

CHAPTER 291. PHARMACIES

SUBCHAPTER A. ALL CLASSES OF PHARMACIES

22 TAC §291.1, §291.3

The Texas State Board of Pharmacy proposes amendments to §291.1, concerning Pharmacy License Application, and §291.3, concerning Required Notifications. The amendments, if adopted, clarify that pharmacies are required to notify patients when a pharmacy is changing locations, clarify that pharmacies are required to report the loss of controlled substances and dangerous drugs due to forged prescriptions, and delete the option of providing a notarized statement signed by the lessee and lessor certifying the existence of a lease as a part of the application for a pharmacy license.

Gay Dodson, R.Ph., Executive Director/Secretary, has determined that, for the first five-year period the rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Dodson has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the rule will ensure that patients are notified when a pharmacy changes location, pharmacies properly notify the Board when prescriptions are forged by licensees or registrants, and an applicant for a pharmacy license has a proper lease. There is no fiscal impact for individuals, small or large businesses or to other entities which are required to comply with this section.

Comments on the proposed amendments may be submitted to Allison Benz, R.Ph., M.S., Director of Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600, Austin, Texas 78701, FAX (512) 305-8082. Comments must be received by 5 p.m., May 1, 2009.

The amendments are proposed under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 566 and 568 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by this rule: Texas Pharmacy Act, Chapters 551 - 566 and 568 - 569, Texas Occupations Code.

§291.1. Pharmacy License Application.

(a) To qualify for a pharmacy license, the applicant must submit an application including the following information:

(1) - (5) (No change.)

(6) copy of lease agreement [~~or alternatively, a notarized statement signed by the lessee and lessor certifying the existence of a lease agreement,~~] or if the location of the pharmacy is owned by the applicant, a notarized statement certifying such location ownership;

(7) - (15) (No change.)

(b) - (h) (No change.)

§291.3.Required Notifications.

(a) Change of Location and/or Name.

(1) (No change.)

(2) At least 14 days prior to the change of location of a pharmacy that dispenses prescription drug orders, the pharmacist-in-charge shall post a sign in a conspicuous place indicating that the pharmacy is changing locations. Such sign shall be in the front of the prescription department and at all public entrance doors to the pharmacy and shall indicate the date the pharmacy is changing locations.

(3) [(2)] Disasters, accidents, and emergencies which require the pharmacy to change location shall be immediately reported to the board. If a pharmacy changes location suddenly due to disasters, accidents, or other emergency circumstances and the pharmacist-in-charge cannot provide notification 14 days prior to the change of location, the pharmacist-in-charge shall comply with the provisions of paragraph (2) of this subsection as far in advance of the change of location as allowed by the circumstances.

(b) (No change.)

(c) Change of Ownership.

(1) (No change.)

(2) The new application shall include the following information:

(A) the name and address of pharmacy;

(B) the type of ownership;

(C) the names, home addresses, dates of birth, phone numbers, and social security numbers of all owners; if a partnership or corporation, the name, title, home address, home phone number, date of birth, and social security number of all managing officers;

(D) the name and license number of the pharmacist-in-charge and of other pharmacists employed by the pharmacy;

(E) a copy of lease agreement [~~or alternatively, a notarized statement signed by the lessee and lessor certifying the existence of a lease agreement,~~] or if the location of the pharmacy is owned by the applicant, a notarized statement certifying such location ownership;

(F) a copy of the purchase contract or mutual agreement between the buyer and seller, or a notarized statement of intent to convey ownership signed by both the buyer and seller, stating the proposed date of ownership change;

(G) the signature of the pharmacist-in-charge;

(H) the notarized signature of the owner, or if the pharmacy is owned by a partnership or corporation, the notarized signature of an owner or managing officer;

(I) federal tax ID number;

(J) description of business services that will be offered;

(K) name and address of malpractice insurance carrier or statement that the business will be self-insured;

(L) the certificate of authority, if applicant is an out-of-state corporation;

(M) the articles of incorporation, if the applicant is a corporation;

(N) a current Texas Franchise Tax Certificate of Good Standing; and

(O) any other information requested on the application.

(3) - (5) (No change.)

(d) - (g) (No change.)

(h) Notification of Licensees or Registrants Obtaining Controlled Substances or Dangerous Drugs by Forged Prescriptions. If a licensee or registrant obtains controlled substances or dangerous drugs from a pharmacy by means of a forged prescription, the pharmacy shall report in writing to the board immediately on discovery of such forgery. A pharmacy shall be in compliance with this subsection by submitting to the board the following:

(1) name of licensee or registrant obtaining controlled substances or dangerous drugs by forged prescription;

(2) date(s) of forged prescription(s);

(3) name(s) and amount(s) of drug(s); and

(4) copies of forged prescriptions.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 16, 2009.

TRD-200901089

Gay Dodson, R.Ph.

Executive Director/Secretary

Texas State Board of Pharmacy

Earliest possible date of adoption: April 26, 2009

For further information, please call: (512) 305-8028