

any disposition for a crime that board rule §281.64 of this title (relating to Sanctions for Criminal Offenses) indicates a sanction of denial, revocation, or suspension;

(E) pay the licensing fee set out in §283.9 of this title (relating to Fee Requirements for Licensure by Examination, Score Transfer and Reciprocity); and

(F) provide documentation that the applicant is the spouse of a member of the armed forces of the United States to include:

- (i) marriage certificate; and
- (ii) military identification indicating that the:
 - (I) applicant is a military dependent; and
 - (II) applicant's spouse is on active duty status.

(2) Requirements for an applicant whose Texas pharmacist's license has expired. An applicant whose Texas pharmacist's license has expired within five years preceding the application date and while the applicant lived in another state for at least six months:

(A) shall complete the Texas application for licensing that includes the following:

- (i) name;
- (ii) addresses, phone numbers, date of birth, and social security number; however, if an individual is unable to obtain a social security number, an individual taxpayer identification number may be provided in lieu of a social security number along with documentation indicating why the individual is unable to obtain a social security number; and

(iii) any other information requested on the application;

(B) shall provide documentation that the applicant is the spouse of a person serving on active duty as a member of the armed forces of the United States to include:

- (i) marriage certificate; and
- (ii) military identification;

(C) shall pay the renewal fee specified in §295.5 of this title (relating to Pharmacist License Renewal Fees);

(D) shall complete approved continuing education requirements according to the following schedule:

(i) if the Texas pharmacist license has been expired for more than one year but less than two years, the applicant shall complete 15 contact hours of approved continuing education;

(ii) if the Texas pharmacist license has been expired for more than two years but less than three years, the applicant shall complete 30 contact hours of approved continuing education; or

(iii) if the Texas pharmacist license has been expired for more than three years but less than five years, the applicant shall complete 45 contact hours of approved continuing education; and

(E) is not required to take the Texas Pharmacy Jurisprudence Examination.

(b) A temporary license issued under this section is valid for no more than six months and may be extended, if disciplinary action is pending, or upon request, as otherwise determined reasonably necessary by the executive director of the board.

(c) A temporary license issued under this section expires within six months of issuance if the individual fails to pass the Texas

Pharmacy Jurisprudence Examination within six months or fails to take the Texas Pharmacy Jurisprudence Examination within six months.

(d) An individual may not serve as pharmacist-in-charge of a pharmacy with a temporary license issued under this section.

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.

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Gay Dodson, R.Ph.

Executive Director/Secretary

Texas State Board of Pharmacy

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



CHAPTER 291. PHARMACIES

SUBCHAPTER B. COMMUNITY PHARMACY

(CLASS A)

22 TAC §291.34

The Texas State Board of Pharmacy proposes amendments to §291.34, concerning Records. The proposed amendments, if adopted, implement the provisions of Senate Bill 594 passed by the 2011 Texas Legislature to allow the electronic transmission of Schedule II controlled substance prescription orders and update recordkeeping requirements with regard to documenting patient counseling.

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 Schedule II controlled substance prescription orders transmitted electronically to the pharmacy are dispensed in compliance with state and federal requirements and the requirements for documenting patient counseling are consistent with other sections of the rules. 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) 305-8008. Comments must be received by 5:00 p.m., January 13, 2012.

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 amendment: Texas Pharmacy Act, Chapters 551 - 566 and 568 - 569, Texas Occupations Code.

§291.34. *Records.*

(a) (No change.)

(b) Prescriptions.

(1) - (3) (No change.)

(4) Electronic prescription drug orders. For the purpose of this subsection, prescription drug orders shall be considered the same as verbal prescription drug orders.

(A) An electronic prescription drug order may be transmitted by a practitioner or a practitioner's designated agent:

(i) directly to a pharmacy; or

(ii) through the use of a data communication device provided:

(I) the confidential prescription information is not altered during transmission; and

(II) confidential patient information is not accessed or maintained by the operator of the data communication device other than for legal purposes under federal and state law.

(B) A practitioner shall designate in writing the name of each agent authorized by the practitioner to electronically transmit prescriptions for the practitioner. The practitioner shall maintain at the practitioner's usual place of business a list of the designated agents. The practitioner shall provide a pharmacist with a copy of the practitioner's written authorization for a specific agent on the pharmacist's request.

(C) A pharmacist may dispense an electronic prescription drug order for a Schedule II, III, IV, or V controlled substance in compliance with the federal and state laws and the rules of the Drug Enforcement Administration and Texas Department of Public Safety.

~~(D) [(C)]~~ A pharmacist may not dispense an electronic prescription drug order for a~~[-]~~

~~[(i)]~~ Schedule II ~~controlled substance~~, except as authorized for faxed prescriptions in §481.074, Health and Safety Code; ~~or~~

~~[(ii)]~~ dangerous drug or controlled substance issued by a practitioner licensed in the Dominion of Canada or the United Mexican States unless the practitioner is also licensed in Texas.

(5) (No change.)

(6) Prescription drug order information.

(A) All original prescriptions shall bear:

(i) name of the patient, or if such drug is for an animal, the species of such animal and the name of the owner;

(ii) address of the patient, provided, however, a prescription for a dangerous drug is not required to bear the address of the patient if such address is readily retrievable on another appropriate, uniformly maintained pharmacy record, such as medication records;

(iii) name, and if for a controlled substance, the address and DEA registration number of the practitioner;

(iv) name and strength of the drug prescribed;

(v) quantity prescribed;

(vi) directions for use;

(vii) intended use for the drug unless the practitioner determines the furnishing of this information is not in the best interest of the patient; and

(viii) date of issuance.

(B) All original electronic prescription drug orders shall bear:

(i) name of the patient, if such drug is for an animal, the species of such animal, and the name of the owner;

(ii) address of the patient, provided, however, a prescription for a dangerous drug is not required to bear the address of the patient if such address is readily retrievable on another appropriate, uniformly maintained pharmacy record, such as medication records;

(iii) name, and if for a controlled substance, the address and DEA registration number of the practitioner;

(iv) name and strength of the drug prescribed;

(v) quantity prescribed;

(vi) directions for use;

(vii) indications for use, unless the practitioner determines the furnishing of this information is not in the best interest of the patient;

(viii) date of issuance;

(ix) if a faxed prescription, a statement which indicates that the prescription has been faxed (e.g., Faxed to);

(x) telephone number of the prescribing practitioner;

(xi) date the prescription drug order was electronically transmitted to the pharmacy, if different from the date of issuance of the prescription; and

(xii) if transmitted by a designated agent, the full name of the designated agent.

(C) All original written prescriptions carried out or signed by an advanced practice nurse or physician assistant in accordance with Subtitle B, Chapter 157, Occupations Code, shall bear:

(i) name and address of the patient;

(ii) name, address, telephone number, and if the prescription is for a controlled substance, the DEA number of the supervising practitioner;

(iii) name, original signature and if the prescription is for a controlled substance, the DEA number of the advanced practice nurse or physician assistant;

(iv) address and telephone number of the clinic at which the prescription drug order was carried out or signed;

(v) name, strength, and quantity of the drug;

(vi) directions for use;

(vii) indications for use, if appropriate;

(viii) date of issuance; and

(ix) number of refills authorized.

(D) At the time of dispensing, a pharmacist is responsible for documenting the following information on either the original hard-copy prescription or in the pharmacy's data processing system:

(i) unique identification number of the prescription drug order;

(ii) initials or identification code of the dispensing pharmacist;

(iii) initials or identification code of the pharmacy technician or pharmacy technician trainee performing data entry of the prescription, if applicable;

(iv) quantity dispensed, if different from the quantity prescribed;

(v) date of dispensing, if different from the date of issuance; and

(vi) brand name or manufacturer of the drug product actually dispensed, if the drug was prescribed by generic name or if a drug product other than the one prescribed was dispensed pursuant to the provisions of the Act, Chapters 562 and 563.]; and]

~~[(vii) for each new prescription the initials or identification code of the pharmacist responsible for providing counseling.]~~

(7) - (9) (No change.)

(c) - (j) (No change.)

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.

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Executive Director/Secretary

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CHAPTER 297. PHARMACY TECHNICIANS AND PHARMACY TECHNICIAN TRAINEES

22 TAC §297.10

The Texas State Board of Pharmacy proposes new §297.10, concerning Registration for Military Spouses. The proposed new rule, if adopted, implements the provisions of Senate Bill 1733 passed by the 2011 Texas Legislature to allow for alternative procedures for registration as a pharmacy technician for military spouses.

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 applicants who are military spouses are allowed alternative procedures for registration. Economic cost to persons who are required to comply with the new rule will be the fee for registration as outlined in §297.4 concerning fees for pharmacy technician trainees and pharmacy technicians. The effect on large, small or micro-businesses (pharmacies) will be the same as the economic cost to an individual, if the pharmacy chooses to pay the fee for the individual.

Comments on the proposed new rule 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) 305-8008. Comments must be received by 5:00 p.m., January 13, 2012.

The new rule is proposed under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 566 and 568 - 569, Texas Occupations Code) and §55.004 of the 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 Board interprets §55.004 as authorizing the agency to adopt rules for the issuance of the license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States.

The statutes affected by the new rule: Texas Pharmacy Act, Chapters 551 - 566 and 568 - 569, Texas Occupations Code and Chapter 55, Texas Occupations Code.

§297.10. Registration for Military Spouses.

For the purpose of §55.004, Occupations Code, an applicant for a pharmacy technician registration who is the spouse of a person serving on active duty as a member of the armed forces of the United States may complete the following procedures for registering as a pharmacy technician.

(1) An applicant who holds a current registration as a pharmacy technician issued by another state shall meet the requirements for registration as a pharmacy technician trainee as specified in §297.3 of this chapter (relating to Registration Requirements).

(2) An applicant who held a pharmacy technician registration in Texas that expired within the five years preceding the application date and the registration expired while the applicant lived in another state for at least six months who meets the following requirements may be granted a pharmacy technician registration. The applicant:

(A) shall complete the Texas application for registration that includes the following:

(i) name;

(ii) addresses, phone numbers, date of birth, and social security number; however, if an individual is unable to obtain a social security number, an individual taxpayer identification number may be provided in lieu of a social security number along with documentation indicating why the individual is unable to obtain a social security number; and

(iii) any other information requested on the application;

(B) shall provide documentation that the applicant is the spouse of a member of the armed forces of the United States to include:

(i) marriage certificate; and

(ii) military identification indicating that the:

(I) applicant is a military dependent; and

(II) applicant's spouse is on active duty status;

(C) shall pay the registration fee set out in §297.4 of this title;

(D) shall meet all necessary requirements in order for the board to access the criminal history records information, including submitting fingerprint information and such criminal history check does not reveal any charge or conviction for a crime that §281.64 of