

## RULE ANALYSIS

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

**Short Title:** Inventory Requirements

**Rule Numbers:** §291.17

**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, require Class A and Class A-S pharmacies to maintain perpetual inventories.

1 **TITLE 22 EXAMINING BOARDS**  
2 **PART 15 TEXAS STATE BOARD OF PHARMACY**  
3 **CHAPTER 291 PHARMACIES**  
4 **SUBCHAPTER A ALL CLASSES OF PHARMACIES**

5  
6 **§291.17. Inventory Requirements.**  
7

8  
9 (a) General requirements.

10  
11 (1) The pharmacist-in-charge shall be responsible for taking all required inventories, but may  
12 delegate the performance of the inventory to another person(s).

13  
14 (2) The inventory shall be maintained in a written, typewritten, or printed form. An inventory  
15 taken by use of an oral recording device must be promptly transcribed.

16  
17 (3) The inventory shall be kept in the pharmacy and shall be available for inspection for two  
18 years.

19  
20 (4) The inventory shall be filed separately from all other records.

21  
22 (5) The inventory shall be in a written, typewritten, or printed form and include all stocks of all  
23 controlled substances on hand on the date of the inventory (including any which are out-of-  
24 date).

25  
26 (6) The inventory may be taken either as of the opening of business or as of the close of  
27 business on the inventory date.

28  
29 (7) The inventory record shall indicate whether the inventory is taken as of the opening of  
30 business or as of the close of business on the inventory date. If the pharmacy is open 24 hours  
31 a day, the inventory record shall indicate the time that the inventory was taken.

32  
33 (8) The person(s) taking the inventory shall make an exact count or measure of all substances  
34 listed in Schedule II.

35  
36 (9) The person(s) taking the inventory shall make an estimated count or measure of all  
37 controlled substances listed in Schedule III, IV, and V, unless the container holds more than  
38 1,000 tablets or capsules in which case, an exact count of the contents must be made.

39  
40 (10) The inventory of Schedule II controlled substances shall be listed separately from the  
41 inventory of Schedule III, IV, and V controlled substances.

42  
43 (11) If the pharmacy maintains a perpetual inventory of any of the drugs required to be  
44 inventoried, the perpetual inventory shall be reconciled on the date of the inventory.

45  
46 (b) Initial inventory.

47  
48 (1) A new Class A, Class A-S, Class C, Class C-S, or Class F pharmacy shall take an  
49 inventory on the opening day of business. Such inventory shall include all stocks of all controlled  
50 substances (including any out-of-date drugs).

52 (2) In the event the Class A, Class A-S, Class C, Class C-S, or Class F pharmacy commences  
53 business with no controlled substances on hand, the pharmacy shall record this fact as the  
54 initial inventory.

55  
56 (3) The initial inventory shall serve as the pharmacy's inventory until the next May 1, or until  
57 the pharmacy's regular general physical inventory date, at which time the Class A, Class A-S,  
58 Class C, Class C-S, or Class F pharmacy shall take an annual inventory as specified in  
59 subsection (c) of this section.

60  
61 (c) Annual inventory.

62  
63 (1) A Class A, Class A-S, Class C, Class C-S, or Class F pharmacy shall take an inventory on  
64 May 1 of each year, or on the pharmacy's regular general physical inventory date. Such  
65 inventory may be taken within four days of the specified inventory date and shall include all  
66 stocks of all controlled substances (including out-of-date drugs).

67  
68 (2) A Class A, Class A-S, Class C, Class C-S, or Class F pharmacy applying for renewal of a  
69 pharmacy license shall include as a part of the pharmacy license renewal application a  
70 statement attesting that an annual inventory has been conducted, the date of the inventory, and  
71 the name of the person taking the inventory.

72  
73 (3) The person(s) taking the annual inventory and the pharmacist-in-charge shall indicate the  
74 time the inventory was taken (as specified in subsection (a)(7) of this section) and shall sign and  
75 date the inventory with the date the inventory was taken. The signature of the pharmacist-in-  
76 charge and the date of the inventory shall be notarized within three days after the day the  
77 inventory is completed, excluding Saturdays, Sundays, and federal holidays.

78  
79 **(4) The annual inventory of a Class C or Class C-S pharmacy shall be maintained in the**  
80 **pharmacy; if an inventory is conducted in other departments within the institution, the**  
81 **inventory of the pharmacy shall be listed separately, as follows:**

82  
83 **(A) the inventory of drugs on hand in the pharmacy shall be listed separately from the**  
84 **inventory of drugs on hand in the other areas of the institution; and**

85  
86 **(B) the inventory of drugs on hand in all other departments shall be identified by**  
87 **department.**

88  
89 (d) **Perpetual inventory.**

90  
91 **(1) Effective May 1, 2017, a Class A or Class A-S pharmacy shall maintain a perpetual**  
92 **inventory of all Schedule II controlled substances.**

93  
94 **(2) A Class C or Class C-S pharmacy shall maintain a perpetual inventory of all**  
95 **Schedule II controlled substances.**

96  
97 **(3) Prior to May 1, 2017, the perpetual inventory shall be reconciled on the date of the**  
98 **annual inventory. Effective May 1, 2017, the perpetual inventory shall be reconciled**  
99 **monthly.**

100  
101 (e) Change of ownership.

103 (1) A Class A, Class A-S, Class C, Class C-S, or Class F pharmacy that changes ownership  
104 shall take an inventory of all of the following drugs on the date of the change of ownership. Such  
105 inventory shall include all stocks of all controlled substances (including any out-of-date drugs).

106  
107 (2) Such inventory shall constitute, for the purpose of this section, the closing inventory for the  
108 seller and the initial inventory for the buyer.

109  
110 (3) Transfer of any controlled substances listed in Schedule II shall require the use of official  
111 DEA order forms (Form 222).

112  
113 (4) The person(s) taking the annual inventory and the pharmacist-in-charge shall indicate the  
114 time the inventory was taken (as specified in subsection (a)(7) of this section) and shall sign and  
115 date the inventory with the date the inventory was taken. The signature of the pharmacist-in-  
116 charge and the date of the inventory shall be notarized within three days after the day the  
117 inventory is completed, excluding Saturdays, Sundays, and federal holidays.

118  
119 **(f)**(e) Closed pharmacies.

120  
121 (1) The pharmacist-in-charge of a Class A, Class A-S, Class C, Class C-S, or Class F  
122 pharmacy that ceases to operate as a pharmacy shall forward to the board, within 10 days of  
123 the cessation of operation, a statement attesting that an inventory of all controlled substances  
124 on hand has been conducted, the date of closing, and a statement attesting the manner by  
125 which the dangerous drugs and controlled substances possessed by such pharmacy were  
126 transferred or disposed.

127  
128 (2) The person(s) taking the annual inventory and the pharmacist-in-charge shall indicate the  
129 time the inventory was taken (as specified in subsection (a)(7) of this section) and shall sign and  
130 date the inventory with the date the inventory was taken. The signature of the pharmacist-in-  
131 charge and the date of the inventory shall be notarized within three days after the day the  
132 inventory is completed, excluding Saturdays, Sundays, and federal holidays.

133  
134 ~~[(f) Additional requirements for Class C and Class C-S pharmacies].~~

135  
136 ~~[(1) Perpetual inventory.]~~

137  
138 ~~[(A) A Class C or Class C-S pharmacy shall maintain a perpetual inventory of all Schedule II~~  
139 ~~controlled substances.]~~

140  
141 ~~[(B) The perpetual inventory shall be reconciled on the date of the annual inventory.]~~

142  
143 ~~[(2) Annual inventory. The inventory of the Class C or Class C-S pharmacy shall be maintained~~  
144 ~~in the pharmacy; if an inventory is conducted in other departments within the institution, the~~  
145 ~~inventory of the pharmacy shall be listed separately, as follows:]~~

146  
147 ~~[(A) the inventory of drugs on hand in the pharmacy shall be listed separately from the~~  
148 ~~inventory of drugs on hand in the other areas of the institution; and]~~

149  
150 ~~[(B) the inventory of drugs on hand in all other departments shall be identified by department.]~~

151  
152 (g) Change of pharmacist-in-charge of a pharmacy.

154 (1) On the date of the change of the pharmacist-in-charge of a Class A, Class A-S, Class C,  
155 Class C-S, or Class F pharmacy, an inventory shall be taken. Such inventory shall include all  
156 stocks of all controlled substances (including any out-of-date drugs).

157  
158 (2) This inventory shall constitute, for the purpose of this section, the closing inventory of the  
159 departing pharmacist-in-charge and the beginning inventory of the incoming pharmacist-in-  
160 charge.

161  
162 (3) If the departing and the incoming pharmacists-in-charge are unable to conduct the  
163 inventory together, a closing inventory shall be conducted by the departing pharmacist-in-  
164 charge and a new and separate beginning inventory shall be conducted by the incoming  
165 pharmacist-in-charge.

166  
167 (4) The incoming pharmacist-in-charge shall be responsible for notifying the board within 10  
168 days, as specified in §291.3 of this title (relating to Notifications), that a change of pharmacist-in-  
169 charge has occurred.