ADOPTED REGULATION OF THE

STATE BOARD OF PHARMACY

LCB File No. R164-01

Effective December 17, 2001

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

AUTHORITY: §§1-3, NRS 453.221; Section 1 of Senate Bill No. 544 of the 71st session of the Nevada Legislature, chapter 344, Statutes of Nevada 2001, at page 1629 (NRS 453.385) and NRS 639.070; §4, NRS 639.070 and 639.0745; §5, NRS 639.0745.

Section 1. NAC 453.430 is hereby amended to read as follows:

453.430 1. An individual practitioner may not issue a prescription in order to obtain controlled substances for the purpose of general dispensing to patients.

2. A prescription may not be issued for dispensing any narcotic drug to a person dependent on a narcotic drug for the purpose of continuing his dependence upon the drug except in the course of an authorized clinical investigation in the development of a program for rehabilitating narcotic addicts.

3. The administering or dispensing directly ***,*** ~~[(]~~ but not ***the*** prescribing ***,*** ~~[)]~~ of any narcotic drugs to a person dependent on a narcotic drug for the purpose of continuing his dependence upon the drug is permissible in the course of conducting a federally authorized clinical investigation in the development of a program for rehabilitating narcotic addicts if the activity is within the course of professional practice or research.

4. A prescription for a controlled substance listed in schedule III, IV or V may be transmitted by a practitioner or his agent by a facsimile machine to a pharmacy pursuant to the provisions of NAC 639.711.

Sec. 2. NAC 453.440 is hereby amended to read as follows:

453.440 1. ~~[In addition to the requirements of NRS 453.385, each written]~~ ***Except as otherwise provided in subsection 2, each*** prescription for a controlled substance ***, other than an oral or electronically transmitted prescription,*** must ~~[:~~

~~(a) Contain the]~~ ***contain:***

(a) The name of the prescribing practitioner;

(b) The address of the prescribing practitioner if not immediately available to the pharmacist;

(c) The handwritten signature of the prescribing practitioner in nonerasable ink; ~~[and~~

~~(b) Be submitted to the pharmacist in its original form.]~~

(d) The date that the prescription was issued as expressed in the order of month, day and year;

(e) The full name of the patient;

(f) The address of the patient if not immediately available to the pharmacist;

(g) The name, strength and quantity of the drug or drugs prescribed;

(h) The directions for use;

(i) The classification of the license of the prescribing practitioner; and

(j) The registration number from the Drug Enforcement Administration of the prescribing practitioner.

2. A prescription issued by ~~[an officer]~~ ***a person who is authorized to prescribe controlled substances in the course of his official duties and*** who is exempted from registration ~~[by federal law]~~ ***pursuant to 21 C.F.R. § 1301.23*** may be filled if ***, in lieu of the requirements set forth in paragraphs (a) and (j) of subsection 1,*** it contains ~~[the officer's]~~ ***:***

(a) The name ***of the person who issued the prescription*** stamped or printed on it ~~[, his social security identification number and his signature.]~~ ***;***

(b) The branch of military service or the agency pursuant to which the person who issued the prescription is authorized to prescribe controlled substances in the course of his official duties; and

(c) The service identification number of the person who issued the prescription. Pursuant to 21 C.F.R. § 1301.23, the service identification number for an employee of the United States Public Health Service is his social security number.

3. Except as otherwise provided in subsection ~~[7,]~~ ***2 and this subsection,*** if ***the registration number of the prescribing practitioner,*** the address of the prescribing practitioner ~~[and]~~ ***or the address*** of the patient ~~[are]~~ ***is*** not on the prescription, before filling the prescription, the pharmacist shall write the missing ***registration number,*** address ~~[,]~~ or addresses, on the prescription ***.*** ~~[unless]~~ ***If*** the ***address or*** addresses are immediately available to the pharmacist by an alphabetical card file, computer, patient profile system or any other system approved by the board ~~[.]~~ ***the pharmacist need not write the address or addresses on the prescription.*** If the pharmacist writes the missing ***registration number,*** address or addresses on the prescription, he shall place his initials near the ***registration number,*** address or addresses. If the addresses are immediately available to the pharmacist, he shall place on the prescription his initials and a notation indicating the addresses are immediately available, ~~[such as]~~ ***including, without limitation,*** "RA," "readily available," "in files," "on computer" or any other similar notation.

4. ~~[If]~~ ***Except as otherwise provided in subsection 2, if the registration number of the prescribing practitioner,*** the address of the prescribing practitioner or ~~[of]~~ the ***address of the*** patient is not on the prescription and ***the address of the prescribing practitioner or the address***

of the patient are not immediately available to the pharmacist, or if the ***registration number,*** address or addresses have been added by the patient or a person other than the practitioner, before dispensing the prescription ~~[,]~~ the pharmacist shall:

(a) If the address of the patient is missing or added, obtain:

(1) Positive identification from the patient to verify his identity and address; or

(2) Verification from the practitioner or his agent of the identity and address of the patient.

(b) If the address of the practitioner is missing or added, obtain verification from the practitioner or his agent of the address of the practitioner.

(c) If the registration number of the prescribing practitioner is missing or added, obtain verification from:

(1) The practitioner or his agent; or

(2) The board or its authorized agent.

FLUSH The pharmacist shall place his initials and a notation indicating the person who provided the identification or verification to the pharmacist on the prescription.

5. ~~[If the prescription is for a patient in a skilled nursing facility, hospital or extended care facility, the current number of the patient's room and bed must be inserted.~~

~~6. If the prescription is for an incarcerated offender, the name of the facility and his current cell number must be inserted.~~

~~7. For prescriptions in sequence in the same category, for example, schedules III, IV and V and dangerous drugs, if the address is not otherwise immediately available to the pharmacist, one of the prescriptions in sequence must contain the address of the practitioner and the patient.~~**]** ***A pharmacist:***

(a) May, after obtaining approval of the practitioner who issued the prescription, add or change the following information on a prescription for a controlled substance listed in schedule II:

(1) The strength of the drug prescribed;

(2) The quantity of the drug prescribed; and

(3) The directions for use.

(b) May not add or change the following information on a prescription for a controlled substance listed in schedule II:

(1) The name of the patient;

(2) The name of the controlled substance prescribed except that the pharmacist may change the name of the controlled substance to reflect the generic name of the controlled substance if the pharmacist substituted a generic controlled substance for the controlled substance prescribed;

(3) The signature of the prescribing practitioner; or

(4) The date that the prescription was issued.

(c) Shall:

(1) Initial any addition or change made pursuant to paragraph (a); and

(2) Make a notation on the prescription of:

(I) The date and time that the prescribing practitioner approved the addition or change; and

(II) The reason for the addition or change.

Sec. 3. NAC 453.450 is hereby amended to read as follows:

453.450 ***1. A pharmacist may dispense a controlled substance listed in schedule II only pursuant to:***

(a) A written prescription, including a written prescription described in subsection 1 of NAC 639.711 that is transmitted by a practitioner or his agent by a facsimile machine to a pharmacy; or

(b) An emergency oral prescription authorized by a prescribing practitioner pursuant to NAC 453.420.

2. If a prescription for a controlled substance listed in schedule II is written on the same prescription blank with a prescription for another drug, the pharmacy or dispensing practitioner shall maintain the original prescription blank in the file maintained pursuant to NAC 453.480 for controlled substances listed in schedule II. After the prescription for the controlled substance listed in schedule II is filled, the pharmacy or dispensing practitioner shall make a copy of the prescription blank for each of the other prescriptions written on that prescription blank and file the copy of the prescription blank in the appropriate file maintained pursuant to NAC 453.480. Each copy of the prescription blank filed must include a reference to the serial number of the prescription for a controlled substance listed in schedule II.

4. Each prescription for a controlled substance listed in schedule II must, immediately after filling, be conspicuously canceled on its face. The cancellation must include the date on which it was filled and the signature and certificate number of the pharmacist who filled it.

Sec. 4. NAC 639.7105 is hereby amended to read as follows:

639.7105 Except as otherwise provided in NAC 639.711:

1. A prescription for:

(a) A controlled substance listed in schedule II must not be transmitted electronically.

(b) A dangerous drug or a controlled substance listed in schedule III, IV or V may be transmitted electronically by a practitioner to a pharmacy.

2. A practitioner shall not transmit a prescription electronically to a pharmacy unless:

(a) He is the only person who will have access to the prescription until it is received by the pharmacy; and

(b) The patient:

(1) Consents to the transmission of the prescription electronically; and

(2) Approves the pharmacy where the prescription will be transmitted.

3. In addition to the requirements set forth in NRS 639.2353 and 639.2589, a prescription that is transmitted electronically to a pharmacy must include:

(a) ***The registration number from the Drug Enforcement Administration of the prescribing practitioner if the prescription is for a controlled substance;***

(b) The telephone number of the practitioner;

~~[(b)]~~ ***(c)*** The time and date of the transmission; and

~~[(c)]~~ ***(d)*** The name of the pharmacy to which the prescription is sent.

4. A pharmacist who receives a prescription that is transmitted electronically shall:

(a) Print a copy of the prescription on paper that is of sufficient quality to last for at least 2 years; and

(b) Keep a copy of the prescription for at least 2 years after he receives the prescription.

5. A pharmacist shall not dispense a prescription that is transmitted electronically until he determines that the prescription complies with the requirements of state and federal law.

6. A prescription that is transmitted electronically and complies with the provisions of this section shall be deemed an original prescription.

Sec. 5. NAC 639.711 is hereby amended to read as follows:

639.711 1. A prescription for a controlled substance listed in schedule II must not be transmitted by a practitioner or his designated agent by a facsimile machine to a pharmacy unless the prescription is:

(a) For a controlled substance that will be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion;

(b) For issuance to a resident of a facility for long-term care; or

(c) For issuance to a resident of a facility that provides hospice care which has been licensed by this state or certified by Medicare pursuant to Title XVIII of the Social Security Act. Such a prescription must state that the resident receives hospice care.

2. A dangerous drug or a controlled substance listed in schedule III, IV or V may be transmitted by a practitioner or his designated agent by a facsimile machine to a pharmacy.

3. A practitioner or his designated agent shall not transmit a prescription by a facsimile machine to a pharmacy unless the patient:

(a) Consents to the use of the facsimile machine; and

(b) Approves the pharmacy where the facsimile prescription will be transmitted.

4. A pharmacist shall not dispense a facsimile prescription unless it is signed by a practitioner and transmitted to a pharmacy by the practitioner or his designated agent.

5. In addition to the requirements set forth in NRS 639.2353 and 639.2589, a facsimile prescription must include:

(a) ***The registration number from the Drug Enforcement Administration of the prescribing practitioner if the prescription is for a controlled substance;***

(b) The telephone number of the facsimile machine;

~~[(b)]~~ ***(c)*** The telephone number of the practitioner;

~~[(c)]~~ ***and***

(d) The time and date of its transmission ***.*** ~~[; and~~

~~(d) The words "faxed to" preceding the name of the pharmacy to which the facsimile prescription is sent.]~~

6. A facsimile prescription must be kept by the pharmacist for 2 years after it is received by him. If the paper is not of sufficient quality to last for at least 2 years, the facsimile prescription must be reproduced on permanent paper or the pharmacist must reduce the prescription to writing and attach the original transmission of the prescription to the reproduced copy or the prescription reduced to writing.

7. A facsimile prescription which complies with the provisions of this section shall be deemed an original prescription.

8. As used in this section:

(a) "Facsimile machine" means a device which transmits or receives a reproduction or facsimile of a document or photograph which is transmitted electronically or telephonically by telecommunications lines, including, without limitation, a computer that has a facsimile modem through which documents can be sent and received.

(b) "Facsimile prescription" means an electronically produced image of a written prescription which is transmitted by a facsimile machine.

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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.

The number of persons who attended the hearing was ___1__.
The number of persons who testified at the hearing was __1___.
The number of agency submitted statements was ___0__.

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 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 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.

Enforcement of the regulation will be performed during annual inspections of all pharmacies. There will be no additional cost incurred by the board.

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.