

## **RULE ANALYSIS**

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

**Short Title:** Operational Standards

**Rule Numbers:** §291.104

**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 time period to report required prescription information from a Class E pharmacy to the Texas Prescription Monitoring Program, to be consistent with §481.074(q) of the Texas Controlled Substances Act and correct grammatical errors.

**The Board reviewed and voted to propose the amendments during the August 7, 2018, meeting. The proposed amendments were published in the October 5, 2018, issue of the *Texas Register* at 43 TexReg 6611.**

**PART 15 TEXAS STATE BOARD OF PHARMACY**

**CHAPTER 291 PHARMACIES**

**SUBCHAPTER F NON-RESIDENT PHARMACY (CLASS E)**

**22 TAC §291.104**

The Texas State Board of Pharmacy proposes amendments to §291.104, concerning Operational Standards. The amendments, if adopted, update the time period to report required prescription information from a Class E pharmacy to the Texas Prescription Monitoring Program, to be consistent with section 481.074(q) of the Texas Controlled Substances Act (Chapter 481, Health and Safety Code) and correct grammatical errors.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Ms. Benz has determined that, for each year of the first five-year period the proposed amendments will be in effect, the public benefit anticipated as a result of enforcing the amendments will be to provide consistency between state law and Board rules regarding reporting requirements to the Texas Prescription Monitoring Program. There is no anticipated impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment.

For each year of the first five years the proposed amendments will be in effect, Ms. Benz has determined the following:

- (1) The proposed rule does not create or eliminate a government program;
- (2) Implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions;
- (3) Implementation of the proposed rule does not require an increase or decrease in the future legislative appropriations to the agency;
- (4) The proposed rule does not require an increase or decrease in fees paid to the agency;
- (5) The proposed rule does not create a new regulation;
- (6) The proposed rule does expand an existing regulation in order to be consistent with state law;
- (7) The proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and
- (8) The proposed rule does not positively or adversely affect this state's economy.

Written comments on the amendments may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin,

34 Texas, 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., November 3,  
35 2018.

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

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

43 *§291.104. Operational Standards.*

44 (a) - (e) (No change.)

45 (f) Prescriptions for **Schedules** ~~[Schedule]~~ II - V controlled substances. Unless compliance  
46 would violate the pharmacy or drug laws or rules in the state in which the pharmacy is located, a  
47 pharmacist in a Class E pharmacy who dispenses a prescription for a **Schedules** ~~[Schedule]~~ II -  
48 V controlled substance for a resident of Texas shall electronically send the prescription  
49 information to the Texas State Board of Pharmacy as specified in §315.6 of this title (relating to  
50 Pharmacy Responsibility - Electronic Reporting - Effective September 1, 2016) **not later than**  
51 **the next business day after the prescription is dispensed.** ~~[within 7 days of dispensing.]~~