

## RULE ANALYSIS

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

**Short Title:** Grounds for Discipline

**Rule Numbers:** §281.8

**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;
- (2) Section 554.051 gives the Board the authority to adopt rules for the proper administration and enforcement of the Act; and
- (3) Section 556.0551 requires non-resident pharmacies to reimburse the board for expenses relating to inspection of the pharmacy.

**Purpose:** The amendments, if adopted, add failure to reimburse the board for expenses relating to an inspection of a non-resident pharmacy as grounds for discipline of a pharmacy's license.

1 **TITLE 22 EXAMINING BOARDS**  
2 **PART 15 TEXAS STATE BOARD OF PHARMACY**  
3 **CHAPTER 281 ADMINISTRATIVE PRACTICE AND PROCEDURES**  
4 **SUBCHAPTER A GENERAL PROVISIONS**

5  
6 **§281.8 Grounds for Discipline for a Pharmacy License**  
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8 (a) (No change.)  
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10 (b) For the purposes of §565.002(a)(3) of the Act, it is grounds for discipline for a pharmacy  
11 license when:

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13 (1) during the time an individual's license to practice pharmacy, either as a pharmacist or a  
14 pharmacist-intern, or a pharmacy technician's registration has been disciplined by the Board,  
15 resulting in the license or registration being revoked, canceled, retired, surrendered, denied or  
16 suspended, the pharmacy employs or allows such individual access to prescription drugs;  
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18 (2) the pharmacy possesses or engages in the sale, purchase, or trade or the offer to sell,  
19 purchase, or trade prescription drug samples; provided however, this paragraph does not apply  
20 to:

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22 (A) prescription drugs provided by a manufacturer as starter prescriptions or as replacement  
23 for such manufacturer's outdated drugs;  
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25 (B) prescription drugs provided by a manufacturer in replacement for such manufacturer's  
26 drugs that were dispensed pursuant to written starter prescriptions; or  
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28 (C) prescription drug samples possessed by a pharmacy of a health care entity which  
29 provides health care primarily to indigent or low income patients at no or reduced cost and if:  
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31 (i) the samples are possessed in compliance with the Prescription Drug Marketing Act of  
32 1987;  
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34 (ii) the pharmacy is owned by a charitable organization described in the Internal Revenue  
35 Code of 1986, §501(c)(3), or by a city, state or county government; and  
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37 (iii) the samples are for dispensing or provision at no charge to patients of such health care  
38 entity;  
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40 (3) the pharmacy possesses or engages in the sale, purchase, or trade or the offer to sell,  
41 purchase, or trade of prescription drugs:  
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43 (A) sold for export use only;  
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45 (B) purchased by a public or private hospital or other health care entity; or  
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47 (C) donated or supplied at a reduced price to a charitable organization described in the  
48 Internal Revenue Code of 1986, §501(c)(3), and possessed by a pharmacy other than one  
49 owned by the charitable organization;  
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51 (D) provided that subparagraphs (A) - (C) of this paragraph do not apply to:

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(i) the purchase or other acquisition by a hospital or other health care entity which is a member of a group purchasing organization or from other hospitals or health care entities which are members of such organization;

(ii) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug by an organization described in paragraph (2)(C)(ii) of this subsection to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(iii) the sale, purchase or trade of a drug or an offer to sell, purchase, or trade a drug among hospitals or other health care entities which are under common control;

(iv) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug for emergency medical reasons including the transfer of a drug between pharmacies to alleviate temporary shortages of the drug arising from delays in or interruptions of regular distribution schedules;

(v) the dispensing of a prescription drug pursuant to a valid prescription drug order to the extent otherwise permitted by law; [ø]

(4) the pharmacy engages in the sale, purchase, or trade or the offer to sell, purchase, or trade of:

(A) misbranded prescription drugs; or

(B) prescription drugs beyond the manufacturer's expiration date.

(5) the owner or managing officer has previously been disciplined by the board; or

**(6) a non-resident pharmacy fails to reimburse the board or its designee for all expenses, including travel, incurred by the board in inspecting the non-resident pharmacy as specified in §556.0551 of the Act.**

(c) (No change.)