

RULE ANALYSIS

Introduction: THE AMENDMENTS ARE SUBMITTED TO THE BOARD FOR CONSIDERATION AS AN ADOPTED RULE

Short Title: Inactive License

Rule Numbers: §295.9

Statutory Authority: Texas Pharmacy Act, Chapter 551-569, 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, specify the requirements for the activation of an inactive license to include one hour of continuing education credit related to Texas pharmacy laws/rules.

The Board reviewed and voted to propose the amendments during the February 3, 2015, meeting. The proposed amendments were published in the March 27, 2015, issue of the Texas Register at 40 TexReg 1804.

1 **22 TAC §295.9**

2 The Texas State Board of Pharmacy proposes amendments to §295.9 concerning Inactive
3 License. The amendments, if adopted, specify the requirements for the activation of an inactive
4 license to include one hour of continuing education credit related to Texas pharmacy laws/rules.

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

8 Ms. Dodson has determined that, for each year of the first five-year period the rule will be in
9 effect, the public benefit anticipated as a result of enforcing the amendment will be to ensure the
10 requirements for the activation of an inactive license to include one hour of continuing education
11 credit related to Texas pharmacy laws/rules. There is no fiscal impact for individuals, small or
12 large businesses, or to other entities which are required to comply with this section.

13 Comments on the amendments may be submitted to Allison Benz, R.Ph., M.S., Director of
14 Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600,
15 Austin, Texas 78701, FAX (512) 305-8008. Comments must be received by 5:00 p.m., April 30,
16 2015.

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

22 The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 566 and 568 -
23 569, Texas Occupations Code.

24 **§295.9. Inactive License.**

25 (a) Placing a license on inactive status. A person who is licensed by the board to practice
26 pharmacy but who is not eligible to renew the license for failure to comply with the continuing
27 education requirements of the Act, Chapter 559, Subchapter A, and who is not engaged in the
28 practice of pharmacy in this state, may place the license on inactive status at the time of license
29 renewal or during a license period as follows.

30 (1) To place a license on inactive status at the time of renewal, the licensee shall:

31 (A) complete and submit before the expiration date a pharmacist license renewal application
32 provided by the board;

33 (B) state on the renewal application that the license is to be placed on inactive status and that the
34 licensee shall not practice pharmacy in Texas while the license is inactive; and

35 (C) pay the fee for renewal of the license as specified in §295.5 of this title (relating to
36 Pharmacist License or Renewal Fees).

37 (2) To place a license on inactive status at a time other than the time of license renewal, the
38 licensee shall:

39 (A) return the current renewal certificate to the board; and

40 (B) submit a signed statement stating that the licensee shall not practice pharmacy in Texas while
41 the license is inactive, and the date the license is to be placed on inactive status; and

42 (C) pay the fee for issuance of an amended license as specified in §295.5(e)~~(d)~~ of this title
43 (relating to Pharmacist License or Renewal Fees).

44 (b) Prohibition against practicing pharmacy in Texas with an inactive license. A holder of a
45 license that is on inactive status shall not practice pharmacy in this state. The practice of
46 pharmacy by a holder of a license that is on inactive status constitutes the practice of pharmacy
47 without a license.

48 (c) Reactivation of an inactive license.

49 (1) A holder of a license that is on inactive status may return the license to active status by:

50 (A) applying for active status on a form prescribed by the board;

51 (B) providing copies of completion certificates from approved continuing education programs as
52 specified in §295.8(e) of this title (relating to Continuing Education Requirements) for 30 hours
53 including at least one contact hour (0.1 CEU) shall be related to Texas pharmacy laws or rules.
54 Approved continuing education earned within two years prior to the licensee applying for the
55 return to active status may be applied toward the continuing education requirement for
56 reactivation of the license but may not be counted toward subsequent renewal of the license; and

57 (C) paying the fee specified in paragraph (2) of this subsection.

58 (2) If the application for reactivation of the license is made at the time of license renewal, the
59 applicant shall pay the license renewal fee specified in §295.5 of this title (relating to Pharmacist
60 License or Renewal Fees). If the application for reactivation of the license is made at a time other
61 than the time of license renewal, the applicant shall pay the fee for issuance of an amended
62 license to practice pharmacy as specified in §295.5(e) of this title (relating to Pharmacist License
63 or Renewal Fees).

64 (3) In an emergency caused by a natural or manmade disaster or any other exceptional situation
65 that causes an extraordinary demand for pharmacist services, the executive director of the board,
66 in his/her discretion, may allow pharmacists whose license has been inactive for no more than
67 two years to reactivate their license prior to obtaining the required continuing education specified
68 in paragraph (1)(B) of this subsection, provided the pharmacist completes the continuing

69 education requirement within six months of reactivation of the license. If the required continuing
70 education is not provided within six months, the license shall return to an inactive status.

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