

RULE ANALYSIS

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

Short Title: Inventory Requirements

Rule Numbers: §291.17

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, clarify the requirements for notarization of inventories.

Background: Board staff presents these amendments to clarify the time requirements for the notarization of inventories.

The Board reviewed and voted to propose the amendments during the August 6, 2013, meeting. The proposed amendments were published in the September 27, 2013, issue of the *Texas Register* at 38 TexReg 6503.

1 **CHAPTER 291. PHARMACIES**
2 **SUBCHAPTER A. ALL CLASSES OF PHARMACIES**
3 **§291.17**

4 The Texas State Board of Pharmacy proposes amendments to §291.17, concerning Inventory
5 Requirements. The amendments, if adopted, clarify the length of time allowed for the inventory
6 to be notarized.

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

10 Ms. Dodson has determined that, for each year of the first five-year period the amended rule will
11 be in effect, the public benefit anticipated as a result of enforcing the amendment will be to
12 ensure inventories are documented and notarized appropriately. There is no fiscal impact for
13 individuals, small or large businesses, or to other entities which are required to comply with this
14 section.

15 Comments on the amendments may be submitted to Allison Benz, R.Ph., M.S., Director of
16 Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600,
17 Austin, Texas 78701, fax (512) 305-8008. Comments must be received by 5:00 p.m., October 31,
18 2013.

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

24 The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 566, 568 and
25 569, Texas Occupations Code.

26 **§291.17. Inventory Requirements.**

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

28 (c) Annual inventory.

29 (1) A Class A, C, or F pharmacy shall take an inventory on May 1 of each year, or on the
30 pharmacy's regular general physical inventory date. Such inventory may be taken within four
31 days of the specified inventory date and shall include all stocks (including out-of-date drugs) of
32 the drugs specified in subsection (a)(5) of this section.

33 (2) A Class A, C, or F pharmacy applying for renewal of a pharmacy license shall include as a
34 part of the pharmacy license renewal application a statement attesting that an annual inventory
35 has been conducted, the date of the inventory, and the name of the person taking the inventory.

36 (3) The person(s) taking the annual inventory and the pharmacist-in-charge shall indicate the
37 time the inventory was taken (as specified in subsection (a)(7) of this section) and shall sign and
38 date the inventory with the date the inventory was taken. The signature of the pharmacist-in-
39 charge and the date of the inventory shall be notarized within three days after the day the
40 inventory is completed, excluding Saturdays, Sundays, and federal holidays. [~~72 hours or within~~
41 ~~three working days of the completed inventory.~~]

42 (d) Change of ownership.

43 (1) A Class A, C, or F pharmacy that changes ownership shall take an inventory of all of the
44 following drugs on the date of the change of ownership. Such inventory shall include all stocks
45 (including any out-of-date drugs) of the drugs specified in subsection (a)(5) of this section.

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

48 (3) Transfer of any controlled substances listed in Schedule II shall require the use of official
49 DEA order forms (Form 222C).

50 (4) The person(s) taking the annual inventory and the pharmacist-in-charge shall indicate the
51 time the inventory was taken (as specified in subsection (a)(7) of this section) and shall sign and
52 date the inventory with the date the inventory was taken. The signature of the pharmacist-in-
53 charge and the date of the inventory shall be notarized within three days after the day the
54 inventory is completed, excluding Saturdays, Sundays, and federal holidays. [~~72 hours or within~~
55 ~~three working days of the completed inventory.~~]

56 (e) Closed pharmacies.

57 (1) The pharmacist-in-charge of a Class A, C, or F pharmacy that ceases to operate as a
58 pharmacy shall forward to the board, within 10 days of the cessation of operation, a statement
59 attesting that an inventory of the drugs specified in subsection (a)(5) of this section on hand has
60 been conducted, the date of closing, and a statement attesting the manner by which the dangerous
61 drugs and controlled substances possessed by such pharmacy were transferred or disposed.

62 (2) The person(s) taking the annual inventory and the pharmacist-in-charge shall indicate the
63 time the inventory was taken (as specified in subsection (a)(7) of this section) and shall sign and
64 date the inventory with the date the inventory was taken. The signature of the pharmacist-in-
65 charge and the date of the inventory shall be notarized within three days after the day the
66 inventory is completed, excluding Saturdays, Sundays, and federal holidays. [~~72 hours or within~~
67 ~~three working days of the completed inventory.~~]

68 (f) - (g) (No change.)