

# PRESCRIBING IN NEVADA

An Inside Look at Changes to Nevada Laws Surrounding Prescribing Controlled Substances for the Treatment of Pain

These changes to Nevada law do not impact the authority of practitioners to exercise their professional judgment when treating pain patients; these changes do not compel a practitioner to discharge any patient without a plan for on-going treatment.

September 1, 2017

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## An Inside Look at Changes to Nevada Laws Surrounding Prescribing Controlled Substances for the Treatment of Pain

### Introduction

Assembly Bill 474 from the 2017 Legislative Session produced many changes to the laws and procedures for prescribing a controlled substance (CS) in Nevada. This guide is designed to help practitioners understand and comply with those changes.

For purposes of this guide, the term “practitioner” means any person licensed to prescribe a CS for human consumption. An “initial prescription” is a prescription originated for a new patient of a practitioner, or a prescription written to begin a new course of treatment for a practitioner’s existing patient. The term does not include a prescription written to continue a patient’s on-going course of treatment as the patient transfers from one practitioner to another.

In this guide, the key provisions in AB474 are divided into six sections:

- 1) Components of a written CS prescription
- 2) Factors to Consider Before Writing Any Prescription for a CS
- 3) Factors to Consider Before Writing An Initial Prescription
- 4) Prescribing after 30 days
- 5) Prescribing after 90 days
- 6) Prescribing after 365 days

### Components of a Written Controlled Substance Prescription

Effective January 1, 2018, every written CS prescription, in addition to the components currently listed in NAC 453.440, must include the following:

- Patient’s Date of Birth
- International Classification of Diseases Tenth Revision (ICD-10) diagnosis code for the disease being treated with the CS
- The fewest number of days necessary to consume the quantity of the CS dispensed to the patient if the patient consumes the maximum dose of the CS authorized by the prescribing practitioner.
- Practitioner’s Drug Enforcement Administration (DEA) number

If multiple practitioners’ names and DEA numbers are printed on the prescription form, the prescription cannot be filled unless the practitioner clearly indicates which is his or her name and DEA number.

## Factors to Consider Before Writing Any Prescription for a CS

Before a practitioner writes any prescription for a CS, the practitioner should consider each of the following factors where applicable:

- Whether there is reason to believe that the patient is not using the CS as prescribed, or is diverting the CS for use by another person;
- Where the patient was previously prescribed the CS, whether it had the expected effect on the patient's symptoms for which it was prescribed;
- Whether there is reason to believe that the patient is using other drugs, including, without limitation, alcohol or another CS that:
  - May interact negatively with the CS prescribed by the practitioner; or
  - Was not prescribed by a practitioner who is treating the patient;
- The number of attempts by the patient to obtain an early refill of the prescription;
- The number of times the patient has claimed that the CS has been lost or stolen;
- Irregular or inconsistent information in the patient's PMP Report that may indicate the patient is using the CS inappropriately;
- Whether previous blood or urine tests indicate inappropriate use of the CS;
- The need to verify that unauthorized CS are not present in the patient's body;
- Whether the patient has demonstrated aberrant behavior or intoxication;
- Whether the patient has increased his or her dose of the CS without the practitioner's authorization;
- Whether the patient has been reluctant to stop using the CS or has requested or demanded a CS that is likely to be abused or cause dependency or addiction;
- Whether the patient has been reluctant to cooperate with any examination, analysis or test recommended by the practitioner;
- Whether the patient has a history of substance abuse;
- Any major change in the patient's health that would affect the medical appropriateness of the CS;
- Other evidence that the patient is misusing or is addicted to any drug, or is failing to comply with the practitioner's instructions;
- Any other factor that will help the practitioner make an informed decision as to the medical necessity and appropriateness of the CS.

If the practitioner determines in his or her professional judgment, after considering each of the forgoing factors, that the CS is medically necessary and appropriate, the practitioner may prescribe following the guidelines below.

## Before Writing an Initial Prescription

Before writing an initial prescription for a CS, each practitioner must:

- Have a bona fide relationship with the patient;
- Establish a preliminary diagnosis and a treatment plan;
- Perform a *Patient Risk Assessment* (see below);
- Obtain and review the patient's PMP report;
- Discuss non-CS treatment options with the patient and indicate in the patient's medical record why a CS was prescribed;
- If after review and assessment of the patient the practitioner writes an initial prescription:
  - It must be for no more than 14 day supply if treatment is for acute pain;
  - It must not be for more than 90 morphine milligram equivalent (MME) daily for an opiate naïve patient (patient who has never received an opioid prescription or the patient's most recent course of opioid treatment was completed more than 19 days prior to the initial prescription the practitioner is intending to issue); AND
  - The patient completes an *Informed Consent* (see below).

## **Patient Risk Assessment**

To Perform a Patient Risk Assessment, a practitioner must:

- Obtain and review the patient's medical history/records, make a good faith effort to obtain and review the medical records from any other provider who has provided care to the patient and document those efforts and any conclusions the practitioner reached from reviewing the patient's medical record, and
- Conduct a physical examination and assess the patient's mental health, risk of abuse, addiction, and dependency using methods supported by peer reviewed scientific research that is validated by a nationally recognized organization. (Risk Assessment tools can be found at your respective licensing board's website.)

## **Informed Consent**

The practitioner must obtain informed written consent after discussing the following with the patient:

- The potential risks and benefits of using the CS, including the risks of dependency, addiction and overdose;
- The proper use, storage and disposal of the CS;
- Possible alternative treatment options;
- The patient's treatment plan;
- How the practitioner will address requests for refills;
- Risk of CS exposure to a fetus of a childbearing age woman;
- If the CS is an opioid, the availability of an opioid antagonist without a prescription; AND
- If the patient is an unemancipated minor, the risks that the minor will abuse, misuse, or divert the CS, including ways to detect those issues.

### Prescribing after 30 days

A practitioner who prescribes a CS to treat pain for more than 30 days must, not later than 30 days after issuing the initial prescription, enter into a *Prescription Medication Agreement* with the patient. The Agreement must be part of the patient's record, and the practitioner must update it at least every 365 days while the patient is using the CS or whenever the practitioner changes the treatment plan. The Agreement must include:

- Goals of the treatment;
- Patient's consent to drug testing when deemed necessary by the practitioner;
- A requirement that the patient take the CS as prescribed;
- A prohibition on sharing the medication with any other person;
- A requirement that the patient inform the practitioner of:
  - Any other CSs prescribed or taken by the patient;
  - Whether the patient drinks alcohol, uses cannabinoid or illicit drugs;
  - Whether the patient has been treated for side effects or complications relating to the use of the CS;
  - Each state in which the patient previously resided or had a prescription for CS filled;
- Reasons the practitioner may change or discontinue the treatment.

### Prescribing after 90 days

A practitioner who prescribes a CS to treat pain for more than 90 consecutive days must:

- Determine an evidence-based diagnosis for the cause of the pain;
- Complete a *Risk of Abuse Assessment* validated through peer-reviewed research;
- Discuss the treatment plan with the patient;
- Obtain and review the patient's PMP Report at least every 90 days during the course of treatment;
- If the patient is receiving a dose that exceeds 90 MME daily:
  - Consider referring patient to a pain management specialist;
  - Develop and document in the patient's medical record a revised treatment plan including an assessment of increased risk for adverse outcomes.

### Prescribing after 365 days

A practitioner should not prescribe a CS to a patient who has already received 365 days' worth of that CS for a particular diagnosis in any given 365 day rolling period. Similarly, a practitioner should not prescribe more doses of a CS than the patient needs if he or she adheres to the practitioner's dosing instructions for the treatment period. In either scenario, the practitioner may choose to prescribe a larger quantity than the patient needs for the treatment period, so long as the practitioner documents his or her rationale in the patient's medical record.