEVADA
BOARD OF PHARMACY

985 Damonte Ranch Pkwy, Ste 206
Reno, NV 89521

Posted: December 10, 2024

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, January 16, 2025.

Pursuant to NRS 241.023(1)(c) the meeting is being conducted by means of
remote technology. The public may attend the meeting via live stream remotely
or at the following location:

Hilton Garden Inn
7830 S. Las Vegas Boulevard
Las Vegas, NV

Via Videoconference at Zoom: <https://zoom.us/j/5886256671>

or

Via Teleconference at 1 (669) 900-6833
Meeting ID: 588 625 6671

The purpose of the hearing is to receive comments from all interested persons
regarding the adoption and amendment of regulations that pertain to Chapter 639
and/or 453 of the Nevada Administrative Code.

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

Amendment to Nevada Administrative Code (NAC). The proposed
amendments establish the minimum staffing standards in a pharmacy and modify
the number of pharmaceutical technicians and pharmaceutical technicians in
training a pharmacist may supervise.
(LCB File No. R113-24)

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

The purpose of the proposed regulation is to set minimum staffing standards in certain pharmacies so that patient care and safety are prioritized in the process of meeting pharmacy workloads. The proposed regulation will improve working conditions in pharmacies and address issues identified in a survey conducted by the Nevada State Board of Pharmacy of all pharmacists registered in Nevada.

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

A copy of the proposed regulation 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.

The impact of this regulation on small businesses was assessed and showed that there should be no economic impact from this regulation on these regulated entities or on the public. The regulation amendment will have a beneficial effect on the regulated entities as it ensures pharmacies prioritize patient care and safety by adequately staffing each pharmacy to meet workloads, and will improve work conditions in pharmacies by mitigating issues identified in a survey conducted by the Nevada State Board of Pharmacy of all pharmacists registered in Nevada. This regulation benefits the public as it will prioritize patient care and safety.

(b) Both immediate and long-term effects.

Both the immediate and long-term economic effects on regulated entities and on the public will be beneficial as the proposed regulation will ensure certain pharmacies are adequately staffed to meet workloads while prioritizing patient care and safety, and will improve work conditions in pharmacies by mitigating issues identified in a survey conducted by the Nevada State Board of Pharmacy of all pharmacists registered in Nevada.

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

There will be no additional or special costs incurred by the Board of Pharmacy for enforcement of this regulation amendment.

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 any other state or local governmental agency that the proposed regulation amendment overlaps or duplicates.

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

The regulation is not 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 federal regulation of the same activity in which the state 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 Board at teambc@pharmacy.nv.gov or to the Nevada State Board of Pharmacy, 985 Damonte Ranch Parkway, Suite 206 – Reno, NV 89521. Written submissions must be received by the Board on or before December 5, 2024. 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.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Nevada State Board of Pharmacy in writing at 985 Damonte Ranch Pkwy., #206, Reno, Nevada 89521, or by calling (775) 850-1440. Please notify us at least one (1) week prior to the scheduled meeting date to allow time to secure any necessary equipment or provisions prior to the meeting.

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.

Pursuant to NRS 233B.064(1), upon adoption of any regulation, the Board, 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:

www.notice.nv.gov

www.bop.nv.gov

www.leg.state.nv.us.

Nevada State Board of Pharmacy
Reno, Nevada

Nevada State Board of Pharmacy
Las Vegas, Nevada

Nevada State Library
100 N. Stewart St.
Carson City, NV 89701

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

LCB File No. R113-24

July 15, 2024

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

AUTHORITY: §§ 1 and 2, NRS 639.070; §§ 3-5, NRS 639.070 and 639.1371.

A REGULATION relating to pharmacy; establishing requirements governing the staffing of certain pharmacies; revising provisions concerning the supervision of pharmaceutical technicians and pharmaceutical technicians in training; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the State Board of Pharmacy to adopt regulations relating to the practice of pharmacy in this State. (NRS 639.070) **Sections 2 and 3** of this regulation establish requirements governing the minimum number of pharmacists and pharmaceutical technicians or pharmaceutical technicians in training, respectively, who must be working in a pharmacy that dispenses controlled substances or dangerous drugs, with certain exceptions. **Section 4** of this regulation additionally requires a pharmacy that dispenses controlled substances or dangerous drugs to: (1) be staffed in a manner that meets the demands of the pharmacy and prioritizes patient care and safety; and (2) maintain records of the hours worked by pharmacists, pharmaceutical technicians and pharmaceutical technicians in training. **Section 4** also requires the managing pharmacist of such a pharmacy to ensure that the pharmacy complies with the requirements of **sections 2-4**. **Section 4** additionally requires a pharmacist who is on the staff of a pharmacy that is subject to the requirements of **sections 2 and 3** to notify the Board when the pharmacy is out of compliance with those requirements for at least 3 days.

Existing law requires the Board to adopt regulations concerning pharmaceutical technicians, including requirements for the supervision of pharmaceutical technicians. (NRS 639.1371) **Section 5** of this regulation revises the number of pharmaceutical technicians or pharmaceutical technicians in training that a pharmacist is authorized to supervise, depending on the type of pharmacy in which the pharmacist is working. **Section 5** also removes authorization for a pharmacist working in certain pharmacies to exceed the number of pharmaceutical technicians he or she would otherwise be authorized to supervise under certain circumstances. **Sections 4 and 5**, respectively, require a pharmacist who is on the staff of a pharmacy to report to the Board concerning: (1) a failure of the pharmacy to comply with the requirements of **section 2 or 3** for any period over 3 consecutive days; or (2) any failure of the pharmacy to comply with requirements governing the supervision of pharmaceutical technicians.

Section 1. Chapter 639 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. 1. *Except as otherwise provided in subsection 2, a pharmacy that dispenses controlled substances or dangerous drugs, other than an institutional pharmacy or a pharmacy in a correctional institution, must have not less than:*

(a) One pharmacist working during the entirety of each hour the pharmacy fills less than 20 prescriptions.

(b) Two pharmacists working during the entirety of each hour the pharmacy fills at least 20 prescriptions, plus at least one additional pharmacist working during the entirety of such an hour for each additional 20 prescriptions the pharmacy fills during that hour.

(c) In addition to the requirements of paragraph (a) or (b), as applicable, one pharmacist working during the entirety of each hour that the pharmacy provides both nondispensing services and dispensing services. A pharmacist described in this paragraph must be designated to provide nondispensing services, but may assist in providing dispensing services, including the dispensing of controlled substances or dangerous drugs, if, in the professional judgment of the pharmacist, patient care and safety are not compromised.

2. The requirements of paragraph (c) of subsection 1 do not apply to a pharmacy that fills less than 10 prescriptions per hour.

3. As used in this section:

(a) "Dispensing services" means the filling and dispensing of prescriptions.

(b) "Nondispensing services" means all activities that a pharmacist performs except for dispensing services.

Sec. 3. *Except as otherwise provided in NAC 639.250, a pharmacy that dispenses controlled substances or dangerous drugs, other than an institutional pharmacy or a pharmacy in a correctional institution, must have not less than:*

1. One pharmaceutical technician or pharmaceutical technician in training working during the entirety of each hour the pharmacy fills at least five but not more than nine prescriptions.

2. Two pharmaceutical technicians or pharmaceutical technicians in training working during the entirety of each hour the pharmacy fills at least 10 but not more than 19 prescriptions.

3. Three pharmaceutical technicians or pharmaceutical technicians in training working during the entirety of each hour the pharmacy fills at least 20 prescriptions, plus one additional pharmaceutical technician or pharmaceutical technician in training working during the entirety of such an hour for each additional 20 prescriptions the pharmacy fills during that hour.

Sec. 4. *1. A pharmacy that dispenses controlled substances or dangerous drugs must be staffed in a manner that meets the demands of the pharmacy and prioritizes patient care and safety.*

2. The names and hours worked of each pharmacist, pharmaceutical technician and pharmaceutical technician in training must be documented in the records of a pharmacy that dispenses controlled substances or dangerous drugs. The pharmacy shall maintain such records in an easily retrievable manner for at least 2 years after the hours worked to which the records apply.

3. *The managing pharmacist of a pharmacy that dispenses controlled substances or dangerous drugs shall ensure that the pharmacy complies with sections 2, 3 and 4 of this regulation, to the extent applicable.*

4. *A pharmacist who is on the staff of a pharmacy that dispenses controlled substances or dangerous drugs, other than an institutional pharmacy or a pharmacy in a correctional institution, including, without limitation, the managing pharmacist of such a pharmacy, shall report to the Board when the pharmacy fails to meet the requirements of section 2 or 3 of this regulation for any period of time during each of 3 consecutive days.*

Sec. 5. NAC 639.250 is hereby amended to read as follows:

639.250 Except as otherwise provided in NAC 639.258:

1. Except as otherwise provided in subsection 5, in ~~fa hospital,~~ *an institutional pharmacy or a pharmacy in a correctional institution*, a pharmacist who is dispensing prescriptions may not supervise more than a total of three pharmaceutical technicians at one time. A pharmacist who is supervising distributive functions may not supervise more than a total of two pharmaceutical technicians and one pharmaceutical technician in training while the trainee is performing technician functions in on-the-job training.

2. ~~Except as otherwise provided in subsection 5, in~~ *In* any pharmacy, other than ~~fa hospital,~~ *an institutional* pharmacy, *pharmacy in a correctional institution*, telepharmacy, remote site, satellite consultation site or nondispensing pharmacy, a pharmacist may not supervise more than a total of ~~three~~ *four* pharmaceutical technicians or ~~one~~ *two* pharmaceutical ~~technician~~ *technicians* and two pharmaceutical technicians in training at one time.

3. In any telepharmacy, remote site or satellite consultation site, a pharmacist may not supervise more than a total of three pharmaceutical technicians at one time.

4. In any nondispensing pharmacy, a pharmacist may not supervise more than a total of eight pharmaceutical technicians or six pharmaceutical technicians and two pharmaceutical technicians in training at one time.

5. A pharmacist *in an institutional pharmacy or a pharmacy in a correctional institution* may supervise more pharmaceutical technicians and pharmaceutical technicians in training at one time than are otherwise allowed pursuant to ~~subsections~~ *subsection 1* ~~and 2~~ if:

(a) Not more than three of the pharmaceutical technicians or pharmaceutical technicians in training are performing the duties of a pharmaceutical technician as set forth in NAC 639.245; and

(b) The record kept by the pharmacy pursuant to NAC 639.245 identifies the pharmaceutical technicians and pharmaceutical technicians in training who are performing the duties of a pharmaceutical technician as set forth in NAC 639.245.

6. A pharmacist who is on the staff of a pharmacy, including, without limitation, the managing pharmacist of such a pharmacy, shall report to the Board when the pharmacy fails to meet the requirements of this section.

~~6.~~ 7. As used in this section, “nondispensing pharmacy” means a pharmacy that is licensed pursuant to this chapter and chapter 639 of NRS that does not dispense, including, without limitation, drugs, controlled substances, poisons, medicines or chemicals.