

RULE ANALYSIS

Introduction: THE AMENDMENTS ARE SUBMITTED TO THE BOARD FOR CONSIDERATION AS A ADOPTED 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, update the inventory requirements; clarify the recordkeeping regarding the time inventory shall be taken; and add Class A-S and Class C-S to the inventory requirements.

The Board reviewed and voted to propose the amendments during the August 4, 2015, meeting. The proposed amendments were published in the September 25, 2015, issue of the *Texas Register* at 40 TexReg 6505.

1 **CHAPTER 291. PHARMACIES**

2 **SUBCHAPTER A. ALL CLASSES OF PHARMACIES**

3 **22 TAC §291.3, §291.17**

4 The Texas State Board of Pharmacy proposes amendments to §291.3 concerning Required
5 Notifications and §291.17 concerning Inventory Requirements. The amendments to §291.3, if
6 adopted, implement provisions of SB 460 requiring pharmacies to notify the board at least 30
7 days prior to changing location and allow pharmacies to notify consumers regarding complaints
8 against the practice of pharmacy in an electronic messaging system; update the change of
9 pharmacist employment requirements; and include the National Association of Boards of
10 Pharmacy Veterinary-Verified Pharmacy Practice Sites (Vet-VIPPS) and e-Advertiser Approval
11 program as being in compliance with internet notifications. The amendments to §291.17, if
12 adopted, update the inventory requirements; clarify the recordkeeping regarding the time
13 inventory shall be taken; and add Class A-S and Class C-S to the inventory requirements.

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

17 Ms. Dodson has determined that, for each year of the first five-year period the rule will be in
18 effect, the public benefit anticipated as a result of enforcing the amendments will ensure the
19 Board is adequately notified when a pharmacy is changing location; and proper inventories are
20 taken by pharmacies. There is no fiscal impact for individuals, small or large businesses, or to
21 other entities which are required to comply with this section.

22 Written comments on the amendments may be submitted to Allison Benz, R.Ph., M.S., Director
23 of Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600,
24 Austin, Texas 78701, FAX (512) 305-6778. Comments must be received by 5:00 p.m., October
25 30, 2015.

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

31 The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas
32 Occupations Code.

33 *§291.3.Required Notification.*

34 (a) Change of Location and/or Name.

35 (1) When a pharmacy changes location and/or name, the following is applicable.

36 (A) A new completed pharmacy application containing the information outlined in §291.1 of this
37 title (relating to Pharmacy License Application), must be filed with the board not later than 30
38 days before the date [~~within 10 days~~] of the change of location of the pharmacy.

39 (B) The previously issued license must be returned to the board office.

40 (C) An amended license reflecting the new location and/or name of the pharmacy will be issued
41 by the board; and

42 (D) A fee as specified in §291.6 of this title (relating to Pharmacy License Fees) will be charged
43 for issuance of the amended license.

44 (2) At least 14 days prior to the change of location of a pharmacy that dispenses prescription
45 drug orders, the pharmacist-in-charge shall post a sign in a conspicuous place indicating that the
46 pharmacy is changing locations. Such sign shall be in the front of the prescription department
47 and at all public entrance doors to the pharmacy and shall indicate the date the pharmacy is
48 changing locations.

49 (3) Disasters, accidents, and emergencies which require the pharmacy to change location shall be
50 immediately reported to the board. If a pharmacy changes location suddenly due to disasters,
51 accidents, or other emergency circumstances and the pharmacist-in-charge cannot provide
52 notification 14 days prior to the change of location, the pharmacist-in-charge shall comply with
53 the provisions of paragraph (2) of this subsection as far in advance of the change of location as
54 allowed by the circumstances.

55 (b) Change of Managing Officers.

56 (1) The owner of a pharmacy shall notify the board in writing within 10 days of a change of any
57 managing officer of a partnership or corporation which owns a pharmacy. The written
58 notification shall include the effective date of such change and the following information for all
59 managing officers:

60 (A) name and title;

61 (B) home address and telephone number;

62 (C) date of birth;

63 (D) a copy of social security card or other official document showing the social security number
64 as approved by the board; however, if an individual is unable to obtain a social security number,
65 an individual taxpayer identification number may be provided in lieu of a social security number
66 along with documentation indicating why the individual is unable to obtain a social security
67 number; and

68 (E) a copy of current driver's license, state issued photo identification card, or passport.

69 (2) For purposes of this subsection, managing officers are defined as the top four executive
70 officers, including the corporate officer in charge of pharmacy operations, who are designated by
71 the partnership or corporation to be jointly responsible for the legal operation of the pharmacy.

72 (c) Change of Ownership.

73 (1) When a pharmacy changes ownership, a new pharmacy application must be filed with the
74 board following the procedures as specified in §291.1 of this title (relating to Pharmacy License
75 Application). In addition, a copy of the purchase contract or mutual agreement between the buyer
76 and seller must be submitted.

77 (2) The license issued to the previous owner must be returned to the board.

78 (3) A fee as specified in §291.6 of this title will be charged for issuance of a new license.

79 (d) Change of Pharmacist Employment.

80 (1) Change of pharmacist employed in a pharmacy. When a change in pharmacist employment
81 occurs, the pharmacist shall report such change in writing to the board within 10 days.

82 (2) Change of pharmacist-in-charge of a pharmacy.

83 ~~[(A) On the date of change of the pharmacist in charge of a Class A, Class A-S, Class C, Class~~
84 ~~C-S, or Class F pharmacy, an inventory specified in §291.17 of this title (relating to Inventory~~
85 ~~Requirements) shall be taken.]~~

86 ~~[(B) This inventory shall constitute, for the purpose of this section, the closing inventory of the~~
87 ~~departing pharmacist in charge and the beginning inventory of the incoming pharmacist in-~~
88 ~~charge.]~~

89 ~~[(C) If the departing and the incoming pharmacists in charge are unable to conduct the inventory~~
90 ~~together, a closing inventory shall be conducted by the departing pharmacist in charge and a new~~
91 ~~and separate beginning inventory shall be conducted by the incoming pharmacist in charge.]~~

92 ~~[(D)]~~ The incoming pharmacist-in-charge shall be responsible for notifying the board within 10
93 days in writing on a form provided by the board that a change of pharmacist-in-charge has
94 occurred. The notification shall include the following:

95 (A) ~~[(i)]~~ the name and license number of the departing pharmacist-in-charge;

96 (B) ~~[(ii)]~~ the name and license number of the incoming pharmacist-in-charge;

97 (C) ~~[(iii)]~~ the date the incoming pharmacist-in-charge became the pharmacist-in-charge; and

98 (D) ~~[(iv)]~~ a statement signed by the incoming pharmacist-in-charge attesting that:

99 (i) ~~(H)~~ an inventory, as specified in §291.17 of this title (relating to Inventory Requirements),
100 has been conducted by the departing and incoming pharmacists-in-charge; if the inventory was
101 not taken by both pharmacists, the statement shall provide an explanation; and

102 (ii) ~~(H)~~ the incoming pharmacist-in-charge has read and understands the laws and rules relating
103 to this class of pharmacy.

104 (e) Notification of Theft or Loss of a Controlled Substance or a Dangerous Drug.

105 (1) Controlled substances. For the purposes of the Act, §562.106, the theft or significant loss of
106 any controlled substance by a pharmacy shall be reported in writing to the board immediately on
107 discovery of such theft or loss. A pharmacy shall be in compliance with this subsection by
108 submitting to the board a copy of the Drug Enforcement Administration (DEA) report of theft or
109 loss of controlled substances, DEA Form 106, or by submitting a list of all controlled substances
110 stolen or lost.

111 (2) Dangerous drugs. A pharmacy shall report in writing to the board immediately on discovery
112 the theft or significant loss of any dangerous drug by submitting a list of the name and quantity
113 of all dangerous drugs stolen or lost.

114 (f) Fire or Other Disaster. If a pharmacy experiences a fire or other disaster, the following
115 requirements are applicable.

116 (1) Responsibilities of the pharmacist-in-charge.

117 (A) The pharmacist-in-charge shall be responsible for reporting the date of the fire or other
118 disaster which may affect the strength, purity, or labeling of drugs, medications, devices, or other
119 materials used in the diagnosis or the treatment of the injury, illness, and disease; such
120 notification shall be immediately reported to the board, but in no event shall exceed 10 days from
121 the date of the disaster.

122 (B) The pharmacist-in-charge or designated agent shall comply with the following procedures.

123 (i) If controlled substances, dangerous drugs, or Drug Enforcement Administration (DEA) order
124 forms are lost or destroyed in the disaster, the pharmacy shall:

125 (I) notify the DEA, Department of Public Safety (DPS), and Texas State Board of Pharmacy
126 (board) of the loss of the controlled substances or order forms. A pharmacy shall be in
127 compliance with this section by submitting to each of these agencies a copy of the DEA's report
128 of theft or loss of controlled substances, DEA Form-106, immediately on discovery of the loss;
129 and

130 (II) notify the board in writing of the loss of the dangerous drugs by submitting a list of the
131 dangerous drugs lost.

- 132 (ii) If the extent of the loss of controlled substances or dangerous drugs is not able to be
133 determined, the pharmacy shall:
- 134 (I) take a new, complete inventory of all remaining drugs specified in §291.17(c) of this title
135 (relating to Inventory Requirements);
- 136 (II) submit to DEA and DPS a statement attesting that the loss of controlled substances is
137 indeterminable and that a new, complete inventory of all remaining controlled substances was
138 conducted and state the date of such inventory; and
- 139 (III) submit to the board a statement attesting that the loss of controlled substances and
140 dangerous drugs is indeterminable and that a new, complete inventory of the drugs specified in
141 §291.17(c) of this title was conducted and state the date of such inventory.
- 142 (C) If the pharmacy changes to a new, permanent location, the pharmacist-in-charge shall
143 comply with subsection (a) of this section.
- 144 (D) If the pharmacy moves to a temporary location, the pharmacist shall comply with subsection
145 (a) of this section. If the pharmacy returns to the original location, the pharmacist-in-charge shall
146 again comply with subsection (a) of this section.
- 147 (E) If the pharmacy closes due to fire or other disaster, the pharmacy may not be closed for
148 longer than 90 days as specified in §291.11 of this title (relating to Operation of a Pharmacy).
- 149 (F) If the pharmacy discontinues business (ceases to operate as a pharmacy), the pharmacist-in-
150 charge shall comply with §291.5 of this title (relating to Closing a Pharmacy).
- 151 (G) The pharmacist-in-charge shall maintain copies of all inventories, reports, or notifications
152 required by this section for a period of two years.
- 153 (2) Drug stock.
- 154 (A) Any drug which has been exposed to excessive heat, smoke, or other conditions which may
155 have caused deterioration shall not be dispensed.
- 156 (B) Any potentially adulterated or damaged drug shall only be sold, transferred, or otherwise
157 distributed pursuant to the provisions of the Texas Food Drug and Cosmetics Act (Chapter 431,
158 Health and Safety Code) administered by the Bureau of Food and Drug Safety of the Texas
159 Department of State Health Services.
- 160 (g) Notification to Consumers.
- 161 (1) Pharmacy.
- 162 (A) Every licensed pharmacy shall provide notification to consumers of the name, mailing
163 address, Internet site address, and telephone number of the board for the purpose of directing

164 complaints concerning the practice of pharmacy to the board. Such notification shall be provided
165 as follows.

166 (i) If the pharmacy serves walk-in customers, the pharmacy shall either:

167 (I) post in a prominent place that is in clear public view where prescription drugs are dispensed;

168 (-a-) a sign [~~furnished by the board~~] which notifies the consumer that complaints concerning the
169 practice of pharmacy may be filed with the board and list the board's name, mailing address,
170 Internet site address, telephone number [~~of the board~~], and [~~if applicable~~] a toll-free telephone
171 number for filing complaints; or

172 (-b-) an electronic messaging system in a type size no smaller than ten-point Times Roman
173 which notifies the consumer that complaints concerning the practice of pharmacy may be filed
174 with the board and list the board's name, mailing address, Internet site address, telephone
175 number, and a toll-free number for filing complaints; or

176 (II) provide with each dispensed prescription a written notification in a type size no smaller than
177 ten-point Times Roman which states the following: "Complaints concerning the practice of
178 pharmacy may be filed with the Texas State Board of Pharmacy at: (list the mailing address,
179 Internet site address, telephone number of the board, and [~~if applicable~~] a toll-free telephone
180 number for filing complaints)."

181 (ii) If the prescription drug order is delivered to patients at their residence or other designated
182 location, the pharmacy shall provide with each dispensed prescription a written notification in
183 type size no smaller than ten-point Times Roman which states the following: "Complaints
184 concerning the practice of pharmacy may be filed with the Texas State Board of Pharmacy at:
185 (list the mailing address, Internet site address, telephone number [~~of the board~~], and [~~if~~
186 ~~applicable~~] a toll-free telephone number for filing complaints)." If multiple prescriptions are
187 delivered to the same location, only one such notice shall be required.

188 (iii) The provisions of this subsection do not apply to prescriptions for patients in facilities where
189 drugs are administered to patients by a person required to do so by the laws of the state (i.e.,
190 nursing homes).

191 (B) A pharmacy that maintains a generally accessible site on the Internet that is located in Texas
192 or sells or distributes drugs through this site to residents of this state shall post the following
193 information on the pharmacy's initial home page and on the page where a sale of prescription
194 drugs occurs.

195 (i) Information on the ownership of the pharmacy, to include at a minimum, the:

196 (I) owner's name or if the owner is a partnership or corporation, the partnership's or corporation's
197 name and the name of the chief operating officer;

198 (II) owner's address;

- 199 (III) owner's telephone number; and
- 200 (IV) year the owner began operating pharmacies in the United States.
- 201 (ii) The Internet address and toll free telephone number that a consumer may use to:
- 202 (I) report medication/device problems to the pharmacy; and
- 203 (II) report business compliance problems.
- 204 (iii) Information about each pharmacy that dispenses prescriptions for this site, to include at a
205 minimum, the:
- 206 (I) pharmacy's name, address, and telephone number;
- 207 (II) name of the pharmacist responsible for operation of the pharmacy;
- 208 (III) Texas pharmacy license number for the pharmacy and a link to the Internet site maintained
209 by the Texas State Board of Pharmacy; and
- 210 (IV) the names of all other states in which the pharmacy is licensed, the license number in that
211 state, and a link to the Internet site of the entity that regulates pharmacies in that state, if
212 available.
- 213 (C) A pharmacy whose Internet site has been awarded a Verified Internet Pharmacy Practice
214 Sites (VIPPS), Veterinary-Verified Internet Pharmacy Practice Sites (Vet-VIPPS) accreditation,
215 or e-Advertiser Approval Program [certification] by the National Association of Boards of
216 Pharmacy shall be in compliance with subparagraph (B) of this paragraph by displaying the
217 VIPPS, Vet-VIPPS, or e-Advertiser seal on the pharmacy internet site.
- 218 (2) Texas State Board of Pharmacy. On or before January 1, 2005, the board shall establish a
219 pharmacy profile system as specified in §2054.2606, Government Code.
- 220 (A) The board shall make the pharmacy profiles available to the public on the agency's Internet
221 site.
- 222 (B) A pharmacy profile shall contain at least the following information:
- 223 (i) name, address, and telephone number of the pharmacy;
- 224 (ii) pharmacy license number, licensure status, and expiration date of the license;
- 225 (iii) the class and type of the pharmacy;
- 226 (iv) ownership information for the pharmacy;

- 227 (v) names and license numbers of all pharmacists working at the pharmacy;
- 228 (vi) whether the pharmacy has had prior disciplinary action by the board;
- 229 (vii) whether the pharmacy's consumer service areas are accessible to disabled persons, as
230 defined by law;
- 231 (viii) the type of language translating services, including translating services for persons with
232 impairment of hearing, that the pharmacy provides for consumers; and
- 233 (ix) insurance information including whether the pharmacy participates in the state Medicaid
234 program.
- 235 (C) The board shall gather this information on initial licensing and update the information in
236 conjunction with the license renewal for the pharmacy.
- 237 (h) Notification of Licensees or Registrants Obtaining Controlled Substances or Dangerous
238 Drugs by Forged Prescriptions. If a licensee or registrant obtains controlled substances or
239 dangerous drugs from a pharmacy by means of a forged prescription, the pharmacy shall report
240 in writing to the board immediately on discovery of such forgery. A pharmacy shall be in
241 compliance with this subsection by submitting to the board the following:
- 242 (1) name of licensee or registrant obtaining controlled substances or dangerous drugs by forged
243 prescription;
- 244 (2) date(s) of forged prescription(s);
- 245 (3) name(s) and amount(s) of drug(s); and
- 246 (4) copies of forged prescriptions.
- 247 **§291.17.Inventory Requirements.**
- 248 (a) General requirements.
- 249 (1) The pharmacist-in-charge shall be responsible for taking all required inventories, but may
250 delegate the performance of the inventory to another person(s).
- 251 (2) The inventory shall be maintained in a written, typewritten, or printed form. An inventory
252 taken by use of an oral recording device must be promptly transcribed.
- 253 (3) The inventory shall be kept in the pharmacy and shall be available for inspection for two
254 years.
- 255 (4) The inventory shall be filed separately from all other records.

256 (5) The inventory shall be in a written, typewritten, or printed form and include all stocks of all
257 controlled substances [~~the following drugs~~] on hand on the date of the inventory (including any
258 which are out-of-date).~~;~~]

259 ~~[(A) all controlled substances;]~~

260 ~~[(B) all dosage forms containing nalbuphine (e.g., Nubain); and]~~

261 ~~[(C) for any inventory taken after January 1, 2013, all dosage forms containing tramadol (e.g.,~~
262 ~~Ultram).]~~

263 (6) The inventory may be taken either as of the opening of business or as of the close of business
264 on the inventory date.

265 (7) The inventory record shall indicate whether the inventory is taken as of the opening of
266 business or as of the close of business on the inventory date. If the pharmacy is open 24 hours a
267 day, the inventory record shall indicate the time that the inventory was taken. [~~the opening of~~
268 ~~business shall be 12:01 a.m. and the close of business shall be 12 midnight. The inventory shall~~
269 ~~indicate that it is a record of drugs on hand as of the opening or closing of the business day.]~~

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

272 (9) The person(s) taking the inventory shall make an estimated count or measure of all controlled
273 substances listed in Schedule III, IV, and [~~or~~] V [~~and dangerous drugs~~], unless the container
274 holds more than 1,000 tablets or capsules in which case, an exact count of the contents must be
275 made.

276 (10) The inventory of Schedule II controlled substances shall be listed separately from the
277 inventory of Schedule III, IV, and V controlled substances [~~which shall be listed separately from~~
278 ~~the inventory of dangerous drugs].~~

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

281 (b) Initial inventory.

282 (1) A new Class A [~~(Community) pharmacy~~], Class A-S, Class C [~~(Institutional) pharmacy~~],
283 Class C-S, or Class F [~~(Free Standing Emergency Medical Care Center)~~] pharmacy shall take an
284 inventory on the opening day of business. Such inventory shall include all stocks of all controlled
285 substances (including any out-of-date drugs) [~~of the drugs specified in subsection (a)(5) of this~~
286 ~~section~~].

287 (2) In the event the Class A, Class A-S, Class C, Class C-S, or Class F pharmacy commences
288 business with no controlled substances [~~none of the drugs specified in subsection (a)(5) of this~~
289 ~~section~~] on hand, the pharmacy shall record this fact as the initial inventory.

290 (3) The initial inventory shall serve as the pharmacy's inventory until the next May 1, or until the
291 pharmacy's regular general physical inventory date, at which time the Class A, Class A-S, Class
292 C, Class C-S, or Class F pharmacy shall take an annual inventory as specified in subsection (c)
293 of this section. [~~Such inventory may be taken within four days of the specified inventory date~~
294 ~~and shall include all stocks (including out-of-date drugs)~~].

295 (c) Annual inventory.

296 (1) A Class A, Class A-S, Class C, Class C-S, or Class F pharmacy shall take an inventory on
297 May 1 of each year, or on the pharmacy's regular general physical inventory date. Such inventory
298 may be taken within four days of the specified inventory date and shall include all stocks of all
299 controlled substances (including out-of-date drugs) [~~of the drugs specified in subsection (a)(5) of~~
300 ~~this section~~].

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

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

310 (d) Change of ownership.

311 (1) A Class A, Class A-S, Class C, Class C-S, or Class F pharmacy that changes ownership shall
312 take an inventory of all of the following drugs on the date of the change of ownership. Such
313 inventory shall include all stocks of all controlled substances (including any out-of-date drugs)
314 [~~of the drugs specified in subsection (a)(5) of this section~~].

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

317 (3) Transfer of any controlled substances listed in Schedule II shall require the use of official
318 DEA order forms (Form 222[€]).

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

324 (e) Closed pharmacies.

325 (1) The pharmacist-in-charge of a Class A, Class A-S, Class C, Class C-S, or Class F pharmacy
326 that ceases to operate as a pharmacy shall forward to the board, within 10 days of the cessation
327 of operation, a statement attesting that an inventory of all controlled substances [~~the drugs~~
328 ~~specified in subsection (a)(5) of this section~~] on hand has been conducted, the date of closing,
329 and a statement attesting the manner by which the dangerous drugs and controlled substances
330 possessed by such pharmacy were transferred or disposed.

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

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

337 (1) Perpetual inventory.

338 (A) A Class C or Class C-S pharmacy shall maintain a perpetual inventory of all Schedule II
339 controlled substances.

340 (B) The perpetual inventory shall be reconciled on the date of the annual inventory.

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

344 (A) the inventory of drugs on hand in the pharmacy shall be listed separately from the inventory
345 of drugs on hand in the other areas of the institution; and

346 (B) the inventory of drugs on hand in all other departments shall be identified by department.

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

348 (1) On [~~For an inventory taken after June 1, 2013, on~~] the date of the change [~~of change~~] of the
349 pharmacist-in-charge of a Class A [~~Community~~], Class A-S, Class C [~~Institutional~~], Class C-
350 S, or Class F [~~Free Standing Emergency Medical Care Center~~] pharmacy, an inventory shall be
351 taken. Such inventory shall include all stocks of all controlled substances (including any out-of-
352 date drugs) [~~of the drugs specified in subsection (a)(5) of this section. For an inventory taken~~
353 ~~prior to June 1, 2013, on the date of change of the pharmacist in charge of a Class A~~
354 ~~(Community), Class C (Institutional), or Class F (Free Standing Emergency Medical Care~~
355 ~~Center) pharmacy, an inventory of the following drugs shall be taken.]~~

356 [~~(A) all Schedule II controlled substances;~~]

357 [~~(B) all dosage forms containing pentazocine (e.g., Talwin);~~]

358 ~~{{(C) all dosage forms containing phentermine (e.g., Adipex P, etc.);}}~~
359 ~~{{(D) all dosage forms containing diazepam (e.g., Valium);}}~~
360 ~~{{(E) all dosage forms containing phendimetrazine (e.g., Bontril, Prelu 2, etc.);}}~~
361 ~~{{(F) all dosage forms containing codeine;}}~~
362 ~~{{(G) all dosage forms containing hydrocodone (e.g., Tussionex, Tussend, Vicodin, etc.);}}~~
363 ~~{{(H) all dosage forms containing alprazolam (e.g., Xanax);}}~~
364 ~~{{(I) all dosage forms containing triazolam (e.g., Halcion);}}~~
365 ~~{{(J) all dosage forms containing butorphanol (e.g., Stadol);}}~~
366 ~~{{(K) all dosage forms containing nalbuphine (e.g., Nubain);}}~~
367 ~~{{(L) all dosage forms containing carisoprodol (e.g., Soma); and}}~~
368 ~~{{(M) for any inventory taken after January 1, 2013, all dosage forms containing tramadol (e.g.,}}~~
369 ~~Ultram).}}~~

370 (2) This inventory shall constitute, for the purpose of this section, the closing inventory of the
371 departing pharmacist-in-charge and the beginning inventory of the incoming pharmacist-in-
372 charge.

373 (3) If the departing and the incoming pharmacists-in-charge are unable to conduct the inventory
374 together, a closing inventory shall be conducted by the departing pharmacist-in-charge and a new
375 and separate beginning inventory shall be conducted by the incoming pharmacist-in-charge.

376 (4) The incoming pharmacist-in-charge shall be responsible for notifying the board within 10
377 days, as specified in §291.3 of this title (relating to Notifications) [in writing on a form provided
378 by the board], that a change of pharmacist-in-charge has occurred. ~~[The notification shall include~~
379 ~~the following:]~~

380 ~~{{(A) the name and license number of the departing pharmacist in charge;}}~~

381 ~~{{(B) the name and license number of the incoming pharmacist in charge;}}~~

382 ~~{{(C) the date the incoming pharmacist in charge became the pharmacist in charge; and}}~~

383 ~~{{(D) a statement signed by the incoming pharmacist in charge attesting that:~~

384 ~~{{(i) an inventory has been conducted by the departing and incoming pharmacists in charge; if the~~
385 ~~inventory was not taken by both pharmacists, the statement shall provide an explanation; and}}~~

386 ~~[(ii) the incoming pharmacist in charge has read and understands the laws and rules relating to~~
387 ~~this class of pharmacy.]~~

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

390 Filed with the Office of the Secretary of State on September 14, 2015.

391 TRD-201503742

392 Gay Dodson, R.Ph.

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394 Texas State Board of Pharmacy

395 Earliest possible date of adoption: October 25, 2015

396 For further information, please call: (512) 305-8028

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