



Texas State Board of Pharmacy M E M O R A N D U M

DATE: November 6, 2019

TO: Board Members
Staff
Interested Parties

FROM: Megan G. Holloway
Assistant General Counsel

SUBJECT: Rules adopted and proposed at the November 5, 2019 Board Meeting.

ADOPTED RULES

CHAPTER 283. LICENSING REQUIREMENTS FOR PHARMACISTS

SUBCHAPTER A. GENERAL PROVISIONS

§283.12

The Texas State Board of Pharmacy adopted amendments to §283.12 concerning Licenses for Military Service Members, Military Veterans, and Military Spouses. The amendments establish procedures for a military spouse who is currently licensed in good standing by a jurisdiction with licensing requirements that are substantially similar to Texas's requirements to obtain an interim pharmacist license, in accordance with Senate Bill 1200 of the 86th Legislative Session.

CHAPTER 291. PHARMACIES

SUBCHAPTER G. SERVICES PROVIDED BY PHARMACIES

§291.121

The Texas State Board of Pharmacy adopted amendments to §291.121 concerning Remote Pharmacy Services. The amendments clarify that a telepharmacy system located at a federally qualified health center may be located in a community in which a Class A or Class C pharmacy is located, in accordance with Senate Bill 670.

CHAPTER 295. PHARMACISTS

§295.8

The Texas State Board of Pharmacy adopted amendments to §295.8 concerning Continuing Education Requirements. The amendments add requirements for two hours of continuing education on pain management as specified in House Bill 3285, two hours of continuing education on prescribing and monitoring controlled substances as specified in House Bill 2174, and a human trafficking prevention course as specified in House Bill 2059, and removes a requirement for one hour of continuing education on opioid abuse.

§295.13

The Texas State Board of Pharmacy adopted amendments to §295.13 concerning Drug Therapy Management by a Pharmacist under Written Protocol of a Physician. The amendments clarify that a federally qualified health center is a practice setting in which physician delegation to a pharmacist of specific acts of drug therapy management may occur, in accordance with House Bill 2425.

CHAPTER 297. PHARMACY TECHNICIANS AND PHARMACY TECHNICIAN TRAINEES

§297.8

The Texas State Board of Pharmacy adopted amendments to §297.8 concerning Continuing Education Requirements. The amendments add a requirement for a human trafficking prevention course as specified in House Bill 2059 and correct grammatical errors.

§297.10

The Texas State Board of Pharmacy adopted amendments to §297.10 concerning Registration for Military Service Members, Military Veterans, and Military Spouses. The amendments establish procedures for a military spouse who is currently registered in good standing by a jurisdiction with registration requirements that are substantially similar to Texas's requirements to obtain an interim pharmacy technician registration, in accordance with Senate Bill 1200.

CHAPTER 309. SUBSTITUTION OF DRUG PRODUCTS

§309.5

The Texas State Board of Pharmacy adopted amendments to §309.5 concerning Communication with Prescriber. The amendments remove the section's expiration date, in accordance with House Bill 1264.

CHAPTER 315. CONTROLLED SUBSTANCES

§315.3

The Texas State Board of Pharmacy adopted amendments to §315.3 concerning Prescriptions. The amendments specify that opioid prescriptions for the treatment of pain may not exceed a 10-day supply or provide for a refill, in accordance with House Bills 2088 and 2174, remove expiration date from the section's title, and correct grammatical errors.

§315.6

The Texas State Board of Pharmacy adopted amendments to §315.6 concerning Pharmacy Responsibility - Electronic Reporting. The amendments require a pharmacy that does not dispense any controlled substances during a seven-day period to submit a zero report to the Prescription Monitoring Program and establish a procedure for requesting a waiver of the zero reporting requirement, in accordance with House Bill 2847.

§315.11

The Texas State Board of Pharmacy adopted amendments to §315.11 concerning Release of Prescription Data. The amendments remove the effective date from the section title and clarify that a pharmacist may delegate access to prescription data to a pharmacist-intern or pharmacy technician trainee under the direction of the pharmacist, in accordance with House Bill 2847.

§315.15

The Texas State Board of Pharmacy adopted amendments to §315.15 concerning Access Requirements. The amendments change the effective date of mandatory PMP database review before dispensing an opioid, benzodiazepine, barbiturate, or carisoprodol, in accordance with Senate Bill 3284, and clarify that the duty to consult the PMP database does not apply if the patient has a documented diagnosis of sickle cell disease, in accordance with Senate Bill 1564.

PROPOSED RULES

CHAPTER 281. ADMINISTRATIVE PRACTICES AND PROCEDURES

SUBCHAPTER A. GENERAL PROVISIONS

§281.7

The Texas State Board of Pharmacy proposed amendments to §281.7 concerning Grounds for Discipline for a Pharmacist License. The amendments, if adopted, remove failing to repay a student loan as a ground for discipline of a pharmacist license, in accordance with SB 37.

§281.9

The Texas State Board of Pharmacy proposed amendments to §281.9 concerning Grounds for Discipline for a Pharmacy Technician or a Pharmacy Technician Trainee. The amendments, if adopted, remove failing to repay a student loan as a ground for discipline of a pharmacy technician or a pharmacy technician trainee registration, in accordance with SB 37.

SUBCHAPTER C. DISCIPLINARY GUIDELINES

§281.66

The Texas State Board of Pharmacy proposed amendments to §281.66 concerning Application for Reissuance or Removal of Restrictions of a License or Registration. The amendments, if adopted, remove arrests as an item the board may consider in determining the reinstatement of an applicant's previously revoked or canceled license or registration, in accordance with SB 1217.

§281.69

The Texas State Board of Pharmacy proposed amendments to §281.69 concerning Automatic Denial or Revocation. The new rule, if adopted, provides for the automatic denial of a pharmacist licensure application or revocation of a pharmacist license for certain criminal offenses, in accordance with HB 1899.

§281.70

The Texas State Board of Pharmacy proposed a new rule §281.70 concerning Surety Bond. The new rule, if adopted, specifies that the board may require a surety bond if an investigation of a pharmacy involves section 565.002(a)(7) or (10) of the Pharmacy Act, in accordance HB 3496.

CHAPTER 291. PHARMACIES

SUBCHAPTER A. ALL CLASSES OF PHARMACY

§291.1

The Texas State Board of Pharmacy proposed amendments to §291.1 concerning Pharmacy License Application. The amendments, if adopted, clarify that an applicant for a pharmacy license must submit a sworn disclosure statement, in accordance with HB 3496, and correct a grammatical error.

§291.3

The Texas State Board of Pharmacy proposed amendments to §291.3 concerning Required Notifications. The amendments, if adopted, clarify that notification to the board of a change of managing officer shall include an updated sworn disclosure statement, in accordance with HB 3496, and correct grammatical errors.

§291.4

The Texas State Board of Pharmacy proposed a new rule §291.4 concerning Sworn Disclosure Statement. The new rule, if adopted, creates a requirement for a pharmacy license applicant to submit a sworn disclosure statement, in accordance with HB 3496.

§291.14

The Texas State Board of Pharmacy proposed amendments to §291.14 concerning Pharmacy License Renewal. The amendments, if adopted, add a requirement to submit a sworn disclosure statement, in accordance with HB 3496, and correct a grammatical error.

SUBCHAPTER B. COMMUNITY PHARMACY (CLASS A)

§291.34

The Texas State Board of Pharmacy proposed amendments to §291.34 concerning Records. The amendments, if adopted, remove an outdated reference to the Department of Public Safety and correct grammatical errors.

CHAPTER 295. PHARMACISTS

§295.9

The Texas State Board of Pharmacy proposed amendments to §295.9 concerning Inactive License. The amendments, if adopted, add a requirement for one hour of continuing education on pain management as specified in section 481.0764 of the Texas Controlled Substances Act, and remove a requirement for one hour of continuing education on opioid abuse.

§295.13

The Texas State Board of Pharmacy proposed amendments to §295.13 concerning Drug Therapy Management by a Pharmacist under Written Protocol of a Physician. The amendments, if adopted, specify the circumstances under which physician delegation to a pharmacist of specific acts of drug therapy management may occur, in accordance with SB 1056.

CHAPTER 315. CONTROLLED SUBSTANCES

§315.13

The Texas State Board of Pharmacy proposed amendments to §315.13 concerning Official Prescription Form - Effective September 1, 2016. The amendments, if adopted, remove the effective date from the short title and add a requirement for a person dispensing a Schedule II controlled substance prescription to provide written notice on the safe disposal of controlled substance prescription drugs, in accordance with HB 2088.

§315.16

The Texas State Board of Pharmacy proposed a new rule §315.16 concerning Patient Access to Prescription Monitoring Program Prescription Record. The new rule, if adopted, establishes the policy and procedures for a patient or the patient's legal guardian to obtain a copy of the patient's Prescription Monitoring Program prescription record, in accordance with HB 3284.

RULE REVIEW

The Texas State Board of Pharmacy proposed the review of Chapter 291 concerning Pharmacies (Community Pharmacy (class A)) (§§291.31 – 291.36) pursuant to the Texas Government Code §2001.039, regarding Agency Review of Existing Rules.

The Texas State Board of Pharmacy proposed the review of Chapter 283 concerning Licensing Requirements for Pharmacists (§§283.1 – 283.12) pursuant to the Texas Government Code §2001.039, regarding Agency Review of Existing Rules.

The Texas State Board of Pharmacy proposed the review of Chapter 315 concerning Controlled Substances (§§315.1 – 315.14) pursuant to the Texas Government Code §2001.039, regarding Agency Review of Existing Rules.