

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

LCB File No. R113-24

June 25, 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 the managing pharmacist of such a pharmacy to ensure that the pharmacy: (1) is staffed in a manner that meets the demands of the pharmacy and prioritizes patient care and safety; and (2) maintains records of the hours worked by pharmacists, pharmaceutical technicians and pharmaceutical technicians in training.

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, the managing pharmacist of a pharmacy that dispenses controlled substances or dangerous drugs, other than an institutional pharmacy or a pharmacy in a correctional institution, shall ensure that the pharmacy has 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:

(1) The filling and dispensing of prescriptions; and

(2) The provision of counseling related to 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, the managing pharmacist of a pharmacy that dispenses controlled substances or dangerous drugs, other than an institutional pharmacy or a pharmacy in a correctional institution, shall ensure that the pharmacy has 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. The managing pharmacist of a pharmacy that dispenses controlled substances or dangerous drugs shall ensure that:*

(a) The pharmacy is staffed in a manner that meets the demands of the pharmacy and prioritizes patient care and safety;

(b) The names and hours worked of each pharmacist, pharmaceutical technician and pharmaceutical technician in training are documented in the records of the pharmacy; and

(c) The pharmacy maintains such records in an easily retrievable manner for at least 2 years after the hours worked to which the records apply.

2. A pharmacist who is on the staff of a pharmacy, other than an institutional pharmacy or a pharmacy in a correctional institution, including, without limitation, the managing pharmacist of a such 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 ~~{a 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 ~~{a 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 a such 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.