

## RULE ANALYSIS

**Introduction:** THE AMENDMENTS ARE SUBMITTED TO THE BOARD FOR CONSIDERATION AS A PROPOSED RULE

**Short Title:** Substitution of Dosage Form

**Rule Numbers:** §291.33

**Statutory Authority:** Texas Pharmacy Act, Chapter 551-566 and 568-569, Occupations Code:

- (1) Section 551.002 specifies that the purpose of the Act is to protect the public through the effective control and regulation of the practice of pharmacy; and
- (2) Section 554.051 gives the Board the authority to adopt rules for the proper administration and enforcement of the Act.

**Purpose:** The amendments, if adopted, implement the provisions of SB 869 passed by the 83<sup>rd</sup> Texas Legislature. The amendments eliminate the requirement for the pharmacist to notify the prescriber of a substitution of dosage form.

**The Board reviewed and voted to propose the amendments during the May 6, 2014, meeting. The proposed amendments were published in the June 13, 2014, issue of the *Texas Register* at 39 TexReg 4597.**

1 **SUBCHAPTER B. COMMUNITY PHARMACY (CLASS A)**

2

3 **22 TAC §§291.31 - 291.34**

4 The Texas State Board of Pharmacy proposes amendments to §291.31, concerning Definitions;  
5 §291.32, concerning Personnel; §291.33, concerning Operational Standards; and §291.34,  
6 concerning Records.

7 The proposed amendments to §291.31, if adopted, implement provisions of Senate Bill (SB) 406  
8 passed by the 83rd Texas Legislature to update the reference to advance practice registered  
9 nurses and eliminate the reference to "carry out" an order. The proposed amendments to §291.32,  
10 if adopted, clarify that the requirements for dispensing a prescription are the same for a  
11 pharmacist and for an intern and eliminate references to sterile compounding that are no longer  
12 necessary. The proposed amendments to §291.33, if adopted, implement the provisions of SB  
13 869 passed by the 83rd Texas Legislature to eliminate the requirement for the pharmacist to  
14 notify the prescriber of a substitution of dosage form. The proposed amendments to §291.34, if  
15 adopted, implement provisions of SB 406 passed by the 83rd Texas Legislature to update the  
16 reference to advance practice registered nurses.

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

20 Ms. Dodson has determined that, for each year of the first five-year period the rules will be in  
21 effect, the public benefit anticipated as a result of enforcing the amendments will ensure the  
22 appropriate reference to advance practice registered nurses; ensure pharmacists and pharmacy  
23 interns are responsible for the dispensing of prescriptions; eliminate the requirement for  
24 pharmacists to notify prescribers of a substitution of dosage form; and eliminate references to  
25 sterile compounding that are no longer necessary.

26 Written comments on the amendments may be submitted to Allison Benz, R.Ph., M.S., Director  
27 of Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600,  
28 Austin, Texas 78701, fax (512) 305-8008. Comments must be received by 5:00 p.m., July 31,  
29 2014.

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

35 The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 566, 568 and  
36 569, Texas Occupations Code.

37 **§291.31. Definitions.**

38 The following words and terms, when used in this subchapter, shall have the following  
39 meanings, unless the context clearly indicates otherwise.

40 (1) - (2) (No change.)

41 (3) Advanced practice registered nurse--A registered nurse licensed [~~approved~~] by the Texas  
42 Board of Nursing to practice as an advanced practice registered nurse on the basis of completion  
43 of an advanced education program. The term includes nurse practitioner, nurse midwife, nurse  
44 anesthetist, and clinical nurse specialist. The term is synonymous with advanced nurse  
45 practitioner and advanced practice nurse.

46 (4) - (8) (No change.)

47 ~~{(9) Carrying out or signing a prescription drug order--The completion of a prescription drug~~  
48 ~~order presigned by the delegating physician, or the signing of a prescription by an advanced~~  
49 ~~practice nurse or physician assistant after the person has been designated with the Texas Medical~~  
50 ~~Board by the delegating physician as a person delegated to sign a prescription. As specified in~~  
51 ~~§157.056, of the Occupations Code, the following information must be provided on each~~  
52 ~~prescription:}~~

53 ~~{(A) patient's name and address;}~~

54 ~~{(B) the drug to be dispensed including the name, strength, and quantity of the drug;}~~

55 ~~{(C) directions to the patient regarding the taking of the drug and the dosage;}~~

56 ~~{(D) the intended use of the drug, if appropriate;}~~

57 ~~{(E) the name, address, and telephone number of the physician;}~~

58 ~~{(F) the name, address, telephone number, identification number, and if the prescription is for a~~  
59 ~~controlled substance, the DEA number of the advanced practice nurse or physician assistant~~  
60 ~~completing the prescription drug order;}~~

61 ~~{(G) the date; and}~~

62 ~~{(H) the number of refills permitted.}~~

63 (9) ~~[(10)]~~ Confidential record--Any health-related record that contains information that identifies  
64 an individual and that is maintained by a pharmacy or pharmacist, such as a patient medication  
65 record, prescription drug order, or medication order.

66 (10) ~~[(11)]~~ Controlled substance--A drug, immediate precursor, or other substance listed in  
67 Schedules I - V or Penalty Groups 1-4 of the Texas Controlled Substances Act, as amended, or a  
68 drug, immediate precursor, or other substance included in Schedules I, II, III, IV, or V of the

69 Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended (Public  
70 Law 91-513).

71 (11) [~~(12)~~] Dangerous drug--A drug or device that:

72 (A) is not included in Penalty Group 1, 2, 3, or 4, Chapter 481, Health and Safety Code, and is  
73 unsafe for self-medication; or

74 (B) bears or is required to bear the legend:

75 (i) "Caution: federal law prohibits dispensing without prescription" or "Rx only" or another  
76 legend that complies with federal law; or

77 (ii) "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian."

78 (12) [~~(13)~~] Data communication device--An electronic device that receives electronic  
79 information from one source and transmits or routes it to another (e.g., bridge, router, switch or  
80 gateway).

81 (13) [~~(14)~~] Deliver or delivery--The actual, constructive, or attempted transfer of a prescription  
82 drug or device or controlled substance from one person to another, whether or not for a  
83 consideration.

84 (14) [~~(15)~~] Designated agent--

85 (A) a licensed nurse, physician assistant, pharmacist, or other individual designated by a  
86 practitioner to communicate prescription drug orders to a pharmacist;

87 (B) a licensed nurse, physician assistant, or pharmacist employed in a health care facility to  
88 whom the practitioner communicates a prescription drug order;

89 (C) an advanced practice registered nurse or physician assistant authorized by a practitioner to  
90 carry out or sign a prescription drug order for dangerous drugs under Chapter 157 of the Medical  
91 Practice Act (Subtitle B, Occupations Code); or

92 (D) a person who is a licensed vocational nurse or has an education equivalent to or greater than  
93 that required for a licensed vocational nurse designated by the practitioner to communicate  
94 prescriptions for an advanced practice registered nurse or physician assistant authorized by the  
95 practitioner to sign prescription drug orders under Chapter 157 of the Medical Practice Act  
96 (Subtitle B, Occupations Code).

97 (15) [~~(16)~~] Dispense--Preparing, packaging, compounding, or labeling for delivery a prescription  
98 drug or device in the course of professional practice to an ultimate user or his agent by or  
99 pursuant to the lawful order of a practitioner.

100 (16) [~~(17)~~] Dispensing error--An action committed by a pharmacist or other pharmacy personnel  
101 that causes the patient or patient's agent to take possession of a dispensed prescription drug and  
102 an individual subsequently discovers that the patient has received an incorrect drug product,  
103 which includes incorrect strength, incorrect dosage form, and/or incorrect directions for use.

104 (17) [~~(18)~~] Dispensing pharmacist--The pharmacist responsible for the final check of the  
105 dispensed prescription before delivery to the patient.

106 (18) [~~(19)~~] Distribute--The delivery of a prescription drug or device other than by administering  
107 or dispensing.

108 (19) [~~(20)~~] Downtime--Period of time during which a data processing system is not operable.

109 (20) [~~(21)~~] Drug regimen review--An evaluation of prescription drug orders and patient  
110 medication records for:

111 (A) known allergies;

112 (B) rational therapy-contraindications;

113 (C) reasonable dose and route of administration;

114 (D) reasonable directions for use;

115 (E) duplication of therapy;

116 (F) drug-drug interactions;

117 (G) drug-food interactions;

118 (H) drug-disease interactions;

119 (I) adverse drug reactions; and

120 (J) proper utilization, including overutilization or underutilization.

121 (21) [~~(22)~~] Electronic prescription drug order--A prescription drug order that is generated on an  
122 electronic application and transmitted as an electronic data file.

123 (22) [~~(23)~~] Electronic signature--A unique security code or other identifier which specifically  
124 identifies the person entering information into a data processing system. A facility which utilizes  
125 electronic signatures must:

126 (A) maintain a permanent list of the unique security codes assigned to persons authorized to use  
127 the data processing system; and

128 (B) have an ongoing security program which is capable of identifying misuse and/or  
129 unauthorized use of electronic signatures.

130 (23) [~~(24)~~] Full-time pharmacist--A pharmacist who works in a pharmacy from 30 to 40 hours  
131 per week or, if the pharmacy is open less than 60 hours per week, one-half of the time the  
132 pharmacy is open.

133 (24) [~~(25)~~] Hard copy--A physical document that is readable without the use of a special device.

134 (25) [~~(26)~~] Hot water--The temperature of water from the pharmacy's sink maintained at a  
135 minimum of 105 degrees F (41 degrees C).

136 (26) [~~(27)~~] Medical Practice Act--The Texas Medical Practice Act, Subtitle B, Occupations  
137 Code, as amended.

138 (27) [~~(28)~~] Medication order--A written order from a practitioner or a verbal order from a  
139 practitioner or his authorized agent for administration of a drug or device.

140 (28) [~~(29)~~] New prescription drug order--A prescription drug order that:

141 (A) has not been dispensed to the patient in the same strength and dosage form by this pharmacy  
142 within the last year;

143 (B) is transferred from another pharmacy; and/or

144 (C) is a discharge prescription drug order. (Note: furlough prescription drug orders are not  
145 considered new prescription drug orders.)

146 (29) [~~(30)~~] Original prescription--The:

147 (A) original written prescription drug order; or

148 (B) original verbal or electronic prescription drug order reduced to writing either manually or  
149 electronically by the pharmacist.

150 (30) [~~(31)~~] Part-time pharmacist--A pharmacist who works less than full-time.

151 (31) [~~(32)~~] Patient med-pak--A package prepared by a pharmacist for a specific patient  
152 comprised of a series of containers and containing two or more prescribed solid oral dosage  
153 forms. The patient med-pak is so designed or each container is so labeled as to indicate the day  
154 and time, or period of time, that the contents within each container are to be taken.

155 (32) [~~(33)~~] Patient counseling--Communication by the pharmacist of information to the patient or  
156 patient's agent in order to improve therapy by ensuring proper use of drugs and devices.

157 (33) [~~(34)~~] Pharmaceutical care--The provision of drug therapy and other pharmaceutical  
158 services intended to assist in the cure or prevention of a disease, elimination or reduction of a  
159 patient's symptoms, or arresting or slowing of a disease process.

160 (34) [~~(35)~~] Pharmacist-in-charge--The pharmacist designated on a pharmacy license as the  
161 pharmacist who has the authority or responsibility for a pharmacy's compliance with laws and  
162 rules pertaining to the practice of pharmacy.

163 (35) [~~(36)~~] Pharmacy technician--An individual who is registered with the board as a pharmacy  
164 technician and whose responsibility in a pharmacy is to provide technical services that do not  
165 require professional judgment regarding preparing and distributing drugs and who works under  
166 the direct supervision of and is responsible to a pharmacist.

167 (36) [~~(37)~~] Pharmacy technician trainee--An individual who is registered with the board as a  
168 pharmacy technician trainee and is authorized to participate in a pharmacy's technician training  
169 program.

170 (37) [~~(38)~~] Physician assistant--A physician assistant recognized by the Texas Medical Board as  
171 having the specialized education and training required under Subtitle B, Chapter 157,  
172 Occupations Code, and issued an identification number by the Texas Medical Board.

173 (38) [~~(39)~~] Practitioner--

174 (A) a person licensed or registered to prescribe, distribute, administer, or dispense a prescription  
175 drug or device in the course of professional practice in this state, including a physician, dentist,  
176 podiatrist, or veterinarian but excluding a person licensed under this Act;

177 (B) a person licensed by another state, Canada, or the United Mexican States in a health field in  
178 which, under the law of this state, a license holder in this state may legally prescribe a dangerous  
179 drug;

180 (C) a person practicing in another state and licensed by another state as a physician, dentist,  
181 veterinarian, or podiatrist, who has a current federal Drug Enforcement Administration  
182 registration number and who may legally prescribe a Schedule II, III, IV, or V controlled  
183 substance, as specified under Chapter 481, Health and Safety Code, in that other state; or

184 (D) an advanced practice registered nurse or physician assistant to whom a physician has  
185 delegated the authority to carry out or sign prescription drug orders under §§157.0511, 157.052,  
186 157.053, 157.054, 157.0541, or 157.0542, Occupations Code, or, for the purpose of this  
187 subchapter, a pharmacist who practices in a hospital, hospital-based clinic, or an academic health  
188 care institution and a physician has delegated the authority to sign a prescription for a dangerous  
189 drug under §157.101, Occupations Code.

190 (39) [~~(40)~~] Prepackaging--The act of repackaging and relabeling quantities of drug products from  
191 a manufacturer's original commercial container into a prescription container for dispensing by a  
192 pharmacist to the ultimate consumer.

193 ~~(40)~~~~(41)~~ Prescription department--The area of a pharmacy that contains prescription drugs.

194 (41) ~~(42)~~ Prescription drug--

195 (A) a substance for which federal or state law requires a prescription before the substance may be  
196 legally dispensed to the public;

197 (B) a drug or device that under federal law is required, before being dispensed or delivered, to be  
198 labeled with the statement:

199 (i) "Caution: federal law prohibits dispensing without prescription" or "Rx only" or another  
200 legend that complies with federal law; or

201 (ii) "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian";  
202 or

203 (C) a drug or device that is required by federal or state statute or regulation to be dispensed on  
204 prescription or that is restricted to use by a practitioner only.

205 (42) ~~(43)~~ Prescription drug order--

206 (A) a written order from a practitioner or a verbal order from a practitioner or his authorized  
207 agent to a pharmacist for a drug or device to be dispensed; or

208 (B) a written order or a verbal order pursuant to Subtitle B, Chapter 157, Occupations Code.

209 (43) ~~(44)~~ Prospective drug use review--A review of the patient's drug therapy and prescription  
210 drug order or medication order prior to dispensing or distributing the drug.

211 (44) ~~(45)~~ State--One of the 50 United States of America, a U.S. territory, or the District of  
212 Columbia.

213 (45) ~~(46)~~ Texas Controlled Substances Act--The Texas Controlled Substances Act, Health and  
214 Safety Code, Chapter 481, as amended.

215 (46) ~~(47)~~ Written protocol--A physician's order, standing medical order, standing delegation  
216 order, or other order or protocol as defined by rule of the Texas Medical Board under the Texas  
217 Medical Practice Act.

218 *§291.32.Personnel.*

219 (a) - (b) (No change.)

220 (c) Pharmacists.

221 (1) General.

222 (A) - (E) (No change.)

223 (F) A dispensing pharmacist shall be responsible for and ensure that the drug is dispensed and  
224 delivered safely, and accurately as prescribed, unless the pharmacy's data processing system can  
225 record the identity of each pharmacist involved in a specific portion of the dispensing processing.  
226 If the system can track the identity of each pharmacist involved in the dispensing process, each  
227 pharmacist involved in the dispensing process shall be responsible for and ensure that the portion  
228 of the process the pharmacist is performing results in the safe and accurate dispensing and  
229 delivery of the drug as prescribed. The dispensing process shall include, but not be limited to,  
230 drug regimen review and verification of accurate prescription data entry, including data entry of  
231 prescriptions placed on hold, packaging, preparation, compounding, transferring, and labeling,  
232 and performance of the final check of the dispensed prescription. An intern has the same  
233 responsibilities described in this subparagraph as a pharmacist but must perform his or her duties  
234 under the supervision of a pharmacist.

235 (2) (No change.)

236 (3) Special requirements for compounding.

237 ~~[(A) [Non-Sterile Preparations.] All pharmacists engaged in compounding non-sterile~~  
238 ~~preparations shall meet the training requirements specified in §291.131 of this title (relating to~~  
239 ~~Pharmacies Compounding Non-Sterile Preparations).~~

240 ~~[(B) Sterile Preparations. All pharmacists engaged in compounding sterile preparations shall~~  
241 ~~meet the training requirements specified in §291.133 of this title (relating to Pharmacies~~  
242 ~~Compounding Sterile Preparations).]~~

243 (d) Pharmacy Technicians and Pharmacy Technician Trainees.

244 (1) General.

245 (A) All pharmacy technicians and pharmacy technician trainees shall meet the training  
246 requirements specified in §297.6 of this title (relating to Pharmacy Technician and Pharmacy  
247 Technician Trainee Training).

248 (B) Special requirements for compounding.

249 ~~[(i) [Non-Sterile Preparations.] All pharmacy technicians and pharmacy technician trainees~~  
250 ~~engaged in compounding non-sterile preparations shall meet the training requirements specified~~  
251 ~~in §291.131 of this title.~~

252 ~~[(ii) Sterile Preparations. All pharmacy technicians and pharmacy technician trainees engaged in~~  
253 ~~compounding sterile preparations shall meet the training requirements specified in §291.133 of~~  
254 ~~this title.]~~

255 (2) Duties.

- 256 (A) - (B) (No change.)
- 257 (C) Pharmacy technicians and pharmacy technician trainees may perform only nonjudgmental  
258 technical duties associated with the preparation and distribution of prescription drugs, as follows:
- 259 (i) initiating and receiving refill authorization requests;
- 260 (ii) entering prescription data into a data processing system;
- 261 (iii) taking a stock bottle from the shelf for a prescription;
- 262 (iv) preparing and packaging prescription drug orders (i.e., counting tablets/capsules, measuring  
263 liquids and placing them in the prescription container);
- 264 (v) affixing prescription labels and auxiliary labels to the prescription container;
- 265 (vi) reconstituting medications;
- 266 (vii) prepackaging and labeling prepackaged drugs;
- 267 (viii) loading bulk unlabeled drugs into an automated dispensing system provided a pharmacist  
268 verifies that the system is properly loaded prior to use;
- 269 (ix) compounding non-sterile [~~and sterile~~] prescription drug orders; and
- 270 (x) compounding bulk non-sterile preparations.
- 271 (3) (No change.)
- 272 (e) (No change.)
- 273 **§291.33.Operational Standards.**
- 274 (a) - (b) (No change.)
- 275 (c) Prescription dispensing and delivery.
- 276 (1) - (3) (No change.)
- 277 (4) Substitution of dosage form.
- 278 (A) As specified in §562.012 [~~§562.002~~] of the Act, a pharmacist may dispense a dosage form  
279 of a drug product different from that prescribed, such as a tablet instead of a capsule or liquid  
280 instead of tablets, provided:
- 281 (i) the patient consents to the dosage form substitution; and

282 ~~[(ii) the pharmacist notifies the practitioner of the dosage form substitution; and]~~

283 (ii) ~~[(iii)]~~ the dosage form so dispensed:

284 (I) contains the identical amount of the active ingredients as the dosage prescribed for the  
285 patient;

286 (II) is not an enteric-coated or time release product;

287 (III) does not alter desired clinical outcomes;

288 (B) Substitution of dosage form may not include the substitution of a product that has been  
289 compounded by the pharmacist unless the pharmacist contacts the practitioner prior to dispensing  
290 and obtains permission to dispense the compounded product.

291 (5) - (8) (No change.)

292 (d) - (i) (No change.)

293 **§291.34.Records.**

294 (a) (No change.)

295 (b) Prescriptions.

296 (1) (No change.)

297 (2) Written prescription drug orders.

298 (A) - (C) (No change.)

299 (D) Prescription drug orders carried out or signed by an advanced practice registered nurse,  
300 physician assistant, or pharmacist.

301 (i) A pharmacist may dispense a prescription drug order that is:

302 (I) ~~[carried out or]~~ signed by an advanced practice registered nurse or physician assistant  
303 provided the advanced practice registered nurse or physician assistant is practicing in accordance  
304 with Subtitle B, Chapter 157, Occupations Code;<sup>[7]</sup> and

305 (II) for a dangerous drug and signed by a pharmacist under delegated authority of a physician as  
306 specified in Subtitle B, Chapter 157, Occupations Code.

307 (ii) Each practitioner shall designate in writing the name of each advanced practice registered  
308 nurse or physician assistant authorized to ~~[carry out or]~~ sign a prescription drug order pursuant to  
309 Subtitle B, Chapter 157, Occupations Code. A list of the advanced practice registered nurses or

310 physician assistants designated by the practitioner must be maintained in the practitioner's usual  
311 place of business. On request by a pharmacist, a practitioner shall furnish the pharmacist with a  
312 copy of the written authorization for a specific advanced practice registered nurse or physician  
313 assistant.

314 (E) (No change.)

315 (3) - (6) (No change.)

316 (7) Prescription drug order information.

317 (A) All original prescriptions shall bear:

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

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

323 (iii) name, address and telephone number of the practitioner at the practitioner's usual place of  
324 business, legibly printed or stamped and if for a controlled substance, the DEA registration  
325 number of the practitioner;

326 (iv) name and strength of the drug prescribed;

327 (v) quantity prescribed numerically and if for a controlled substance:

328 (I) numerically, followed by the number written as a word, if the prescription is written;

329 (II) numerically, if the prescription is electronic; or

330 (III) if the prescription is communicated orally or telephonically, as transcribed by the receiving  
331 pharmacist;

332 (vi) directions for use;

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

335 (viii) date of issuance;

336 (ix) if a faxed prescription:

337 (I) a statement that indicates that the prescription has been faxed (e.g., Faxed to); and

338 (II) if transmitted by a designated agent, the name of the designated agent;

339 (x) if electronically transmitted:

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

342 (II) if transmitted by a designated agent, the name of the designated agent; and

343 (xi) if issued by an advanced practice registered nurse or physician assistant in accordance with  
344 Subtitle B, Chapter 157, Occupations Code the:

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

347 (II) address and telephone number of the clinic where the prescription drug order was carried out  
348 or signed.

349 (B) (No change.)

350 (8) - (10) (No change.)

351 (c) - (d) (No change.)

352 (e) Prescription drug order records maintained in a data processing system.

353 (1) (No change.)

354 (2) Records of dispensing.

355 (A) - (B) (No change.)

356 (C) The data processing system shall have the capacity to produce a daily hard copy printout of  
357 all original prescriptions dispensed and refilled. This hard copy printout shall contain the  
358 following information:

359 (i) unique identification number of the prescription;

360 (ii) date of dispensing;

361 (iii) patient name;

362 (iv) prescribing practitioner's name; and the supervising physician's name if the prescription was  
363 issued by an advanced practice registered nurse, physician assistant or pharmacist;

364 (v) name and strength of the drug product actually dispensed; if generic name, the brand name or  
365 manufacturer of drug dispensed;

366 (vi) quantity dispensed;

367 (vii) initials or an identification code of the dispensing pharmacist;

368 (viii) initials or an identification code of the pharmacy technician or pharmacy technician trainee  
369 performing data entry of the prescription, if applicable;

370 (ix) if not immediately retrievable via computer display, the following shall also be included on  
371 the hard copy printout:

372 (I) patient's address;

373 (II) prescribing practitioner's address;

374 (III) practitioner's DEA registration number, if the prescription drug order is for a controlled  
375 substance;

376 (IV) quantity prescribed, if different from the quantity dispensed;

377 (V) date of issuance of the prescription drug order, if different from the date of dispensing; and

378 (VI) total number of refills dispensed to date for that prescription drug order; and

379 (x) any changes made to a record of dispensing.

380 (D) - (K) (No change.)

381 (3) (No change.)

382 (f) - (l) (No change.)

383 The agency certifies that legal counsel has reviewed the proposal and found it to be within the  
384 state agency's legal authority to adopt.

385 Filed with the Office of the Secretary of State on May 30, 2014.

386 TRD-201402546

387 Gay Dodson, R.Ph.

388 Executive Director

389 Texas State Board of Pharmacy

390 Earliest possible date of adoption: July 13, 2014

391 For further information, please call: (512) 305-8073

392

AN ACT

relating to the regulation of the practice of pharmacy; authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (e), Section 353.204, Occupations Code, is amended to read as follows:

(e) The Texas State Board of Pharmacy is responsible for enforcing this chapter with regard to a violation of this chapter by a pharmacist. A violation of this chapter by a pharmacist is considered to be a violation of Subtitle J[~~, other than Chapter 567~~].

SECTION 2. Section 551.001, Occupations Code, is amended to read as follows:

Sec. 551.001. SHORT TITLE. This [~~The chapters of this~~] subtitle[~~, other than Chapter 567,~~] may be cited as the Texas Pharmacy Act.

SECTION 3. Section 551.003, Occupations Code, is amended by amending Subdivision (32) and adding Subdivision (32-a) to read as follows:

(32) "Pharmacy technician" means an individual employed by a pharmacy whose responsibility is to provide technical services that do not require professional judgment regarding preparing and distributing drugs and who works under the direct supervision of and is responsible to a pharmacist. The term does

1 not include a pharmacy technician trainee.

2 (32-a) "Pharmacy technician trainee" means an  
3 individual who is registered with the board as a pharmacy  
4 technician trainee and is authorized to participate in a pharmacy  
5 technician training program.

6 SECTION 4. Section 554.002, Occupations Code, is amended to  
7 read as follows:

8 Sec. 554.002. REGULATION OF PRACTICE OF PHARMACY. The  
9 board shall regulate the practice of pharmacy in this state by:

10 (1) issuing a license after examination or by  
11 reciprocity to an applicant qualified to practice pharmacy and  
12 issuing a license to a pharmacy under this subtitle;

13 (2) renewing a license to practice pharmacy and a  
14 license to operate a pharmacy;

15 (3) determining and issuing standards for recognizing  
16 and approving degree requirements of colleges of pharmacy whose  
17 graduates are eligible for a license in this state;

18 (4) specifying and enforcing requirements for  
19 practical training, including an internship;

20 (5) enforcing the provisions of this subtitle relating  
21 to:

22 (A) the conduct or competence of a pharmacist  
23 practicing in this state and the conduct of a pharmacy operating in  
24 this state; and

25 (B) the suspension, revocation, retirement, or  
26 restriction of a license to practice pharmacy or to operate a  
27 pharmacy or the imposition of an administrative penalty or

1 reprimand on a license holder;

2 (6) regulating the training, qualifications, and  
3 employment of a pharmacist-intern, ~~and~~ pharmacy technician, and  
4 pharmacy technician trainee; and

5 (7) determining and issuing standards for recognizing  
6 and approving a pharmacy residency program for purposes of  
7 Subchapter W, Chapter 61, Education Code.

8 SECTION 5. Subsection (b), Section 554.007, Occupations  
9 Code, is amended to read as follows:

10 (b) The board may receive and spend money, or use gifts,  
11 grants, and other funds and assets [~~from a party, other than the~~  
12 ~~state~~], in addition to money collected under Subsection (a), in  
13 accordance with state law.

14 SECTION 6. The heading to Section 554.053, Occupations  
15 Code, is amended to read as follows:

16 Sec. 554.053. RULEMAKING: PHARMACY TECHNICIAN AND PHARMACY  
17 TECHNICIAN TRAINEE.

18 SECTION 7. Subsections (a) and (b), Section 554.053,  
19 Occupations Code, are amended to read as follows:

20 (a) The board shall establish rules for the use and the  
21 duties of a pharmacy technician and pharmacy technician trainee in  
22 a pharmacy licensed by the board. A pharmacy technician and  
23 pharmacy technician trainee shall be responsible to and must be  
24 directly supervised by a pharmacist.

25 (b) The board may not adopt a rule establishing a ratio of  
26 pharmacists to pharmacy technicians and pharmacy technician  
27 trainees in a Class C pharmacy or limiting the number of pharmacy

1 technicians or pharmacy technician trainees that may be used in a  
2 Class C pharmacy.

3 SECTION 8. Section 557.004, Occupations Code, is amended to  
4 read as follows:

5 Sec. 557.004. LIMITATIONS ON REGISTRATION. (a) The board  
6 may:

- 7 (1) refuse to issue a registration to an applicant; or  
8 (2) restrict, suspend, or revoke a pharmacist-intern  
9 registration for a violation of this subtitle.

10 (b) The board may take disciplinary action against an  
11 applicant for a pharmacist-intern registration or the holder of a  
12 current or expired pharmacist-intern registration in the same  
13 manner as against an applicant for a license or a license holder by  
14 imposing a sanction authorized under Section 565.051 if the board  
15 finds that the applicant or registration holder has engaged in  
16 conduct described by Section 565.001.

17 SECTION 9. Section 559.003, Occupations Code, is amended by  
18 adding Subsection (e) to read as follows:

19 (e) A person may not renew a license to practice pharmacy if  
20 the person holds a license to practice pharmacy in another state  
21 that has been suspended, revoked, canceled, or subject to an action  
22 that prohibits the person from practicing pharmacy in that state.

23 SECTION 10. Subsection (b), Section 560.052, Occupations  
24 Code, is amended to read as follows:

25 (b) To qualify for a pharmacy license, an applicant must  
26 submit to the board:

- 27 (1) a license fee set by the board, except as provided

1 by Subsection (d); and

2 (2) a completed application that:

3 (A) is on a form prescribed by the board;

4 (B) is given under oath; ~~and~~

5 (C) includes proof that a license held in this  
6 state or another state, if applicable, has not been restricted,  
7 suspended, revoked, or surrendered for any reason; and

8 (D) includes a statement of:

9 (i) the ownership;

10 (ii) the location of the pharmacy;

11 (iii) the license number of each pharmacist  
12 who is employed by the pharmacy, if the pharmacy is located in this  
13 state, or who is licensed to practice pharmacy in this state, if the  
14 pharmacy is a Class E pharmacy;

15 (iv) the license number of the  
16 pharmacist-in-charge; and

17 (v) any other information the board  
18 determines necessary.

19 SECTION 11. Section 561.003, Occupations Code, is amended  
20 by adding Subsection (f) to read as follows:

21 (f) A pharmacy may not renew a license under this section if  
22 the pharmacy's license to operate in another state has been  
23 suspended, revoked, canceled, or subject to an action that  
24 prohibits the pharmacy from operating in that state.

25 SECTION 12. Section 562.012, Occupations Code, is amended  
26 to read as follows:

27 Sec. 562.012. SUBSTITUTION OF DOSAGE FORM PERMITTED. With

1 the patient's consent [~~and notification to the practitioner~~], a  
2 pharmacist may dispense a dosage form of a drug different from that  
3 prescribed, such as a tablet instead of a capsule or a liquid  
4 instead of a tablet, if the dosage form dispensed:

5 (1) contains the identical amount of the active  
6 ingredients as the dosage prescribed for the patient;

7 (2) is not an enteric-coated or timed release product;  
8 and

9 (3) does not alter desired clinical outcomes.

10 SECTION 13. Section 562.056, Occupations Code, is amended  
11 by adding Subsection (a-1) and amending Subsection (b) to read as  
12 follows:

13 (a-1) To be a valid prescription, a prescription for a  
14 controlled substance must be issued for a legitimate medical  
15 purpose by a practitioner acting in the usual course of the  
16 practitioner's professional practice. The responsibility for the  
17 proper prescribing and dispensing of controlled substances is on  
18 the prescribing practitioner, but a corresponding responsibility  
19 rests with the pharmacist who fills the prescription.

20 (b) This section [~~Subsection (a)~~] does not prohibit a  
21 pharmacist from dispensing a prescription when a valid  
22 practitioner-patient relationship is not present in an emergency.

23 SECTION 14. Section 562.103, Occupations Code, is amended  
24 by amending Subsection (b) and adding Subsection (c) to read as  
25 follows:

26 (b) A Class A or Class C pharmacy that serves the public  
27 shall:

1           (1) display the word "pharmacy" or a similar word or  
2 symbol as determined by the board in a prominent place on the front  
3 of the pharmacy; and

4           (2) display in public view the license of the  
5 pharmacist-in-charge of [~~each pharmacist employed in~~] the  
6 pharmacy.

7           (c) A pharmacy shall maintain and make available to the  
8 public on request proof that each pharmacist, pharmacist-intern,  
9 pharmacy technician, and pharmacist technician trainee working in  
10 the pharmacy holds the appropriate license or registration.

11           SECTION 15. Subsection (a), Section 565.001, Occupations  
12 Code, is amended to read as follows:

13           (a) The board may discipline an applicant for or the holder  
14 of a current or expired license to practice pharmacy if the board  
15 finds that the applicant or license holder has:

16           (1) violated this subtitle or a board rule adopted  
17 under this subtitle;

18           (2) engaged in unprofessional conduct as defined by  
19 board rule;

20           (3) engaged in gross immorality as defined by board  
21 rule;

22           (4) developed an incapacity that prevents or could  
23 prevent the applicant or license holder from practicing pharmacy  
24 with reasonable skill, competence, and safety to the public;

25           (5) engaged in fraud, deceit, or misrepresentation, as  
26 defined by board rule, in practicing pharmacy or in seeking a  
27 license to practice pharmacy;

1           (6) been convicted of or placed on deferred  
2 adjudication community supervision or deferred disposition or the  
3 applicable federal equivalent for:

4           (A) a misdemeanor:

5                 (i) involving moral turpitude; or

6                 (ii) under Chapter 481 or 483, Health and  
7 Safety Code, or the Comprehensive Drug Abuse Prevention and Control  
8 Act of 1970 (21 U.S.C. Section 801 et seq.); or

9           (B) a felony;

10          (7) used alcohol or drugs in an intemperate manner  
11 that, in the board's opinion, could endanger a patient's life;

12          (8) failed to maintain records required by this  
13 subtitle or failed to maintain complete and accurate records of  
14 purchases or disposals of drugs listed in Chapter 481 or 483, Health  
15 and Safety Code, or the Comprehensive Drug Abuse Prevention and  
16 Control Act of 1970 (21 U.S.C. Section 801 et seq.);

17          (9) violated any provision of:

18                 (A) Chapter 481 or 483, Health and Safety Code,  
19 or the Comprehensive Drug Abuse Prevention and Control Act of 1970  
20 (21 U.S.C. Section 801 et seq.), or rules relating to one of those  
21 laws; or

22                 (B) Section 485.031, 485.032, 485.033, or  
23 485.034, Health and Safety Code;

24          (10) aided or abetted an unlicensed person in the  
25 practice of pharmacy if the pharmacist knew or reasonably should  
26 have known that the person was unlicensed at the time;

27          (11) refused entry into a pharmacy for an inspection

1 authorized by this subtitle if the pharmacist received notification  
2 from which the pharmacist knew or reasonably should have known that  
3 the attempted inspection was authorized;

4 (12) violated any pharmacy or drug statute or rule of  
5 this state, another state, or the United States;

6 (13) been negligent in the practice of pharmacy;

7 (14) failed to submit to an examination after hearing  
8 and being ordered to do so by the board under Section 565.052;

9 (15) dispensed a prescription drug while acting  
10 outside the usual course and scope of professional practice;

11 (16) been disciplined by a pharmacy board or by  
12 another health [the] regulatory board of this state or another  
13 state for conduct substantially equivalent to conduct described  
14 under this subsection;

15 (17) violated a disciplinary order, including a  
16 confidential order or contract under the program to aid impaired  
17 pharmacists and pharmacy students under Chapter 564;

18 (18) failed to adequately supervise a task delegated  
19 to a pharmacy technician or pharmacy technician trainee;

20 (19) inappropriately delegated a task delegated to a  
21 pharmacy technician or pharmacy technician trainee; ~~or~~

22 (20) been responsible for a drug audit shortage; or

23 (21) been convicted or adjudicated of a criminal  
24 offense that requires registration as a sex offender under Chapter  
25 62, Code of Criminal Procedure.

26 SECTION 16. Subsection (c), Section 565.055, Occupations  
27 Code, is amended to read as follows:

1 (c) Notwithstanding Subsection (b), information or material  
2 compiled by the board in connection with an investigation may be  
3 disclosed:

4 (1) during any proceeding conducted by the State  
5 Office of Administrative Hearings, to the board, or a panel of the  
6 board, or in a subsequent trial or appeal of a board action or  
7 order;

8 (2) to a person providing a service to the board,  
9 including an expert witness, investigator, or employee of an entity  
10 that contracts with the board, related to a disciplinary proceeding  
11 against an applicant or license holder, or a subsequent trial or  
12 appeal, if the information is necessary for preparation for, or a  
13 presentation in, the proceeding;

14 (3) to an entity in another jurisdiction that:

15 (A) licenses or disciplines pharmacists or  
16 pharmacies; or

17 (B) registers or disciplines pharmacy  
18 technicians or pharmacy technician trainees;

19 (4) to a pharmaceutical or pharmacy peer review  
20 committee as described under Chapter 564;

21 (5) to a law enforcement agency;

22 (6) to a person engaged in bona fide research, if all  
23 information identifying a specific individual has been deleted; or

24 (7) to an entity that administers a board-approved  
25 pharmacy technician certification examination [~~under a court~~  
26 ~~order~~].

27 SECTION 17. Subsection (a), Section 565.101, Occupations

1 Code, is amended to read as follows:

2 (a) A person whose pharmacy license, license to practice  
3 pharmacy, ~~or~~ pharmacy technician registration, or pharmacy  
4 technician trainee registration in this state has been revoked or  
5 restricted under this subtitle, whether voluntarily or by board  
6 action, may, after the first anniversary of the effective date of  
7 the revocation or restriction, petition the board for reinstatement  
8 or removal of the restriction of the license or registration.

9 SECTION 18. The heading to Chapter 568, Occupations Code,  
10 is amended to read as follows:

11 CHAPTER 568. PHARMACY TECHNICIANS AND PHARMACY  
12 TECHNICIAN TRAINEES

13 SECTION 19. Section 568.001, Occupations Code, is amended  
14 to read as follows:

15 Sec. 568.001. RULES; QUALIFICATIONS ~~[RELATING TO PHARMACY~~  
16 ~~TECHNICIANS]~~. (a) In establishing rules under Section  
17 554.053(c), the board shall require that:

18 (1) a pharmacy technician:

19 (A) ~~[(1)]~~ have a high school diploma or a high  
20 school equivalency certificate or be working to achieve an  
21 equivalent diploma or certificate; and

22 (B) ~~[(2)]~~ have passed a board-approved pharmacy  
23 technician certification examination; and

24 (2) a pharmacy technician trainee have a high school  
25 diploma or a high school equivalency certificate or be working to  
26 achieve an equivalent diploma or certificate.

27 (b) The board shall adopt rules that permit a pharmacy

1 technician and pharmacy technician trainee to perform only  
2 nonjudgmental technical duties under the direct supervision of a  
3 pharmacist.

4 SECTION 20. Section 568.002, Occupations Code, is amended  
5 to read as follows:

6 Sec. 568.002. [~~PHARMACY TECHNICIAN~~] REGISTRATION REQUIRED.

7 (a) A person must register with the board before beginning work in  
8 a pharmacy in this state as a pharmacy technician or a pharmacy  
9 technician trainee [~~pharmacy technician must register with the~~  
10 ~~board annually or biennially, as determined by board rule, on a form~~  
11 ~~prescribed by the board~~].

12 (b) The board may allow a pharmacy technician to petition  
13 the board for a special exemption from the pharmacy technician  
14 certification requirement if the pharmacy technician[+]

15 [~~(1)~~] is in a county with a population of less than  
16 50,000[~~;~~ ~~or~~

17 [~~(2)~~ ~~on September 1, 2001, has been employed as a~~  
18 ~~pharmacy technician in this state for at least 10 years and the~~  
19 ~~technician's employer approves the petition~~].

20 (c) An applicant for registration as a pharmacy technician  
21 or a pharmacy technician trainee must:

22 (1) be of good moral character; and

23 (2) submit an application on a form prescribed by the  
24 board.

25 (d) A person's registration as a pharmacy technician or  
26 pharmacy technician trainee remains in effect as long as the person  
27 meets the qualifications established by board rule.

1 SECTION 21. Subsection (a), Section 568.003, Occupations  
2 Code, is amended to read as follows:

3 (a) The board may take disciplinary action under Section  
4 568.0035 against an applicant for or the holder of a current or  
5 expired pharmacy technician or pharmacy technician trainee  
6 registration if the board determines that the applicant or  
7 registrant has:

8 (1) violated this subtitle or a rule adopted under  
9 this subtitle;

10 (2) engaged in gross immorality, as that term is  
11 defined by the rules of the board;

12 (3) engaged in any fraud, deceit, or  
13 misrepresentation, as those terms are defined by the rules of the  
14 board, in seeking a registration to act as a pharmacy technician or  
15 pharmacy technician trainee;

16 (4) been convicted of or placed on deferred  
17 adjudication community supervision or deferred disposition or the  
18 applicable federal equivalent for:

19 (A) a misdemeanor:

20 (i) involving moral turpitude; or

21 (ii) under Chapter 481 or 483, Health and  
22 Safety Code, or the Comprehensive Drug Abuse Prevention and Control  
23 Act of 1970 (21 U.S.C. Section 801 et seq.); or

24 (B) a felony;

25 (5) developed an incapacity that prevents the  
26 applicant or registrant from practicing as a pharmacy technician or  
27 pharmacy technician trainee with reasonable skill, competence, and

1 safety to the public;

2 (6) violated:

3 (A) Chapter 481 or 483, Health and Safety Code,  
4 or rules relating to those chapters;

5 (B) Sections 485.031-485.035, Health and Safety  
6 Code; or

7 (C) a rule adopted under Section 485.011, Health  
8 and Safety Code;

9 (7) violated the pharmacy or drug laws or rules of this  
10 state, another state, or the United States;

11 (8) performed duties in a pharmacy that only a  
12 pharmacist may perform, as defined by the rules of the board;

13 (9) used alcohol or drugs in an intemperate manner  
14 that, in the board's opinion, could endanger a patient's life;

15 (10) engaged in negligent, unreasonable, or  
16 inappropriate conduct when working in a pharmacy;

17 (11) violated a disciplinary order;

18 (12) been convicted or adjudicated of a criminal  
19 offense that requires registration as a sex offender under Chapter  
20 62, Code of Criminal Procedure; or

21 (13) been disciplined by a pharmacy or other health  
22 regulatory board of this state or another state for conduct  
23 substantially equivalent to conduct described by this subsection.

24 SECTION 22. Subsection (a), Section 568.0035, Occupations  
25 Code, is amended to read as follows:

26 (a) On a determination that a ground for discipline exists  
27 under Section 568.003, the board may:

- 1           (1) suspend the person's registration;
- 2           (2) revoke the person's registration;
- 3           (3) restrict the person's registration to prohibit the  
4 person from performing certain acts or from practicing as a  
5 pharmacy technician or pharmacy technician trainee in a particular  
6 manner for a term and under conditions determined by the board;
- 7           (4) impose an administrative penalty under Chapter  
8 566;
- 9           (5) refuse to issue or renew the person's  
10 registration;
- 11          (6) place the offender's registration on probation and  
12 supervision by the board for a period determined by the board and  
13 impose a requirement that the registrant:
  - 14           (A) report regularly to the board on matters that  
15 are the basis of the probation;
  - 16           (B) limit practice to the areas prescribed by the  
17 board;
  - 18           (C) continue or review professional education  
19 until the registrant attains a degree of skill satisfactory to the  
20 board in each area that is the basis of the probation; or
  - 21           (D) pay the board a probation fee to defray the  
22 costs of monitoring the registrant during the period of probation;
- 23          (7) reprimand the person;
- 24          (8) retire the person's registration as provided by  
25 board rule; or
- 26          (9) impose more than one of the sanctions listed in  
27 this section.

1 SECTION 23. Subsection (a), Section 568.0037, Occupations  
2 Code, is amended to read as follows:

3 (a) The president of the board shall appoint a disciplinary  
4 panel consisting of three board members to determine whether a  
5 registration under this chapter should be temporarily suspended or  
6 restricted. If a majority of the panel determines from evidence or  
7 information presented to the panel that the registrant by  
8 continuation in practice as a pharmacy technician or pharmacy  
9 technician trainee would constitute a continuing threat to the  
10 public welfare, the panel shall temporarily suspend or restrict the  
11 registration as provided by Subsection (b).

12 SECTION 24. Section 568.004, Occupations Code, is amended  
13 to read as follows:

14 Sec. 568.004. RENEWAL OF REGISTRATION. The board may adopt  
15 a system in which the registrations of pharmacy technicians and  
16 pharmacy technician trainees expire on various dates during the  
17 year.

18 SECTION 25. Section 568.005, Occupations Code, is amended  
19 to read as follows:

20 Sec. 568.005. FEES. The board may adopt fees as necessary  
21 for the registration of pharmacy technicians and pharmacy  
22 technician trainees.

23 SECTION 26. Section 568.006, Occupations Code, is amended  
24 to read as follows:

25 Sec. 568.006. RATIO OF PHARMACISTS TO PHARMACY TECHNICIANS  
26 AND PHARMACY TECHNICIAN TRAINEES. The ratio of pharmacists to  
27 pharmacy technicians and pharmacy technician trainees in a Class A

1 pharmacy must be at least one pharmacist for every five pharmacy  
2 technicians or pharmacy technician trainees if the Class A pharmacy  
3 dispenses not more than 20 different prescription drugs and does  
4 not produce intravenous or intramuscular drugs on-site.

5 SECTION 27. The heading to Section 568.008, Occupations  
6 Code, is amended to read as follows:

7 Sec. 568.008. PHARMACY TECHNICIANS IN HOSPITALS WITH  
8 CLINICAL PHARMACY PROGRAM.

9 SECTION 28. Chapter 568, Occupations Code, is amended by  
10 adding Section 568.009 to read as follows:

11 Sec. 568.009. CHANGE OF ADDRESS OR EMPLOYMENT. Not later  
12 than the 10th day after the date of a change of address or  
13 employment, a pharmacy technician or a pharmacy technician trainee  
14 shall notify the board in writing of the change.

15 SECTION 29. Subsections (a) and (c), Section 569.001,  
16 Occupations Code, are amended to read as follows:

17 (a) Every insurer or other entity providing pharmacist's  
18 professional liability insurance, pharmacy technician professional  
19 and supplemental liability insurance, or druggist's professional  
20 liability insurance covering a pharmacist, pharmacy technician,  
21 pharmacy technician trainee, or pharmacy license holder in this  
22 state shall submit to the board the information described in  
23 Section 569.002 at the time prescribed.

24 (c) If a pharmacist, pharmacy technician, pharmacy  
25 technician trainee, or pharmacy licensed in this state does not  
26 carry or is not covered by pharmacist's professional liability  
27 insurance, pharmacy technician professional and supplemental

1 liability insurance, or druggist's professional liability  
2 insurance and is insured by a nonadmitted carrier or other entity  
3 providing pharmacy professional liability insurance that does not  
4 report under this subtitle, the duty to report information under  
5 Section 569.002 is the responsibility of the pharmacist, pharmacy  
6 technician, pharmacy technician trainee, or pharmacy license  
7 holder.

8 SECTION 30. Subsection (a), Section 569.002, Occupations  
9 Code, is amended to read as follows:

10 (a) The following information must be furnished to the board  
11 not later than the 30th day after receipt by the insurer of the  
12 notice of claim letter or complaint from the insured:

13 (1) the name of the insured and the insured's state  
14 pharmacy technician registration number, pharmacy technician  
15 trainee registration number, or pharmacist or pharmacy license  
16 number;

17 (2) the policy number; and

18 (3) a copy of the notice of claim letter or complaint.

19 SECTION 31. Subsection (b), Section 569.005, Occupations  
20 Code, is amended to read as follows:

21 (b) The board shall review the information relating to a  
22 pharmacist, pharmacy technician, pharmacy technician trainee, or  
23 pharmacy license holder against whom at least three professional  
24 liability claims have been reported within a five-year period in  
25 the same manner as if a complaint against the pharmacist, pharmacy  
26 technician, pharmacy technician trainee, or pharmacy license  
27 holder had been made under Chapter 555.

1 SECTION 32. Subsection (i), Section 411.081, Government  
2 Code, is amended to read as follows:

3 (i) A criminal justice agency may disclose criminal history  
4 record information that is the subject of an order of nondisclosure  
5 under Subsection (d) to the following noncriminal justice agencies  
6 or entities only:

7 (1) the State Board for Educator Certification;

8 (2) a school district, charter school, private school,  
9 regional education service center, commercial transportation  
10 company, or education shared service arrangement;

11 (3) the Texas Medical Board;

12 (4) the Texas School for the Blind and Visually  
13 Impaired;

14 (5) the Board of Law Examiners;

15 (6) the State Bar of Texas;

16 (7) a district court regarding a petition for name  
17 change under Subchapter B, Chapter 45, Family Code;

18 (8) the Texas School for the Deaf;

19 (9) the Department of Family and Protective Services;

20 (10) the Texas Juvenile Justice Department [~~Youth~~  
21 ~~Commission~~];

22 (11) the Department of Assistive and Rehabilitative  
23 Services;

24 (12) the Department of State Health Services, a local  
25 mental health service, a local mental retardation authority, or a  
26 community center providing services to persons with mental illness  
27 or retardation;

- 1           (13) the Texas Private Security Board;
- 2           (14) a municipal or volunteer fire department;
- 3           (15) the Texas Board of Nursing;
- 4           (16) a safe house providing shelter to children in  
5 harmful situations;
- 6           (17) a public or nonprofit hospital or hospital  
7 district;
- 8           (18) ~~[the Texas Juvenile Probation Commission];~~
- 9           ~~[(19)]~~ the securities commissioner, the banking  
10 commissioner, the savings and mortgage lending commissioner, the  
11 consumer credit commissioner, or the credit union commissioner;
- 12           (19) ~~[(20)]~~ the Texas State Board of Public  
13 Accountancy;
- 14           (20) ~~[(21)]~~ the Texas Department of Licensing and  
15 Regulation;
- 16           (21) ~~[(22)]~~ the Health and Human Services Commission;
- 17           (22) ~~[(23)]~~ the Department of Aging and Disability  
18 Services;
- 19           (23) ~~[(24)]~~ the Texas Education Agency;
- 20           (24) ~~[(25)]~~ the Guardianship Certification Board;
- 21           (25) ~~[(26)]~~ a county clerk's office in relation to a  
22 proceeding for the appointment of a guardian under Chapter XIII,  
23 Texas Probate Code;
- 24           (26) ~~[(27)]~~ the Department of Information Resources  
25 but only regarding an employee, applicant for employment,  
26 contractor, subcontractor, intern, or volunteer who provides  
27 network security services under Chapter 2059 to:

- 1                   (A) the Department of Information Resources; or  
2                   (B) a contractor or subcontractor of the  
3 Department of Information Resources;  
4                   (27) [~~(28)~~] the Court Reporters Certification Board;  
5                   (28) [~~(29)~~] the Texas Department of Insurance; [~~and~~]  
6                   (29) [~~(30)~~] the Teacher Retirement System of Texas;  
7 and  
8                   (30) the Texas State Board of Pharmacy.

9           SECTION 33. The following provisions of the Occupations  
10 Code are repealed:

- 11                   (1) Chapter 567; and  
12                   (2) Section 568.007.

13           SECTION 34. This Act takes effect immediately if it  
14 receives a vote of two-thirds of all the members elected to each  
15 house, as provided by Section 39, Article III, Texas Constitution.  
16 If this Act does not receive the vote necessary for immediate  
17 effect, this Act takes effect September 1, 2013.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 869 passed the Senate on April 11, 2013, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 22, 2013, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 869 passed the House, with amendment, on May 17, 2013, by the following vote: Yeas 129, Nays 5, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor