Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. [Square brackets and strikethrough] indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

**TITLE 22. EXAMINING BOARDS**

**PART 9. TEXAS MEDICAL BOARD**

**CHAPTER 170. PRESCRIPTION OF CONTROLLED SUBSTANCES [PAIN MANAGEMENT]**

The Texas Medical Board (Board) proposes to amend the title of 22 TAC Chapter 170 to "Prescription of Controlled Substances." Further amendments are proposed to §170.2, concerning Definitions, and §170.3, concerning Minimum Requirements for the Treatment of Chronic Pain. The Board also proposes new §170.9, in new Subchapter C, titled Prescription Monitoring Program Check.

The amendments to §170.2 are proposed pursuant to HB 2174, 86th Texas Legislature, which set forth certain opioid prescription limits for the treatment of acute pain. All proposed language represents the input and consensus of the Opioid Workgroup, composed of physicians, patients, hospitals, medical schools, and other stakeholders.

The amendments to §170.2 are as follows:

Section 170.2(2)'s definition for "acute pain" is proposed for amendment pursuant to HB 2174. The definition clarifies that acute pain is time limited to no more than 30 days from the date of initial prescription for opioids for treatment of the pain during a period of treatment for the acute condition or injury. This time limit defining acute pain is found in widely recognized literature and generally accepted throughout the medical community. This definition is fully endorsed and supported by the Opioid Workgroup.

Section 170.2(4) proposes to amend the definition for chronic pain by clarifying that chronic pain is pain that exists for a period that has continued for no less than 91 days from the date of initial prescription for opioids for treatment of the condition or injury. This time limit is found in widely recognized literature and generally accepted throughout the medical community. This definition is fully endorsed and supported by Opioid Workgroup.

Section 170.2(10) is added as a new definition for post-surgical, post-procedure, persistent non-chronic pain. The definition clarifies that there is pain that continues to exist in a period after the acute phase, but before becoming medically recognized as chronic pain. This period of pain exists for a period of more than 30 days but less than 91 days from the date of initial prescriptions for opioids during a period of treatment. This definition is found in widely recognized literature and generally accepted throughout the medical community. This proposed definition is fully endorsed and supported by Opioid Workgroup. This definition creates a period of time in which a physician will be allowed to prescribe opioids for more than a 10-day period for a condition, injury, or disease not already excepted under HB 2174, if the standard of care permits, and allow for an appropriate period for such treatment without the requirements related to chronic pain applying. Paragraphs (11) - (14) are re-numbered accordingly.

Section 170.3 amendments are proposed pursuant to §481.0764 of the Texas Controlled Substances Act, which mandates a review of the PMP prior to the issuance of a prescription for opioids, benzodiazepines, barbiturates, and carisoprodol.

The proposed amendments to §170.3 are as follows:

Section 170.3(1)(C) is amended so that a review of the PMP is mandatory rather than optional. Remaining proposed amendments are changes made for readability and represent other non-substantive re-wording necessitated by the primary changes in text.

Section 170.3(5)(E)(v) is amended so that language indicating an option of checking the PMP when conducting a periodic review of a patient's compliance is deleted. A physician must continue to review the PMP prior to issuing each and every prescription for opioids, benzodiazepines, barbiturates, and carisoprodol. The proposed deletion is not intended to change a physician's duty to review the PMP and represents a non-substantive re-wording of the section.

Section 170.3(7) is amended to clarify that documentation of the PMP check must be maintained in the patient's medical record.

Chapter 170, New Subchapter C, §170.9, Prescription Monitoring Program Check

The Texas Medical Board (Board) proposes adding to 22 TAC §170. et. seq., a new Subchapter C, Prescription Monitoring Program Check, in accordance with Sections 481.076, 481.0764, and 481.0765 of the Texas Controlled Substances Act. The purpose of the rule is to clarify when and under what circumstances a physician is required to check the PMP before issuing certain controlled substances. The new Subchapter C adds one new section, §170.9, which contains five interrelated parts. The proposed language reflects the input and consensus of stakeholders.

New §170.9(1) provides a description of the types of physician-patient interaction and medical settings that require a PMP check. This portion of the rule also specifies that the check is required prior to and each time a prescription is issued for opioids, benzodiazepines, barbiturates, or carisoprodol to the ultimate user.

New §170.9(2) clarifies the types of physician-patient interaction and medical settings that do not require a PMP check.
New §170.9(3) clarifies that documentation of the PMP check is required. The language also clarifies that it is permissible to place a copy of the patient's PMP history in the patient's medical record to demonstrate the check was conducted as required when a prescription is issued for opioids, benzodiazepines, barbiturates, or carisoprodol to the ultimate user. This portion of the rule is the result of physician and stakeholder inquiry concerning the permissibility of using a copy of the PMP as an acceptable method to comply with the statute. This documentation method is proposed as acceptable, in addition to other appropriate forms and methods of documentation.

New §170.9(4) clarifies that physicians must perform the PMP check. This portion of the rule also specifies that physicians may allow certain other qualified individuals to check the PMP under Section 481.076(a)(5)(B) of the Health and Safety Code.

New §170.9(5) provides exceptions to the required PMP check in accordance with Section 481.0765 of the Texas Controlled Substances Act.

Scott Freshour, General Counsel for the Texas Medical Board, has determined that for each of the first five years the amendments as proposed are in effect, the public benefit anticipated as a result of enforcing these amendments will be to clarify the requirements for treatment of pain with opioids, with due regard for potential complications, and to clarify requirements related to mandatory PMP checks, increasing public safety, health, and welfare. Providing such clarification while recognizing that some patients may experience pain that extends beyond an acute period; but resolves without the need for further treatment with opioids and within 90 days from the date of the initial prescription for opioids for the condition or injury, will increase the public's safety, health, and welfare, while minimizing certain costs to the patients and providers.

Mr. Freshour has determined that for the first five-year period this rule is in effect, there will be no effect to individuals required to comply with these rules as proposed.

Pursuant to Texas Government Code §2006.002, the agency provides the following economic impact statement for the proposed rule amendments and has determined that for each year of the first five years the proposed amendments will be in effect, there will be no effect on small businesses, micro businesses, or rural communities. The agency has considered alternative methods of achieving the purpose of the proposed rule amendments and found none.

Pursuant to Texas Government Code §2001.024(a)(4), Mr. Freshour certifies that the agency has determined that for each year of the first five years the proposed rules are in effect, there is no additional estimated cost to the state or to local governments expected as a result of enforcing or administering the rule. There are no estimated reductions in costs to the state or to local governments as a result of enforcing or administering the rule. There is no estimated loss or increase in revenue to the state or to local governments as a result of enforcing or administering the rule and there are no foreseeable implications relating to cost or revenues of the state or local governments with regard to enforcing or administering the rule.

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed amendment. For each year of the first five years the proposed rule will be in effect, Mr. Freshour has determined the following:

(1) The proposed rules do not create or eliminate a government program.
(2) Implementation of the proposed rules do not require the creation of new employee positions or the elimination of existing employee positions.
(3) Implementation of the proposed rules do not require an increase or decrease in future legislative appropriations to the agency.
(4) The proposed rules do not require an increase or decrease in fees paid to the agency.
(5) The proposed rules create a new regulation.
(6) The proposed rules do expand, limit, and repeal an existing regulation as described above.
(7) The proposed rules do not increase the number of individuals subject to the rule's applicability.
(8) The proposed rules do not positively or adversely affect this state's economy.

Comments on the proposal may be submitted to Rita Chapin, P.O. Box 2018, Austin, Texas 78768-2018, or e-mail comments to: rules.development@tmb.state.tx.us. A public hearing will be held at a later date.

SUBCHAPTER A.  PAIN MANAGEMENT

22 TAC §170.2, §170.3

The amendments are proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to recommend and adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine; and enforce this subtitle. The amendments are further proposed under the authority of Sections 481.07636, 481.076, 481.0764, and 481.0765 of the Texas Health and Safety Code.

No other statutes, articles or codes are affected by this proposal.

§170.2.  Definitions.
In this Chapter:
(1) "Abuse" or "substance abuse"—the essential feature of substance abuse is a maladaptive pattern of substance use manifested by recurrent and significant adverse consequences related to the repeated use of substances.
(2) "Acute pain"—the normal, predicted, physiological response to a stimulus such as trauma, disease, and operative procedures. Acute pain is time limited to no later than 30 days from the date of the initial prescription for opioids during a period of treatment related to the acute condition or injury. The term does not include:
   (A) chronic pain;
   (B) pain being treated as part of cancer care;
   (C) pain being treated as part of hospice or other end-of-life care;
   (D) pain being treated as part of palliative care; or
   (E) post-surgical, post-procedure, or persistent non-chronic pain.
(3) "Addiction"—a primary, chronic, neurobiological disease characterized by craving and compulsive use of drugs. Addiction is often characterized by impaired control over drug use, including taking more drugs more often than prescribed by a physician. It may
also be characterized by continued use despite harm to oneself or others. Genetic, psychosocial, and environmental factors may influence the development and manifestation of addiction. Physical dependence and tolerance are normal physiological consequences of extended drug therapy for pain and, alone, do not indicate addiction.

(4) "Chronic pain"—pain that is not relieved with acute, post-surgical, post-procedure, or persistent non-chronic pain treatment parameters and persists beyond the usual course of an acute condition typically caused by, or resembling that caused by, actual or potential tissue injury or trauma, disease process, or operative procedure or the healing or recovery of such condition with or without treatment. This type of pain is [a state in which pain persists beyond the usual course of an acute disease or healing of an injury. Chronic pain may be] associated with a chronic pathological[-] process that causes continuous or intermittent pain for no less than 91 days from the date of the initial prescription for opioids [over months or years].

(5) "Dangerous drugs"—medications defined by the Texas Dangerous Drug Act, Chapter 483, Texas Health and Safety Code. Dangerous drugs require a prescription, but are not included in the list of scheduled drugs. A dangerous drug bears the legend "Caution: federal law prohibits dispensing without a prescription" or "Prescription Only."

(6) "Diversion"—the use of drugs by anyone other than the person for whom the drug was prescribed.

(7) "Escalation"—increasing the dosage and/or frequency of the use of drugs.

(8) "Pain"—an unpleasant sensory and emotional experience associated with actual or potential tissue damage or described in terms of such damage.

(9) "Physical dependence"—a state of adaptation that is manifested by drug class-specific signs and symptoms that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, and/or administration of an antagonist. Physical dependence, alone, does not indicate addiction.

(10) [§170.3] "Post-surgical, post-procedure, persistent non-chronic pain—pain that occurs due to trauma caused by the surgery or procedure, or an underlying condition, disease, or injury causing persistent non-chronic pain. These types of pain are treated in accordance with the standard of care and last 90 days or less, but more than 30 days, from the date of initial prescriptions for opioids during a period of treatment.

(11) [§170.9] "Pseudodrug"—the iatrogenic syndrome resulting from the misinterpretation of relief seeking behaviors as though they are drug-seeking behaviors that are commonly seen with addiction. The relief seeking behaviors resolve upon institution of effective analgesic therapy.

(12) [§170.9] "Scheduled drugs" (sometimes referred to as "Controlled Substances")—medications defined by the Texas Controlled Substances Act, Chapter 481, Texas Health and Safety Code. This Act establishes five categories, or schedules of drugs, based on risk of abuse and addiction. Schedule I includes drugs that carry an extremely high risk of abuse and addiction and have no legitimate medical use. Schedule V includes drugs that have the lowest abuse/addiction risk.

(13) [§170.9] "Tolerance" (tachyphylaxis)—a physiological state resulting from regular use of a drug in which an increased dosage is needed to produce a specific effect, or a reduced effect is observed with a constant dose over time. Tolerance does not necessarily occur during opioid treatment and does not, alone, indicate addiction.

(14) [§170.9] "Withdrawal"—the physiological and mental readjustment that accompanies discontinuation of a drug for which a person has established a physical dependence.

§170.3. Minimum Requirements for the Treatment of Chronic Pain. A physician's treatment of a patient's pain will be evaluated by considering whether it meets the generally accepted standard of care and whether the following minimum requirements have been met:

(1) Evaluation of the patient.

(A) A physician is responsible for obtaining a medical history and a physical examination that includes a problem-focused exam specific to the chief presenting complaint of the patient.

(B) The medical record shall document the medical history and physical examination. In the case of chronic pain, the medical record must document:

(i) the nature and intensity of the pain;

(ii) current and past treatments for pain;

(iii) underlying or coexisting diseases and conditions;

(iv) the effect of the pain on physical and psychological function;

(v) any history and potential for substance abuse or diversion; and

(vi) the presence of one or more recognized medical indications for the use of a dangerous or scheduled drug.

(C) Prior to prescribing opioids, benzodiazepines, barbiturates, or carisoprodol [dangerous drugs or controlled substances] for the treatment of chronic pain, a physician must review [consider reviewing] prescription data and history related to the patient, if any, contained in the Prescription Drug Monitoring Program in accordance with Section 481.076 [described by §§481.075, 481.076, and 481.0761] of the Texas Health and Safety Code and §170.9 of this Chapter (relating to Prescription Monitoring Program Check). In addition, a physician must consider obtaining at a minimum a baseline toxicology drug screen to determine the presence of drugs in a patient, if any. If a physician determines that a baseline toxicology drug screen is not necessary prior to prescribing dangerous drugs or controlled substances to the patient, the physician must document in the medical record his or her rationale for not requiring the screen [completing such steps].

(2) Treatment plan for chronic pain. The physician is responsible for a written treatment plan that is documented in the medical records. The medical record must include:

(A) how the medication relates to the chief presenting complaint of chronic pain;

(B) dosage and frequency of any drugs prescribed;

(C) further testing and diagnostic evaluations to be ordered, if medically indicated;

(D) other treatments that are planned or considered;

(E) periodic reviews planned; and

(F) objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function.

(3) Informed consent. It is the physician's responsibility to discuss the risks and benefits of the use of controlled substances for the treatment of chronic pain with the patient, persons designated by the
patient, or with the patient's surrogate or guardian if the patient is without medical decision-making capacity. This discussion must be documented by either a written signed document maintained in the records or a contemporaneous notation included in the medical records. Discussion of risks and benefits must include an explanation of the:

- (A) diagnosis;
- (B) treatment plan;
- (C) anticipated therapeutic results, including the realistic expectations for sustained pain relief and improved functioning and possibilities for lack of pain relief;
- (D) therapies in addition to or instead of drug therapy, including physical therapy or psychological techniques;
- (E) potential side effects and how to manage them;
- (F) adverse effects, including the potential for dependence, addiction, tolerance, and withdrawal; and
- (G) potential for impairment of judgment and motor skills.

4 Agreement for treatment of chronic pain. A proper patient-physician relationship for treatment of chronic pain requires the physician to establish and inform the patient of the physician's expectations that are necessary for patient compliance. If the treatment plan includes extended drug therapy, the physician must use a written pain management agreement between the physician and the patient outlining patient responsibilities, including the following provisions:

- (A) the physician may require laboratory tests for drug levels upon request;
- (B) the physician may limit the number and frequency of prescription refills;
- (C) only the primary pain management physician or another physician covering for the primary pain management physician in compliance with Chapter 177, Subchapter E of this title (relating to Physician Call Coverage Medical Services), may prescribe dangerous and scheduled drugs for the treatment of chronic pain. For any prescriptions issued for medications to treat acute or chronic pain by a person other than the primary pain management physician or covering physician, the terms of the agreement must require that at or before the patient's next date of service, the patient notify the primary pain management physician or covering physician about the prescription(s) issued. The terms of the agreement must require that such notice include at a minimum the name and contact information for the person who issued the prescription, the date of the prescription, and the name and quantity of the drug prescribed;
- (D) only one pharmacy designated by the patient will be used for prescriptions for the treatment of chronic pain, with an exception for those circumstances for which the patient has no control or responsibility, that prevent the patient from obtaining prescribed medications at the designated pharmacy under the agreement. For such circumstances, the agreement's terms must require that at or before the patient's next date of service, the patient notify the primary pain management physician or covering physician of the circumstances and identify the pharmacy that dispensed the medication; and
- (E) reasons for which drug therapy may be discontinued (e.g. violation of agreement).

5 Periodic review of the treatment of chronic pain.

- (A) The physician must see the patient for periodic review at reasonable intervals in view of the individual circumstances of the patient.

- (B) Periodic review must assess progress toward reaching treatment objectives, taking into consideration the history of medication usage, as well as any new information about the etiology of the pain.

- (C) Each periodic visit shall be documented in the medical records.

- (D) Contemporaneous to the periodic reviews, the physician must note in the medical records any adjustment in the treatment plan based on the individual medical needs of the patient.

- (E) A physician must base any continuation or modification of the use of dangerous and scheduled drugs for pain management on an evaluation of progress toward treatment objectives.

(i) Progress or the lack of progress in relieving pain must be documented in the patient's record.

(ii) Satisfactory response to treatment may be indicated by the patient's decreased pain, increased level of function, and/or improved quality of life.

(iii) Objective evidence of improved or diminished function must be monitored. Information from family members or other caregivers, if offered or provided, must be considered in determining the patient's response to treatment.

(iv) If the patient's progress is unsatisfactory, the physician must reassess the current treatment plan and consider the use of other therapeutic modalities.

(v) The physician must periodically review the patient's compliance with the prescribed treatment plan and reevaluate for any potential for substance abuse or diversion. In such a review, the physician must consider reviewing prescription data and history related to the patient, if any, contained in the Prescription Drug Monitoring Program described by §§ 481.075, 481.076, and 481.0761 of the Texas Health and Safety Code and consider obtaining at a minimum a toxicology drug screen to determine the presence of drugs in a patient, if any. If a physician determines that a repeat toxicology screen is necessary, the physician must document the medical record his or her rationale for not completing it.

6 Consultation and Referral. The physician must refer a patient with chronic pain for further evaluation and treatment as necessary. Patients who are at-risk for abuse or addiction require special attention. Patients with chronic pain and histories of substance abuse or with co-morbid psychiatric disorders require even more care. A consult with or referral to an expert in the management of such patients must be considered in their treatment.

7 Medical records. The medical records shall document the physician's rationale for the treatment plan and the prescription of drugs for the chief complaint of chronic pain and show that the physician has followed these rules. Specifically, the records must include:

- (A) the medical history and the physical examination;
- (B) diagnostic, therapeutic and laboratory results;
- (C) evaluations and consultations;
- (D) treatment objectives;
- (E) discussion of risks and benefits;
- (F) informed consent;
- (G) treatments;
- (H) medications (including date, type, dosage and quantity prescribed);
The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 18, 2020.
TRD-202001180
Scott Freshour
General Counsel
Texas Medical Board

SUBCHAPTER C. PRESCRIPTION MONITORING PROGRAM CHECK

22 TAC §170.9

STATUTORY AUTHORITY
The new rule is proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to recommend and adopt rules and bylaws as necessary: to govern its own proceedings; perform its duties; regulate the practice of medicine; and enforce this subtitle. The amendments are further proposed under the authority of Sections 481.07636, 481.076, 481.0764, and 481.0765 of the Texas Health and Safety Code.

No other statutes, articles or codes are affected by this proposal.

§170.9. Prescription Monitoring Program Check.

The legislature has recognized the impact of the opioid crisis on the health and well-being of its citizens. The Prescription Monitoring Program (PMP) is a valuable tool to help prevent diversion of drugs and opioid-related overdose deaths. This subchapter establishes rules for a mandatory PMP check.

1. Before a prescription for opioids, benzodiazepines, barbiturates, or carisoprodol will be issued to a patient, a mandatory PMP check of the patient's controlled substance prescription history is required. The review of the patient's PMP prescribing history must be completed prior to and each time a prescription is issued for opioids, benzodiazepines, barbiturates, or carisoprodol to the patient for:

   A. take-home use, upon leaving an outpatient setting such as doctor's office, or ambulatory surgical center; or

   B. upon discharge from an inpatient setting, such as a hospital admission or discharge from an emergency department visit.

2. A mandatory PMP check is not required before or during an inpatient stay, such as a hospital admission, or during an outpatient encounter in settings, such as an emergency department or ambulatory surgical center visit.

3. The review of the patient's PMP prescribing history must be documented in the patient's medical records. Permitted documentation methods include, but are not limited to, placing a copy of the PMP check in the patient's medical records.

4. The PMP check required by this section may be done by:

(A) the physician; or
(B) delegated to any legally authorized personnel described in Section 481.076(a)(5)(B) of the Health and Safety Code.

5. Exceptions. The PMP check set forth under paragraph (1) of this section is not required in the following circumstances:

(A) the prescriptions are issued pursuant to hospice care, treatment for a patient's diagnosis of cancer, or treatment for a patient's sickle cell disease and is clearly documented in the patient's medical record; and

(B) the prescriber makes and documents a good faith attempt to comply but is unable to access the PMP because of circumstances outside the control of the prescriber.

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

Filed with the Office of the Secretary of State on March 18, 2020.
TRD-202001183
Scott Freshour
General Counsel
Texas Medical Board

PART 15. TEXAS STATE BOARD OF PHARMACY

CHAPTER 281. ADMINISTRATIVE PRACTICE AND PROCEDURES

SUBCHAPTER B. GENERAL PROCEDURES IN A CONTESTED CASE

22 TAC §281.35

The Texas State Board of Pharmacy proposes a new rule §281.35, concerning Temporary Suspension or Restriction. The new rule, if adopted, will detail procedures for the temporary suspension or restriction of a license or registration.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the rules 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 rule will be in effect, the public benefit anticipated as a result of enforcing the proposed rule will be to provide clear procedures for the temporary suspension or restriction of a license or registration. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

For each year of the first five years the proposed rule 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 licensure fees paid to the agency;

(5) The proposed rule does create a new regulation;

(6) The proposed rule does not limit or expand an existing regulation;

(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 proposed rule may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas, 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., May 4, 2020.

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

The statutes affected by the proposed rule: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

§281.35. Temporary Suspension or Restriction.

(a) In accordance with §§565.059 and 568.0037 of the Act, and §2001.081 of the Administrative Procedure Act, Title 10, Chapter 2001, Government Code, the determination of the disciplinary panel may be based not only on evidence admissible under the Texas Rules of Evidence, but may be based on information necessary to ascertain facts not reasonably susceptible of proof under those rules, not precluded by statute, and of a type on which a reasonably prudent person commonly relies in the conduct of the person's affairs.

(b) Questioning of witnesses by the parties or panel members shall be permitted in the discretion of the chair of the disciplinary panel with due consideration being given to the need to obtain accurate information and prevent the harassment or undue embarrassment of witnesses.

(c) In receiving information on which to base its determination of a continuing threat to the public welfare, the disciplinary panel may accept the testimony of witnesses by telephone in the discretion of the chair of the disciplinary panel.

(d) Hearings before disciplinary panels convened under §§565.059(b)(1) and 568.0037(b)(1) of the Act are not recorded unless the respondent requests such a recording in writing at least 5 days before the hearing. If requested in a timely manner, the board will arrange for the presence of a court reporter to make the recording. The respondent shall be responsible for the cost of the court reporter, the recording, and any written transcript requested by the respondent.

(e) Minutes of the hearing will be made and maintained by the board. The board will provide a copy of the minutes to the respondent upon request.

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

Filed with the Office of the Secretary of State on March 19, 2020.
TRD-202001189
Allison Vordenbaumen Benz, R.Ph., M.S.
Executive Director
Texas State Board of Pharmacy
Earliest possible date of adoption: May 3, 2020
For further information, please call: (512) 305-8010

CHAPTER 283. LICENSING REQUIREMENTS FOR PHARMACISTS

22 TAC §283.2

The Texas State Board of Pharmacy proposes amendments to §283.2, concerning Definitions. The amendments, if adopted, remove the definition of and references to a pharmacist intern-trainee.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the rules 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 rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be to provide a more streamlined approach to pharmacist internships and to allow pharmacy students to gain internship experience earlier in their educational career so that they will have more experience upon graduation. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

(1) The proposed amendments do not create or eliminate a government program;

(2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions;

(3) Implementation of the proposed amendments does not require an increase or decrease in the future legislative appropriations to the agency;

(4) The proposed amendments do not require an increase or decrease in fees paid to the agency;

(5) The proposed amendments do not create a new regulation;

(6) The proposed amendments do limit an existing regulation by eliminating the intern-trainee designation;

(7) The proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and

(8) The proposed amendments do 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, Texas, 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., May 4, 2020.

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

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

§283.2. Definitions.
The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) ACPE--Accreditation Council for Pharmacy Education.

(2) Applicant--An individual having applied for licensure to act as a pharmacist in Texas.

(3) Approved continuing education--Continuing education which meets the requirements of §295.8 of this title (relating to Continuing Education Requirements).

(4) Board--The Texas State Board of Pharmacy; all members, divisions, departments, sections, and employees thereof.

(5) College/School of pharmacy--A college/school of pharmacy whose professional degree program has been approved by the board and is either accredited by:
   (A) ACPE, or
   (B) the Canadian Council for Accreditation of Pharmacy Programs for 1993 - 2004 graduates.

(6) Competency--A demonstrated state of preparedness for the realities of professional pharmacy practice.

(7) Didactic--Systematic classroom instruction.

(8) Direct supervision--A pharmacist preceptor or healthcare professional preceptor is physically present and on-site at the licensed location of the pharmacy where the pharmacist-intern is performing pharmacist-intern duties.

(9) Extended-intern--An intern, registered with the board, who has:
   (A) applied to the board for licensure by examination and has successfully passed the NAPLEX and Texas Pharmacy Jurisprudence Examination but lacks the required number of hours of internship for licensure; or
   (B) applied to the board to take the NAPLEX and Texas Pharmacy Jurisprudence Examinations within six calendar months after graduation and has either:
      (i) graduated and received a professional degree from a college/school of pharmacy; or
      (ii) completed all of the requirements for graduation and for receipt of a professional degree from a college/school of pharmacy; or
   (C) applied to the board to take the NAPLEX and Texas Pharmacy Jurisprudence Examinations within six calendar months after obtaining full certification from the Foreign Pharmacy Graduate Equivalency Commission; or
   (D) applied to the Board for re-issuance of a pharmacist license which has been expired for more than two years but less than ten years and has successfully passed the Texas Pharmacy Jurisprudence Examination, but lacks the required number of hours of internship or continuing education required for licensure; or
   (E) been ordered by the Board to complete an internship.

(10) Foreign pharmacy graduate--An individual whose pharmacy degree was conferred by a pharmacy school whose professional degree program has not been accredited by ACPE and approved by the board. An individual whose pharmacy degree was conferred by a pharmacy school that was accredited by the Canadian Council for Accreditation of Pharmacy Programs between 1993 and 2004, inclusively, is not considered a foreign pharmacy graduate.

(11) FPGE--The Foreign Pharmacy Graduate Equivalency Commission.

(12) Healthcare Professional--An individual licensed as:
   (A) a physician, dentist, podiatrist, veterinarian, advanced practice registered nurse, or physician assistant in Texas or another state; or
   (B) a pharmacist in a state other than Texas but not licensed in Texas.

(13) Healthcare Professional Preceptor--A healthcare professional serving as an instructor for a Texas college/school-based internship program who is recognized by a Texas college/school of pharmacy to supervise and be responsible for the activities and functions of a student-intern or intern-trainee in the internship program.

(14) Intern-trainee--An individual registered with the board, who is enrolled in the first year of the professional sequence of a Texas college/school of pharmacy who may only work during times and in sites assigned by a Texas college/school of pharmacy.

(15) Internship--A practical experience program that is approved by the board.

(16) MPJE--Multistate Pharmacy Jurisprudence Examination.

(17) NABP--The National Association of Boards of Pharmacy.

(18) NAPLEX--The North American Pharmacy Licensing Examination, or its predecessor, the National Association of Boards of Pharmacy Licensing Examination.

(19) Pharmaceutical care--The provision of drug therapy and other pharmaceutical services defined in the rules of the board and intended to assist in the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process.

(20) Pharmacist Preceptor--A pharmacist licensed in Texas to practice pharmacy who meets the requirements under board rules and is recognized by the board to supervise and be responsible for the activities and functions of a pharmacist-intern in an internship program.

(21) Resident-intern--An individual who is registered with the board and:
(A) has graduated from a college/school of pharmacy; and

(B) is completing a residency program in the state of Texas accredited by the American Society of Health-System Pharmacists.

22 TAC §283.4

The Texas State Board of Pharmacy proposes amendments to §283.4, concerning Internship Requirements. The amendments, if adopted, remove references to a pharmacist intern-trainee and certain requirements for a pharmacist intern, and correct grammatical errors.

Allison Vordenbaum Benz, R.Ph., M.S., Executive Director, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enacting or amending the rule. Ms. Benz has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enacting the amendments will be to provide a more streamlined approach to pharmacist internships and to allow pharmacy students to gain internship experience earlier in their educational career so that they will have more experience upon graduation. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

1. The proposed amendments do not create or eliminate a government program;
2. Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions;
3. Implementation of the proposed amendments does not require an increase or decrease in the future legislative appropriations to the agency;
4. The proposed amendments do not require an increase or decrease in fees paid to the agency;
5. The proposed amendments do not create a new regulation;
6. The proposed amendments do limit an existing regulation by eliminating the intern-trainee designation;
7. The proposed amendments do not increase or decrease the number of individuals subject to the rule’s applicability; and
8. The proposed amendments do 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, Texas 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., May 4, 2020.

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

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

§283.4. Internship Requirements.

(a) Goals and competency objectives of internship.

(1) The goal of internship is for the pharmacist-intern to attain the knowledge, skills, and abilities to safely, efficiently, and effectively provide pharmacist-delivered patient care to a diverse patient population and practice pharmacy under the laws and regulations of the State of Texas.

(2) The following competency objectives are necessary to accomplish the goal of internship in paragraph (1) of this subsection:

(A) Provides drug products. The pharmacist-intern shall demonstrate competence in determining the appropriateness of prescription drug orders and medication orders; evaluating and selecting products; and assuring the accuracy of the product/prescription dispensing process.

(B) Communicates with patients and/or patients’ agents about prescription drugs. The pharmacist-intern shall demonstrate competence in interviewing and counseling patients, and/or the patients’ agents, on drug usage, dosage, packaging, routes of administration, intended drug use, and storage; discussing drug cautions, adverse effects, and patient conditions; explaining policies on fees and services; relating to patients in a professional manner; and interacting to confirm patient understanding.

(C) Communicates with patients and/or patients’ agents about nonprescription products, devices, dietary supplements, diet, nutrition, traditional nondrug therapies, complementary and alternative
therapies, and diagnostic aids. The pharmacist-intern shall demonstrate competence in interviewing and counseling patients and/or patients' agents on conditions, intended drug use, and adverse effects; assisting in and recommending drug selection; triaging and assessing the need for treatment or referral, including referral for a patient seeking pharmacist-guided self-care; providing information on medical/surgical devices and home diagnostic products; and providing poison control treatment information and referral.

(D) Communicates with healthcare professionals and patients and/or patients' agents. The pharmacist-intern shall demonstrate competence in obtaining and providing accurate and concise information in a professional manner and using appropriate oral, written, and nonverbal language.

(E) Practices as a member of the patient's interdisciplinary healthcare team. The pharmacist-intern shall demonstrate competence in collaborating with physicians, other healthcare professionals, patients, and/or patients' agents to formulate a therapeutic plan. The pharmacist-intern shall demonstrate competence in establishing and interpreting databases [data-sets], identifying drug-related problems and recommending appropriate pharmacotherapy specific to patient needs, monitoring and evaluating patient outcomes, and devising follow-up plans.

(F) Maintains professional-ethical standards. The pharmacist-intern is required to comply with laws and regulations pertaining to pharmacy practice; to apply professional judgment; to exhibit reliability and credibility in dealing with others; to deal professionally and ethically with colleagues and patients; to demonstrate sensitivity and empathy for patients/care givers; and to maintain confidentiality.

(G) Compounds. The pharmacist-intern shall demonstrate competence in using acceptable professional procedures; selecting appropriate equipment and containers; appropriately preparing compounded non-sterile and sterile preparations; and documenting calculations and procedures. Pharmacist-interns engaged in compounding non-sterile preparations shall meet the training requirements for pharmacists specified in §291.131 of this title (relating to Pharmacies Compounding Non-Sterile Preparations). Pharmacist-interns engaged in compounding sterile preparations shall meet the training requirements for pharmacists specified in §291.133 of this title (relating to Pharmacies Compounding Sterile Preparations).

(H) Retrieves and evaluates drug information. The pharmacist-intern shall demonstrate competence in retrieving, evaluating, managing, and using the best available clinical and scientific publications for answering a drug-related request in a timely fashion and assessing, evaluating, and applying evidence based information to promote optimal health care. The pharmacist-intern shall perform investigations on relevant topics in order to promote inquiry and problem-solving with dissemination of findings to the healthcare community and/or the public.

(I) Manages general pharmacy operations. The pharmacist-intern shall develop a general understanding of planning, personnel and fiscal management, leadership skills, and policy development. The pharmacist-intern shall have an understanding of drug security, storage and control procedures and the regulatory requirements associated with these procedures, and maintaining quality assurance and performance improvement. The pharmacist-intern shall observe and document discrepancies and irregularities, keep accurate records and document actions. The pharmacist-intern shall attend meetings requiring pharmacy representation.

(J) Participates in public health, community service or professional activities. The pharmacist-intern shall develop basic knowledge and skills needed to become an effective healthcare educator and a responsible participant in civic and professional organizations.

(K) Demonstrates scientific inquiry. The pharmacist-intern shall develop skills to expand and/or refine knowledge in the areas of pharmaceutical and medical sciences or pharmaceutical services. This may include data analysis of scientific, clinical, sociological, and/or economic impacts of pharmaceuticals (including investigational drugs), pharmaceutical care, and patient behaviors, with dissemination of findings to the scientific community and/or the public.

(b) Hours requirement.

(1) The board requires 1,500 hours of internship for licensure. These hours may be obtained through one or more of the following methods:

(A) in a board approved student internship program, as specified in subsection (c) of this section;

(B) in a board-approved extended-internship program as specified in subsection (d) of this section; and/or

(C) graduation from a college/school of pharmacy after July 1, 2007. Persons graduating from such programs shall be credited 1,500 hours or the number of hours actually obtained and reported by the college; and/or

(D) internship hours approved and certified to the board by another state board of pharmacy.

(2) Pharmacist-interns participating in an internship may be credited no more than 50 hours per week of internship experience.

(3) Internship hours may be used for the purpose of licensure for no longer than two years from the date the internship is completed.

(c) College-/School-Based Internship Programs.

(1) Internship experience acquired by student-interns.

(A) An individual may be designated a student-intern provided he/she:

(i) submits an application to the board that includes the following information:

(I) name;

(II) addresses, phone numbers, date of birth, and social security number;

(III) college of pharmacy and expected graduation date; and

(IV) any other information requested on the application;

(ii) is enrolled in the professional sequence of a college/school of pharmacy; and

(iii) has successfully completed the first professional year and obtained a minimum of 30 credit hours of work towards a professional degree in pharmacy; and

(iv) has met all requirements necessary for the board to access the criminal history records information, including submitting fingerprint information and being responsible for all associated costs.

(B) The terms of the student internship shall be as follows.
(i) The student internship shall be gained concurrent with college attendance, which may include:

(I) partial semester breaks such as spring breaks;
(II) between semester breaks; and
(III) whole semester breaks provided the student-intern attended the college/school in the immediate preceding semester and is scheduled with the college/school to attend in the immediate subsequent semester.

(ii) The student internship shall be obtained in pharmacies licensed by the board, federal government pharmacies, or in a board-approved program.

(iii) The student internship shall be in the presence of and under the supervision of a healthcare professional preceptor or a pharmacist preceptor.

(C) None of the internship hours acquired outside of a school-based program may be substituted for any of the hours required in a college/school of pharmacy internship program.

(2) Expiration date for student-intern designation.

(A) The student-internship expires:

(i) if the student-intern voluntarily or involuntarily ceases enrollment, including suspension, in a college/school of pharmacy;

(ii) the student-intern fails either the NAPLEX or Texas Pharmacy Jurisprudence Examinations specified in this section; or

(iii) the student-intern fails to take either the NAPLEX or Texas Pharmacy Jurisprudence Examinations or both within six calendar months after graduation.

(B) The executive director of the board, in his/her discretion, may extend the term of the student internship if administration of the NAPLEX or Texas Pharmacy Jurisprudence Examinations is suspended or delayed.

(3) Texas colleges/schools of pharmacy internship programs.

(A) Student-interns [Intern-trainees and student-interns] completing a board-approved Texas college/school-based structured internship shall be credited the number of hours actually obtained and reported by the college. No credit shall be awarded for didactic experience.

(B) No more than 600 hours of the required 1,500 hours may be obtained under a healthcare professional preceptor except when a pharmacist-intern is working in a federal government pharmacy.

(C) Individuals enrolled in the professional sequence of a Texas college/school of pharmacy may be designated as an intern-trainee provided he/she:

(i) submits an application to the board that includes the following information:

(A) name;

(B) addresses, phone numbers, date of birth, and social security number;

(C) college of pharmacy and expected graduation date; and

(D) any other information requested on the application;

(ii) is enrolled in the professional sequence of a college/school of pharmacy, and

(iii) has met all requirements necessary for the board to access the criminal history records information, including submitting fingerprint information and being responsible for all associated costs. Such internship shall remain in effect during the time the intern-trainee is enrolled in the first year of the professional sequence and shall expire upon completion of the first year of the professional sequence or upon separation from the professional sequence.

(d) Extended-internship program.

(1) A person may be designated an extended-intern provided he/she has met one of the following requirements:

(A) passed NAPLEX and the Texas Pharmacy Jurisprudence Examinations but lacks the required number of internship hours for licensure;

(B) applied to the board to take the NAPLEX and Texas Jurisprudence Examinations within six calendar months after graduation and has:

(i) graduated and received a professional degree from a college/school of pharmacy; or

(ii) completed all of the requirements for graduation and receipt of a professional degree from a college/school of pharmacy;

(C) applied to the board to take the NAPLEX and Texas Jurisprudence Examinations within six calendar months after obtaining full certification from the Foreign Pharmacy Graduate Equivalency Commission;

(D) applied to the board for re-issuance of a pharmacist license which has expired for more than two years but less than ten years and has successfully passed the Texas Pharmacy Jurisprudence Examination, but lacks the required number of hours of internship or continuing education required for licensure;

(E) is a resident in a residency program accredited by the American Society of Health-System Pharmacists in the state of Texas; or

(F) been ordered by the Board to complete an internship.

(2) In addition to meeting one of the requirements in paragraph (1) of this subsection, an applicant for an extended-internship must:

(A) submit an application to the board that includes the following information:

(i) name;

(ii) addresses, phone numbers, date of birth, and social security number;

(iii) any other information requested on the application; and

(B) meet all requirements necessary for the board to access the criminal history records information, including submitting fingerprint information and being responsible for all associated costs.

(3) The terms of the extended-internship shall be as follows.

(A) The extended-internship shall be board-approved and gained in a pharmacy licensed by the board, or a federal government pharmacy participating in a board-approved internship program.
The extended-internship shall be in the presence of and under the direct supervision of a pharmacist preceptor.

(4) The extended internship remains in effect for two years. However, the internship expires immediately upon:

(A) the failure of the extended-intern to take the NAPLEX and Texas Pharmacy Jurisprudence Examinations within six calendar months after graduation or FPGE certification;

(B) the failure of the extended-intern to pass the NAPLEX and Texas Pharmacy Jurisprudence Examinations specified in this section;

(C) upon termination of the residency program; or

(D) obtaining a Texas pharmacist license.

(5) The executive director of the board, in his/her discretion, may extend the term of the extended internship if administration of the NAPLEX and/or Texas Pharmacy Jurisprudence Examinations is suspended or delayed.

(6) An applicant for licensure who has completed less than 500 hours of internship at the time of application shall complete the remainder of the 1,500 hours of internship and have the preceptor certify that the applicant has met the objectives listed in subsection (a) of this section.

(e) Pharmacist-intern identification.

(1) Pharmacist-interns shall keep documentation of designation as a pharmacist-intern with them at all times they are serving as a pharmacist-intern and make it available for inspection by board agents.

(2) All pharmacist-interns shall wear an identification tag or badge which bears the person's name and identifies him or her as a pharmacist-intern.

(f) Change of address and/or name.

(1) Change of address. A pharmacist-intern shall notify the board electronically or in writing within 10 days of a change of address, giving the old and new address.

(2) Change of name. A pharmacist-intern shall notify the board in writing within 10 days of a change of name by:

(A) sending a copy of the official document reflecting the name change (e.g., marriage certificate, divorce decree, etc.);

(B) returning the current pharmacist-intern certificate which reflects the previous name; and

(C) paying a fee of $20.

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

Filed with the Office of the Secretary of State on March 19, 2020.

TRD-202001192

Allison Vordenbaumen Benz, R.Ph., M.S.
Executive Director
Texas State Board of Pharmacy

Earliest possible date of adoption: May 3, 2020

For further information, please call: (512) 305-8010

22 TAC §283.5

The Texas State Board of Pharmacy proposes amendments to §283.5, concerning Pharmacist-Intern Duties. The amendments, if adopted, remove references to a pharmacist intern-trainee.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the rules 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 rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be to provide a more streamlined approach to pharmacist internships and to allow pharmacy students to gain internship experience earlier in their educational career so that they will have more experience upon graduation. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

(1) The proposed amendments do not create or eliminate a government program;

(2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions;

(3) Implementation of the proposed amendments does not require an increase or decrease in the future legislative appropriations to the agency;

(4) The proposed amendments do not require an increase or decrease in fees paid to the agency;

(5) The proposed amendments do not create a new regulation;

(6) The proposed amendments do limit an existing regulation by eliminating the intern-trainee designation;

(7) The proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and

(8) The proposed amendments do 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, Texas 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., May 4, 2020.

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

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

§283.5. Pharmacist-Intern Duties.

(a) A pharmacist-intern participating in a board-approved internship program may perform any duty of a pharmacist provided the duties are delegated by and under the supervision of:
(1) a pharmacist licensed by the board and approved as a preceptor by the board; or

(2) healthcare professional preceptor.

(b) A pharmacist preceptor serving as an instructor for a Texas college/school-based internship program, may delegate any duty of a pharmacist to an intern-trainee. An intern-trainee may only perform the duties of a pharmacist in a site assigned by a Texas college/school of pharmacy and the direct supervision of a pharmacist preceptor assigned by a Texas college/school of pharmacy.

(b) [ce] When not under the supervision of a pharmacist preceptor, a pharmacist-intern may function as a pharmacy technician and perform all of the duties of a pharmacy technician without registering as a pharmacy technician provided the pharmacist-intern:

(1) is registered with the board as a pharmacist-intern;
(2) is under the direct supervision of a pharmacist;
(3) has completed the pharmacy's on-site technician training program;
(4) has completed the training required for pharmacists in §291.133 of this title (relating to Pharmacies Compounding Sterile Preparations) if the pharmacist-intern is involved in compounding sterile preparations; and

(5) is not counted as a pharmacy technician in the ratio of pharmacists to pharmacy technicians. The ratio of pharmacists to pharmacist-interns shall be 1:1 when performing pharmacy technician duties.

(c) [ed] A pharmacist-intern may not:

(1) present or identify himself/herself as a pharmacist;
(2) sign or initial any document which is required to be signed or initialed by a pharmacist unless a preceptor cosigns the document; or

(3) independently supervise pharmacy technicians or pharmacy technician trainees.

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

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22 TAC §283.6
The Texas State Board of Pharmacy proposes amendments to §283.6, concerning Preceptor Requirements and Ratio of Preceptors to Pharmacist-Interns. The amendments, if adopted, remove references to a pharmacist intern-trainee, clarify that a pharmacist preceptor must be certified by the board, and remove a fee for a duplicate or amended certificate.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the rules 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 rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be to provide a more streamlined approach to pharmacist internships and to allow pharmacy students to gain internship experience earlier in their educational career so that they will have more experience upon graduation; and to provide clearer regulatory language that accurately reflects the current preceptor certification procedures. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

(1) The proposed amendments do not create or eliminate a government program;
(2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions;
(3) Implementation of the proposed amendments does not require an increase or decrease in the future legislative appropriations to the agency;
(4) The proposed amendments do decrease fees paid to the agency by removing the fee for a duplicate or amended preceptor certificate;
(5) The proposed amendments do not create a new regulation;
(6) The proposed amendments do limit an existing regulation by eliminating the intern-trainee designation;
(7) The proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and
(8) The proposed amendments do 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, Texas 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., May 4, 2020.

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

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

§283.6. Preceptor Requirements and Ratio of Preceptors to Pharmacist-Interns.

(a) Preceptor requirements.

(1) Preceptors shall be:

(A) a pharmacist whose license to practice pharmacy in Texas is current and not on inactive status with the board; or

(B) a healthcare professional preceptor.
(2) To be recognized as a pharmacist preceptor, a pharmacist must:

(A) have at least:

(i) one year of experience as a licensed pharmacist; or

(ii) six months of residency training if the pharmacy resident is in a program accredited by the American Society of Health-System Pharmacists;

(B) have completed:

(i) for initial certification, three hours of pharmacist preceptor training provided by an ACPE approved provider within the previous two years. Such training shall be:

(I) developed by a Texas college/school of pharmacy; or

(II) approved by:

(a) a committee comprised of the Texas college/schools of pharmacy; or

(b) the board; or

(ii) to continue certification, three hours of pharmacist preceptor training provided by an ACPE approved provider within the pharmacist's current license renewal period. Such training shall be:

(I) developed by a Texas college/school of pharmacy; or

(II) approved by:

(a) a committee comprised of the Texas college/schools of pharmacy; or

(b) the board; and

(C) meet the requirements of subsection (c) of this section.

(3) A pharmacist preceptor must be certified by the board.

(b) Ratio of preceptors to pharmacist-interns.

(1) A preceptor may supervise only one pharmacist-intern at any given time (1:1 ratio) except as provided in paragraph (2) of this subsection.

(2) The following is applicable to Texas college/school of pharmacy internship programs only.

(A) Supervision. Supervision of a pharmacist-intern shall be:

(i) direct supervision when the student-intern [or intern-trainee] is engaged in functions associated with the preparation and delivery of prescription or medication drug orders; and

(ii) general supervision when the student-intern [or intern-trainee] is engaged in functions not associated with the preparation and delivery of prescription or medication drug orders.

(B) Exceptions to the 1:1 ratio. There is no ratio requirement for preceptors supervising [intern-trainees and] student-interns as a part of a Texas college/school of pharmacy program.

(c) No pharmacist may serve as a pharmacist preceptor if his or her license to practice pharmacy has been the subject of an order of the board imposing any penalty set out in §565.051 of the Act during the period he or she is serving as a pharmacist preceptor or within the three-year period immediately preceding application for approval as a pharmacist preceptor. Provided, however, a pharmacist who has been the subject of such an order of the board may petition the board, in writing, for approval to act as a pharmacist preceptor. The board may consider the following items in approving a pharmacist's petition to act as a pharmacist preceptor:

(1) the type and gravity of the offense for which the pharmacist's license was disciplined;

(2) the length of time since the action that caused the order;

(3) the length of time the pharmacist has previously served as a preceptor;

(4) the availability of other preceptors in the area;

(5) the reason(s) the pharmacist believes he/she should serve as a preceptor;

(6) a letter of recommendation from a Texas college/school of pharmacy if the pharmacist will be serving as a pharmacist preceptor for a Texas college/school of pharmacy; and

(7) any other factor presented by the pharmacist demonstrating good cause why the pharmacist should be allowed to act as a pharmacist preceptor.

[(d) The fee for issuance of a duplicate or amended preceptor certificate shall be $20.]

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

Filed with the Office of the Secretary of State on March 19, 2020.

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Allison Vordenbaumen Benz, R.Ph., M.S.
Executive Director

Texas State Board of Pharmacy

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For further information, please call: (512) 305-8010

CHAPTER 291. PHARMACIES

SUBCHAPTER A. ALL CLASSES OF PHARMACIES

22 TAC §291.19

The Texas State Board of Pharmacy proposes amendments to §291.19, concerning Administrative Actions as a Result of a Compliance Inspection. The amendments, if adopted, update the actions that may be taken after violations are observed during a compliance inspection to reflect current procedures.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the rules 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 rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be clearer regulatory language that accurately reflects current inspection procedures. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.
For each year of the first five years the proposed amendments will be in effect, Ms. Benz has determined the following:

1. The proposed amendments do not create or eliminate a government program;
2. Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions;
3. Implementation of the proposed amendments does not require an increase or decrease in the future legislative appropriations to the agency;
4. The proposed amendments do not require an increase or decrease in fees paid to the agency;
5. The proposed amendments do not create a new regulation;
6. The proposed amendments do limit an existing regulation by reducing the types of administrative actions taken as a result of a compliance inspection;
7. The proposed amendments do not increase or decrease the number of individuals subject to the rule’s applicability; and
8. The proposed amendments do 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, Texas, 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., May 4, 2020.

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

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code. §291.19. Administrative Actions as a Result of a Compliance Inspection.

As a result of a compliance inspection or compliance reinspection of a pharmacy wherein violations of the Texas Pharmacy Act, Controlled Substances Act, Dangerous Drug Act, Texas Food, Drug and Cosmetic Act, or rules adopted pursuant to such acts are observed an agent of the board:

1. May issue a written report of areas of non-compliance that need improvement;
2. May issue a written warning notice listing specific violations and providing a reasonable amount of time to comply with the laws and rules; or
3. To which the licensee shall respond in writing to the board by the date stated on the warning notice, indicating that the violations listed in the warning notice will be corrected;
4. May recommend the institution of disciplinary action against a licensee if such agent determines that:
   A. Previously cited violations are continuing to occur; or
   B. Violations observed are of a nature that a written notice of non-compliance or a written warning notice would not be in the best interest of the public.

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

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Allison Vordenbaumen Benz, R.Ph., M.S.
Executive Director
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SUBCHAPTER E. CLINIC PHARMACY (CLASS D)
22 TAC §291.93

The Texas State Board of Pharmacy proposes amendments to §291.93, concerning Operational Standards. The amendments, if adopted, clarify the type of label supportive personnel may affix to a drug or device provided under the supervision of a physician according to standing delegation orders or standing medical orders.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the rules 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 rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be to provide clear regulations regarding labeling in clinic pharmacies. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

1. The proposed amendments do not create or eliminate a government program;
2. Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions;
3. Implementation of the proposed amendments does not require an increase or decrease in the future legislative appropriations to the agency;
4. The proposed amendments do not require an increase or decrease in fees paid to the agency;
5. The proposed amendments do not create a new regulation;
(6) The proposed amendments do limit an existing regulation by expressly allowing an additional type of label;

(7) The proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and

(8) The proposed amendments do 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, Texas, 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., May 4, 2020.

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

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

§291.93. Operational Standards.

(a) Registration.

(1) Licensing requirements.

(A) All clinic pharmacies shall register with the board on a pharmacy license application provided by the board, following the procedures specified in §291.1 of this title (relating to Pharmacy License Application).

(B) All clinic pharmacies shall provide a copy of their policy and procedure manual, which includes the formulary, to the board with the initial license application.

(C) The following fees will be charged.

(i) A fee as specified in §291.6 of this title (relating to Pharmacy License Fees) will be charged for the issuance of a new license and for each renewal.

(ii) A pharmacy operated by the state or a local government that qualifies for a Class D license is not required to pay a fee to obtain a license.

(D) A Class D pharmacy which changes ownership shall notify the board within ten days of the change of ownership and apply for a new and separate license as specified in §291.3 of this title (relating to Required Notifications).

(E) A clinic pharmacy shall notify the board in writing of any change in name or location as specified in §291.3 of this title.

(F) A separate license is required for each principal place of business and only one pharmacy license may be issued to a specific location.

(G) A clinic pharmacy shall notify the board in writing within 10 days of a change of the pharmacist-in-charge or staff pharmacist or consultant pharmacist.

(H) A Class D pharmacy shall notify the board in writing within ten days of closing, following the procedures as specified in §291.5 of this title (relating to Closing a Pharmacy).

(2) Registration requirements for facilities that operate at temporary clinic sites. A facility that operates a clinic at one or more temporary locations may be licensed as a Class D pharmacy and provide dangerous drugs from these temporary locations provided:

(A) the Class D pharmacy complies with the registration requirements in paragraph (1) of this subsection;

(B) the Class D pharmacy has a permanent location where all dangerous drugs and records are stored;

(C) no dangerous drugs are stored or left for later pickup by the patient at the temporary location(s), and all drugs are returned to the permanent location each day and stored:

(i) within the Class D pharmacy; or

(ii) within the pharmacy's mobile unit provided the mobile clinic is parked at the location of the clinic pharmacy in a secure area with adequate measures to prevent unauthorized access, and the drugs are maintained at proper temperatures;

(D) the permanent location is the address of record for the pharmacy;

(E) the facility has no more than six temporary locations in operation simultaneously;

(F) the Class D pharmacy notifies the board of the locations of the temporary locations where drugs will be provided and the schedule for operation of such clinics; and

(G) the Class D pharmacy notifies the board within 10 days of a change in address or closing of a temporary location or a change in schedule of operation of a clinic.

(b) Environment.

(1) General requirements.

(A) The Class D pharmacy shall have a designated area(s) for the storage of dangerous drugs and/or devices.

(B) No person may operate a pharmacy which is unclean, unsanitary, or under any condition which endangers the health, safety, or welfare of the public.

(C) The Class D pharmacy shall comply with all federal, state, and local health laws and ordinances.

(D) A sink with hot and cold running water shall be available to all pharmacy personnel and shall be maintained in a sanitary condition at all times.

(2) Security.

(A) Only authorized personnel may have access to storage areas for dangerous drugs and/or devices.

(B) All storage areas for dangerous drugs and/or devices shall be locked by key, combination, or other mechanical or electronic means, so as to prohibit access by unauthorized individuals.

(C) The pharmacist-in-charge shall be responsible for the security of all storage areas for dangerous drugs and/or devices including provisions for adequate safeguards against theft or diversion of dangerous drugs and devices, and records for such drugs and devices.

(D) The pharmacist-in-charge shall consult with clinic personnel with respect to security of the pharmacy, including provisions for adequate safeguards against theft or diversion of dangerous drugs and/or devices, and records for such drugs and/or devices.

(E) Housekeeping and maintenance duties shall be carried out in the pharmacy, while the pharmacist-in-charge, consultant pharmacist, staff pharmacist, or supportive personnel is on the premises.
(c) Equipment. Each Class D pharmacy shall maintain the following equipment and supplies:

(1) if the Class D pharmacy prepackages drugs for provision:
   (A) a typewriter or comparable equipment; and
   (B) an adequate supply of child-resistant, moisture-proof, and light-proof containers and prescription, poison, and other applicable identification labels used in dispensing and providing of drugs;

(2) if the Class D pharmacy maintains dangerous drugs requiring refrigeration and/or freezing, a refrigerator and/or freezer;

(3) if the Class D pharmacy compounds prescription drug orders, a properly maintained Class A prescription balance (with weights) or equivalent analytical balance. It is the responsibility of the pharmacist-in-charge to have such balance inspected at least every three years by the appropriate authority as prescribed by local, state, or federal law or regulations.

(d) Library. A reference library shall be maintained which includes the following in hard copy or electronic format:

(1) current copies of the following:
   (A) Texas Pharmacy Act and rules; and
   (B) Texas Dangerous Drug Act;

(2) current copies of at least two of the following references:
   (A) Facts and Comparisons with current supplements;
   (B) AHFS Drug Information;
   (C) United States Pharmacopeia Dispensing Information (USPDI);
   (D) Physician's Desk Reference (PDR);
   (E) American Drug Index;
   (F) a reference text on drug interactions, such as Drug Interaction Facts. A separate reference is not required if other references maintained by the pharmacy contain drug interaction information including information needed to determine severity or significance of the interaction and appropriate recommendations or actions to be taken;
   (G) reference texts in any of the following subjects: toxicology, pharmacology, or drug interactions; or
   (H) reference texts pertinent to the major function(s) of the clinic.

(c) Drugs and devices.

(1) Formulary.

(A) Each Class D pharmacy shall have a formulary which lists all drugs and devices that are administered, dispensed, or provided by the Class D pharmacy.

(B) The formulary shall be limited to the following types of drugs and devices, exclusive of injectable drugs for administration in the clinic and nonprescription drugs, except as provided in subparagraph (D) of this paragraph:
   (i) anti-infective drugs;
   (ii) musculoskeletal drugs;
   (iii) vitamins;
   (iv) obstetrical and gynecological drugs and devices;
   (v) topical drugs; and
   (vi) serums, toxoids, and vaccines.

(C) The formulary shall not contain the following drugs or types of drugs:
   (i) Nalbuphine (Nubain);
   (ii) drugs used to treat erectile dysfunction; and
   (iii) Schedule I - V controlled substances.

(D) Clinics with a patient population which consists of at least 80% indigent patients may petition the board to operate with a formulary which includes types of drugs and devices, other than those listed in subparagraph (B) of this paragraph based upon documented objectives of the clinic, under the following conditions.

(i) Such petition shall contain an affidavit with the notarized signatures of the medical director, the pharmacist-in-charge, and the owner/chief executive officer of the clinic, and include the following documentation:
   (I) the objectives of the clinic;
   (II) the number of patients served by the clinic during the previous fiscal year or calendar year;
   (III) the number of indigent patients served by the clinic during the previous fiscal year or calendar year;
   (IV) the percentage of indigent patients who are indigent, based upon the patient population during the previous fiscal year or calendar year;
   (V) the proposed formulary and the need for additional types of drugs based upon objectives of the clinic; and
   (VI) if the provision of any drugs on the proposed formulary require special monitoring, the clinic pharmacy shall submit relevant sections of the clinic's policy and procedure manual regarding the provision of drugs that require special monitoring.

(ii) Such petition shall be resubmitted every two years in conjunction with the application for renewal of the pharmacy license.

(I) Such renewal petition shall contain the documentation required in clause (i) of this subparagraph.

(II) If at the time of renewal of the pharmacy license, the patient population for the previous fiscal year or calendar year is below 80% indigent patients, the clinic shall be required to submit an application for a Class A pharmacy license or shall limit the clinic formulary to those types of drugs and devices listed in subparagraph (B) of this paragraph.

(iii) If a Class D pharmacy wishes to add additional drugs to the expanded formulary, the pharmacy shall petition the board in writing prior to adding such drugs to the formulary. The petition shall identify drugs to be added and the need for the additional drugs based upon objectives of the clinic as specified in clause (i) of this subparagraph.

(iv) The following additional requirements shall be satisfied for clinic pharmacies with expanded formularies.

(I) Supportive personnel who are providing drugs shall be licensed nurses or practitioners.
(III) If the pharmacy provides drugs which require special monitoring (i.e., drugs which require follow-up laboratory work or drugs which should not be discontinued abruptly), the pharmacy shall have policies and procedures for the provision of the prescription drugs to patients and the monitoring of patients who receive such drugs.

(IV) The pharmacist-in-charge, consultant pharmacists, or staff pharmacists shall conduct retrospective drug regimen reviews of a random sample of patients of the clinic on at least a quarterly basis. The pharmacist-in-charge shall be responsible for ensuring that a report regarding the drug regimen review, including the number of patients reviewed, is submitted to the clinic's medical director and the pharmacy and therapeutics committee of the clinic.

(V) If a pharmacy provides antipsychotic drugs:
   (a) a practitioner of the clinic shall initiate the therapy;
   (b) a practitioner shall monitor and order ongoing therapy; and
   (c) the patient shall be physically examined by the practitioner at least once a year.

(v) The board may consider the following items in approving or disapproving a petition for an expanded formulary:
   (I) the degree of compliance on past compliance inspections;
   (II) the size of the patient population of the clinic;
   (III) the number and types of drugs contained in the formulary; and
   (IV) the objectives of the clinic.

(2) Storage.
   (A) Drugs and/or devices which bear the words "Caution, Federal Law Prohibits Dispensing without prescription" or "Rx only" shall be stored in secured storage areas.
   (B) All drugs shall be stored at the proper temperatures, as defined in §291.15 of this title (relating to Storage of Drugs).
   (C) Any drug or device bearing an expiration date may not be provided, dispensed, or administered beyond the expiration date of the drug or device.
   (D) Outdated drugs or devices shall be removed from stock and shall be quarantined together until such drugs or devices are disposed.
   (E) Controlled substances may not be stored at the Class D pharmacy.

(3) Drug samples.
   (A) Drug samples of drugs listed on the Class D pharmacy's formulary and supplied by manufacturers shall be properly stored, labeled, provided, or dispensed by the Class D pharmacy in the same manner as prescribed by these sections for dangerous drugs.
   (B) Samples of controlled substances may not be stored, provided, or dispensed in the Class D pharmacy.

(4) Prepackaging and labeling for provision.

   (A) Drugs may be prepackaged and labeled for provision in the Class D pharmacy. Such prepackaging shall be performed by a pharmacist or supportive personnel under the direct supervision of a pharmacist and shall be for the internal use of the clinic.
   (B) Drugs must be prepackaged in suitable containers.
   (C) The label of the prepackaged unit shall bear:
      (i) the name, address, and telephone number of the pharmacy;
      (ii) directions for use, which may include incomplete directions for use provided:
         (I) labeling with incomplete directions for use has been authorized by the pharmacy and therapeutics committee;
         (II) precise requirements for completion of the directions for use are developed by the pharmacy and therapeutics committee and maintained in the pharmacy policy and procedure manual; and
         (III) the directions for use are completed by practitioners, pharmacists, or licensed nurses in accordance with the precise requirements developed under subclause (II) of this clause;
      (iii) name and strength of the drug--if generic name, the name of the manufacturer or distributor of the drug;
      (iv) quantity;
      (v) lot number and expiration date; and
      (vi) appropriate ancillary label(s).
   (D) Records of prepackaging shall be maintained according to §291.94(c) of this title (relating to Records).

(5) Labeling for provision of drugs and/or devices in an original manufacturer's container.
   (A) Drugs and/or devices in an original manufacturer's container shall be labeled prior to provision with the information set out in paragraph (4)(C) of this subsection.
   (B) Drugs and/or devices in an original manufacturer's container may be labeled by:
      (i) a pharmacist in a pharmacy licensed by the board; or
      (ii) supportive personnel in a Class D pharmacy, provided the drugs and/or devices and control records required by §291.94(d) of this title are quarantined together until checked and released by a pharmacist.
   (C) Records of labeling for provision of drugs and/or devices in an original manufacturer's container shall be maintained according to §291.94(d) of this title.

(6) Provision.

   (A) Drugs and devices may only be provided to patients of the clinic.
   (B) At the time of the initial provision, a licensed nurse or practitioner shall provide verbal and written information to the patient or patient's agent on side effects, interactions, and precautions concerning the drug or device provided. If the provision of subsequent drugs is delivered to the patient at the patient's residence or other designated location, the following is applicable:
      (i) Written information as specified in subparagraph (B) of this paragraph shall be delivered with the medication.
(ii) The pharmacy shall maintain and use adequate storage or shipment containers and use shipping processes to ensure drug stability and potency. Such shipping processes shall include the use of appropriate packaging material and/or devices to ensure that the drug is maintained at an appropriate temperature range to maintain the integrity of the medication throughout the delivery process.

(iii) The pharmacy shall use a delivery system which is designed to ensure that the drugs are delivered to the appropriate patient.

(C) The provision of drugs or devices shall be under the continuous supervision of a pharmacist according to standing delegation orders or standing medical orders and in accordance with written policies and procedures and completion of the label as specified in subparagraph (G) of this paragraph.

(D) Drugs and/or devices may only be provided in accordance with the system of control and accountability for drugs and/or devices provided by the clinic; such system shall be developed and supervised by the pharmacist-in-charge.

(E) Only drugs and/or devices listed in the clinic formulary may be provided.

(F) Drugs and/or devices may only be provided in prepackaged quantities in suitable containers and/or original manufacturer's containers which are appropriately labeled as set out in paragraphs (4) and (5) of this subsection.

(G) Such drugs and/or devices shall be labeled by a pharmacist licensed by the board; however, when drugs and/or devices are provided under the supervision of a physician according to standing delegation orders or standing medical orders, supportive personnel may at the time of provision print on the label the following information or affix a new ancillary label containing the following information:

(i) patient's name; however, the patient's partner or family member is not required to be on the label of a drug prescribed for a partner for a sexually transmitted disease or for a patient's family members if the patient has an illness determined by the Centers for Disease Control and Prevention, the World Health Organization, or the Governor's office to be pandemic;

(ii) any information necessary to complete the directions for use in accordance with paragraph (4)(C)(ii) of this subsection;

(iii) date of provision; and

(iv) practitioner's name.

(H) Records of provision shall be maintained according to §291.94(e) of this title.

(I) Controlled substances may not be provided or dispensed.

(J) Non-sterile preparations may only be provided by the clinic pharmacy in accordance with §291.131 of this title (relating to Pharmacies Compounding Non-sterile Preparations).

(7) Dispensing. Dangerous drugs may only be dispensed by a pharmacist pursuant to a prescription order in accordance with §§291.31 - 291.35 of this title (relating to Community Pharmacy (Class A)) and §291.131 of this title.

(f) Pharmacy and therapeutics committee.

(1) The clinic pharmacy shall have a pharmacy and therapeutics committee, which shall be composed of at least three persons and shall include the pharmacist-in-charge, the medical director of the clinic, and a person who is responsible for provision of drugs and devices.

(2) The pharmacy and therapeutics committee shall develop the policy and procedure manual.

(3) The pharmacy and therapeutics committee shall meet at least annually to:

(A) review and update the policy and procedure manual; and

(B) review the retrospective drug utilization review reports submitted by the pharmacist-in-charge if the clinic pharmacy has an expanded formulary.

(g) Policies and procedures.

(1) Written policies and procedures shall be developed by the pharmacy and therapeutics committee and implemented by the pharmacist-in-charge.

(2) The policy and procedure manual shall include, but not be limited to, the following:

(A) a current list of the names of the pharmacist-in-charge, consultant-pharmacist, staff pharmacist(s), supportive personnel designated to provide drugs or devices, and the supportive personnel designated to supervise the day-to-day pharmacy related operations of the clinic in the absence of the pharmacist;

(B) functions of the pharmacist-in-charge, consultant pharmacist, staff pharmacist(s), and supportive personnel;

(C) objectives of the clinic;

(D) formulary;

(E) a copy of written agreement between the pharmacist-in-charge and the clinic;

(F) date of last review/revision of policy and procedure manual; and

(G) policies and procedures for:

(i) security;

(ii) equipment;

(iii) sanitation;

(iv) licensing;

(v) reference materials;

(vi) storage;

(vii) packaging-repackaging;

(viii) dispensing;

(ix) provision;

(x) retrospective drug regimen review;

(xi) supervision;

(xii) labeling-relabeling;

(xiii) samples;

(xiv) drug destruction and returns;

(xv) drug and device procuring;

(xvi) receiving of drugs and devices;

(xvii) delivery of drugs and devices;
(xviii) recordkeeping; and

(xix) inspection.

(h) Supervision. The pharmacist-in-charge, consultant pharmacist, or staff pharmacist shall personally visit the clinic on at least a monthly basis to ensure that the clinic is following established policies and procedures. However, clinics operated by state or local governments and clinics funded by government sources may petition the board for an alternative visitation schedule under the following conditions.

(1) Such petition shall contain an affidavit with the notarized signatures of the medical director, the pharmacist-in-charge, and the owner/chief executive officer of the clinic, which states that the clinic has a current policy and procedure manual on file, has adequate security to prevent diversion of dangerous drugs, and is in compliance with all rules governing Class D pharmacies.

(2) The board may consider the following items in determining an alternative schedule:

(A) the degree of compliance on past compliance inspections;

(B) the size of the patient population of the clinic;

(C) the number and types of drugs contained in the pharmacy manual; and

(D) the objectives of the clinic.

(3) Such petition shall be resubmitted every two years in conjunction with the application for renewal of the pharmacy license.

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

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SUBCHAPTER H. OTHER CLASSES OF PHARMACY

22 TAC §291.155

The Texas State Board of Pharmacy proposes the repeal of §291.155, concerning Limited Prescription Delivery Pharmacy (Class H). The proposed repeal of §291.155 provides for a more organized subchapter by removing the rules for a class of pharmacy that no longer exists.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the repeal is in effect, there will be no fiscal implications for state or local government as a result of repealing the rule. Ms. Benz has determined that, for each year of the first five-year period the repeal is in effect, the public benefit anticipated as a result of the repeal will be to improve the organization of the agency's regulations. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

(1) The proposed repeal does not create or eliminate a government program;

(2) Implementation of the proposed repeal does not require the creation of new employee positions or the elimination of existing employee positions;

(3) Implementation of the proposed repeal does not require an increase or decrease in the future legislative appropriations to the agency;

(4) The proposed repeal does not require an increase or decrease in fees paid to the agency;

(5) The proposed repeal does not create a new regulation;

(6) The proposed repeal does not require the elimination of a class of pharmacy and its requirements;

(7) The proposed repeal does not increase or decrease the number of individuals subject to the rule's applicability because there are no longer any Class H pharmacies; and

(8) The proposed repeal does not positively or adversely affect this state's economy.

Written comments on the proposed repeal may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas, 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., May 4, 2020.

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

The statutes affected by the proposed repeal: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

§291.155. Limited Prescription Delivery Pharmacy (Class H).

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

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CHAPTER 295. PHARMACISTS

22 TAC §295.1

The Texas State Board of Pharmacy proposes amendments to §295.1, concerning Change of Address and/or Name. The amendments, if adopted, remove the change of name fee for
pharmacists to reflect the new procedure of no longer charging this fee.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the rules 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 rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be clearer regulatory language that accurately reflects the current less costly process for pharmacists to notify the board of a change of name. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

(1) The proposed amendments do not create or eliminate a government program;
(2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions;
(3) Implementation of the proposed amendments does not require an increase or decrease in the future legislative appropriations to the agency;
(4) The proposed amendments do require a decrease in fees paid to the agency by removing the fee for a change of name;
(5) The proposed amendments do not create a new regulation;
(6) The proposed amendments do limit an existing regulation by removing a fee assessed on pharmacists;
(7) The proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and
(8) The proposed amendments do 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, Texas 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., May 4, 2020. The amendments are proposed under §§551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

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

§295.1. Change of Address and/or Name.

(a) Change of address. A pharmacist shall notify the board in writing within 10 days of a change of address, giving the old and new address and license number.

(b) Change of name.

(1) A pharmacist shall notify the board in writing within 10 days of a change of name by:

[A] sending a copy of the official document reflecting the name change (e.g., marriage certificate, divorce decree, etc.); [and]

[B] paying a fee of $20.

(2) Pharmacists who change their name may retain the original license to practice pharmacy (wall certificate). However, if the pharmacist wants an amended license (wall certificate) issued which reflects the pharmacist's name change, the pharmacist must:

(A) return the original license (wall certificate); and

(B) pay a fee of $35.

(3) An amended electronic renewal certificate reflecting the new name of the pharmacist will be issued by the board without a fee.

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

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22 TAC §295.8
The Texas State Board of Pharmacy proposes amendments to §295.8, concerning Continuing Education Requirements. The amendments, if adopted, add a requirement for mental health awareness continuing education and clarify the continuing education requirements for pharmacists during their initial license period.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the rules 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 rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be increased awareness and education in the pharmacist community regarding mental health. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

(1) The proposed amendments do not create or eliminate a government program;
(2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions;
(3) Implementation of the proposed amendments does not require an increase or decrease in the future legislative appropriations to the agency;
(4) The proposed amendments do not require an increase or decrease in fees paid to the agency;

45 TexReg 2302  April 3, 2020  Texas Register
(5) The proposed amendments do not create a new regulation;
(6) The proposed amendments do expand an existing regulation by adding mental health awareness as a required continuing education topic;
(7) The proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and
(8) The proposed amendments do 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, Texas, 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., May 4, 2020.

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

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

§295.8. Continuing Education Requirements.

(a) Authority and purpose.

(1) Authority. In accordance with §559.053 of the Texas Pharmacy Act, (Chapters 551 - 569, Occupations Code), all pharmacists must complete and report 30 contact hours (3.0 CEUs) of approved continuing education obtained during the previous license period in order to renew their license to practice pharmacy.

(2) Purpose. The board recognizes that the fundamental purpose of continuing education is to maintain and enhance the professional competency of pharmacists licensed to practice in Texas, for the protection of the health and welfare of the citizens of Texas.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) ACPE--Accreditation Council for Pharmacy Education.

(2) Act--The Texas Pharmacy Act, Chapters 551 - 569, Occupations Code.

(3) Approved programs--Live programs, home study, and other mediated instruction delivered by an approved provider or a program specified by the board and listed as an approved program in subsection (c) of this section.

(4) Approved provider--An individual, institution, organization, association, corporation, or agency that is approved by the board.

(5) Board--The Texas State Board of Pharmacy.

(6) Certificate of completion--A certificate or other official document presented to a participant upon the successful completion of an approved continuing education program.

(7) Contact hour--A unit of measure of educational credit which is equivalent to approximately 60 minutes of participation in an organized learning experience.

(8) Continuing education unit (CEU)--A unit of measure of education credit which is equivalent to 10 contact hours (i.e., one CEU = 10 contact hours).

(9) CPE Monitor--A collaborative service from the National Association of Boards of Pharmacy and ACPE that provides an electronic system for pharmacists to track their completed CPE credits.

(10) Credit hour--A unit of measurement for continuing education equal to 15 contact hours.

(11) Enduring Materials (Home Study)--Activities that are printed, recorded or computer assisted instructional materials that do not provide for direct interaction between faculty and participants.

(12) Initial license period--The time period between the date of issuance of a pharmacist's license and the next expiration date following the initial 30 day expiration date. This time period ranges from eighteen to thirty months depending upon the birth month of the licensee.

(13) License period--The time period between consecutive expiration dates of a license.

(14) Live programs--Activities that provide for direct interaction between faculty and participants and may include lectures, symposia, live teleconferences, workshops, etc.


(c) Methods for obtaining continuing education. A pharmacist may satisfy the continuing education requirements by either:

(1) successfully completing the number of continuing education hours necessary to renew a license as specified in subsection (a)(1) of this section;

(2) successfully completing during the preceding license period, one credit hour for each year of their license period, which is a part of the professional degree program in a college of pharmacy the professional degree program of which has been accredited by ACPE; or

(3) taking and passing the standardized pharmacy examination (NAPLEX) during the preceding license period as a Texas licensed pharmacist, which shall be equivalent to the number of continuing education hours necessary to renew a license as specified in subsection (a)(1) of this section.

(d) Reporting Requirements.

(1) Renewal of a pharmacist license. To renew a license to practice pharmacy, a pharmacist must report on the renewal application completion of at least thirty contact hours (3.0 CEUs) of continuing education. The following is applicable to the reporting of continuing education contact hours:

(A) at least one contact hour (0.1 CEU) specified in paragraph (1) of this subsection shall be related to Texas pharmacy laws or rules;

(B) for renewals received after August 31, 2021 and before September 1, 2023, at least one contact hour (0.1 CEU) annually, for a total of two contact hours (0.2 CEU) specified in paragraph (1) of this subsection, shall be related to best practices, alternative treatment options, and multi-modal approaches to pain management as specified in §481.0764 of the Texas Health and Safety Code;

(C) at least two contact hours (0.2 CEU) specified in paragraph (1) of this subsection shall be related to approved procedures of prescribing and monitoring controlled substances and obtained by
September 1, 2021, and must be reported on the next renewal after September 1, 2021;

(D) for renewals received after August 31, 2021 and before September 1, 2023, at least one contact hour (0.1 CEU) specified in paragraph (1) of this subsection shall be related to mental health awareness;

(E) [MD] any continuing education requirements which are imposed upon a pharmacist as a part of a board order or agreed board order shall be in addition to the requirements of this section; and

(F) [LE] for renewals received after August 31, 2020 and before September 1, 2022, a pharmacist must have completed the human trafficking prevention course required in §116.002 of the Texas Occupations Code.

(2) Failure to report completion of required continuing education. The following is applicable if a pharmacist fails to report completion of the required continuing education:

(A) the license of a pharmacist who fails to report completion of the required number of continuing education contact hours shall not be renewed and the pharmacist shall not be issued a renewal certificate for the license period until such time as the pharmacist successfully completes the required continuing education and reports the completion to the board; and

(B) a pharmacist who practices pharmacy without a current renewal certificate is subject to all penalties of practicing pharmacy without a license including the delinquent fees specified in the Act, §559.003.

(3) Extension of time for reporting. A pharmacist who has had a physical disability, illness, or other extenuating circumstances which prohibits the pharmacist from obtaining continuing education credit during the preceding license period may be granted an extension of time to complete the continued education requirement. The following is applicable for this extension:

(A) the pharmacist shall submit a petition to the board with his/her license renewal application which contains:

(i) the name, address, and license number of the pharmacist;

(ii) a statement of the reason for the request for extension;

(iii) if the reason for the request for extension is health related, a statement from the attending physician(s) treating the pharmacist which includes the nature of the physical disability or illness and the dates the pharmacist was incapacitated; and

(iv) if the reason for the request for the extension is for other extenuating circumstances, a detailed explanation of the extenuating circumstances and if because of military deployment, documentation of the dates of the deployment;

(B) after review and approval of the petition, a pharmacist may be granted an extension of time to comply with the continuing education requirement which shall not exceed one license renewal period;

(C) an extension of time to complete continuing education credit does not relieve a pharmacist from the continuing education requirement during the current license period; and

(D) if a petition for extension to the reporting period for continuing education is denied, the pharmacist shall:

(i) have 60 days to complete and report completion of the required continuing education requirements; and

(ii) be subject to the requirements of paragraph (2) of this subsection relating to failure to report completion of the required continuing education if the required continuing education is not completed and reported within the required 60-day time period.

(4) Exemptions from reporting requirements.

(A) All pharmacists licensed in Texas shall be exempt from the continuing education requirements in paragraph (1) of this subsection during their initial license period, with the exception of the requirements in paragraph (1)(B), (C), and (F) of this subsection which must be completed during the time periods specified in the subparagraphs.

(B) Pharmacists who are not actively practicing pharmacy shall be granted an exemption to the reporting requirements for continuing education provided the pharmacists submit a completed renewal application for each license period which states that they are not practicing pharmacy. Upon submission of the completed renewal application, the pharmacist shall be issued a renewal certificate which states that pharmacist is inactive. Pharmacists who wish to return to the practice of pharmacy after being exempted from the continuing education requirements as specified in this subparagraph must:

(i) notify the board of their intent to actively practice pharmacy;

(ii) pay the fee as specified in §295.9 of this title (relating to Inactive License); and

(iii) provide copies of completion certificates from approved continuing education programs as specified in subsection (e) of this section for 30 contact hours (3.0 CEUs). Approved continuing education earned within two years prior to the licensee applying for the return to active status may be applied toward the continuing education requirement for reactivation of the license but may not be counted toward subsequent renewal of the license.

(e) Approved Programs.

(1) Any program presented by an ACPE approved provider subject to the following conditions:

(A) pharmacists may receive credit for the completion of the same ACPE course only once during a license period;

(B) pharmacists who present approved ACPE continuing education programs may receive credit for the time expended during the actual presentation of the program. Pharmacists may receive credit for the same presentation only once during a license period; and

(C) proof of completion of an ACPE course shall contain the following information:

(i) name of the participant;

(ii) title and completion date of the program;

(iii) name of the approved provider sponsoring or cosponsoring the program;

(iv) number of contact hours and/or CEUs awarded;

(v) the assigned ACPE universal program number and a "P" designation indicating that the CE is targeted to pharmacists; and

(vi) either:

(I) a dated certifying signature of the approved provider and the official ACPE logo; or

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the CPE Monitor logo.

(2) Courses which are part of a professional degree program or an advanced pharmacy degree program offered by a college of pharmacy which has a professional degree program accredited by ACPE.

(A) Pharmacists may receive credit for the completion of the same course only once during a license period. A course is equivalent to one credit hour for each year of the renewal period.

(B) Pharmacists who teach these courses may receive credit towards their continuing education, but such credit may be received only once for teaching the same course during a license period.

(3) Basic cardiopulmonary resuscitation (CPR) courses which lead to CPR certification by the American Red Cross or the American Heart Association or its equivalent shall be recognized as approved programs. Pharmacists may receive credit for one contact hour (0.1 CEU) towards their continuing education requirement for completion of a CPR course only once during a license period. Proof of completion of a CPR course shall be the certificate issued by the American Red Cross or the American Heart Association or its equivalent.

(4) Advanced cardiovascular life support courses (ACLS) or pediatric advanced life support (PALS) courses which lead to initial ACLS or PALS certification by the American Heart Association or its equivalent shall be recognized as approved programs. Pharmacists may receive credit for twelve contact hours (1.2 CEUs) towards their continuing education requirement for completion of an ACLS or PALS course only once during a license period. Proof of completion of an ACLS or PALS course shall be the certificate issued by the American Heart Association or its equivalent.

(5) Advanced cardiovascular life support courses (ACLS) or pediatric advanced life support (PALS) courses which lead to ACLS or PALS recertification by the American Heart Association or its equivalent shall be recognized as approved programs. Pharmacists may receive credit for four contact hours (0.4 CEUs) towards their continuing education requirement for completion of an ACLS or PALS recertification course only once during a license period. Proof of completion of an ACLS or PALS recertification course shall be the certificate issued by the American Heart Association or its equivalent.

(6) Attendance at Texas State Board of Pharmacy Board Meetings shall be recognized for continuing education credit as follows:

(A) Pharmacists shall receive credit for three contact hours (0.3 CEUs) towards their continuing education requirement for attending a full, public board business meeting in its entirety;

(B) a maximum of six contact hours (0.6 CEUs) are allowed for attendance at a board meeting during a license period; and

(C) proof of attendance for a complete board meeting shall be a certificate issued by the Texas State Board of Pharmacy.

(7) Participation in a Texas State Board of Pharmacy appointed Task Force shall be recognized for continuing education credit as follows:

(A) Pharmacists shall receive credit for three contact hours (0.3 CEUs) towards their continuing education requirement for participating in a Texas State Board of Pharmacy appointed Task Force; and

(B) proof of participation for a Task Force shall be a certificate issued by the Texas State Board of Pharmacy.

(8) Attendance at programs presented by the Texas State Board of Pharmacy or courses offered by the Texas State Board of Pharmacy as follows:

(A) pharmacists shall receive credit for the number of hours for the program or course as stated by the Texas State Board of Pharmacy; and

(B) proof of attendance at a program presented by the Texas State Board of Pharmacy or completion of a course offered by the Texas State Board of Pharmacy shall be a certificate issued by the Texas State Board of Pharmacy.

(9) Pharmacists shall receive credit toward their continuing education requirements for programs or courses approved by other state boards of pharmacy as follows:

(A) pharmacists shall receive credit for the number of hours for the program or course as specified by the other state board of pharmacy; and

(B) proof of attendance at a program or course approved by another state board of pharmacy shall be a certificate or other documentation that indicates:

(i) name of the participant;

(ii) title and completion date of the program;

(iii) name of the approved provider sponsoring or cosponsoring the program;

(iv) number of contact hours and/or CEUs awarded;

(v) a dated certifying signature of the provider; and

(vi) documentation that the program is approved by the other state board of pharmacy.

(10) Completion of an Institute for Safe Medication Practices' (ISMP) Medication Safety Self Assessment for hospital pharmacies or for community/ambulatory pharmacies shall be recognized for continuing education credit as follows:

(A) Pharmacists shall receive credit for three contact hours (0.3 CEUs) towards their continuing education requirement for completion of an ISMP Medication Safety Self Assessment; and

(B) proof of completion of an ISMP Medication Safety Self Assessment shall be:

(i) a continuing education certificate provided by an ACPE approved provider for completion of an assessment; or

(ii) a document from ISMP showing completion of an assessment.

(11) Pharmacists shall receive credit for three contact hours (0.3 CEUs) toward their continuing education requirements for taking and successfully passing an initial Board of Pharmaceutical Specialties certification examination administered by the Board of Pharmaceutical Specialties. Proof of successfully passing the examination shall be a certificate issued by the Board of Pharmaceutical Specialties.

(12) Programs approved by the American Medical Association (AMA) as Category 1 Continuing Medical Education (CME) and accredited by the Accreditation Council for Continuing Medical Education subject to the following conditions:

(A) Pharmacists may receive credit for the completion of the same CME course only once during a license period;

(B) Pharmacists who present approved CME programs may receive credit for the time expended during the actual presentation
of the program. Pharmacists may receive credit for the same presentation only once during a license period; and

(C) proof of completion of a CME course shall contain the following information:

(i) name of the participant;
(ii) title and completion date of the program;
(iii) name of the approved provider sponsoring or cosponsoring the program;
(iv) number of contact hours and/or CEUs awarded; and
(v) a dated certifying signature of the approved provider.

(f) Retention of continuing education records and audit of records by the board.

(1) Retention of records. Pharmacists are required to maintain certificates of completion of approved continuing education for three years from the date of reporting the contact hours on a license renewal application. Such records may be maintained in hard copy or electronic format.

(2) Audit of records by the board. The board shall audit the records of pharmacists for verification of reported continuing education credit. The following is applicable for such audits:

(A) upon written request, a pharmacist shall provide to the board documentation of proof for all continuing education contact hours reported during a specified license period(s). Failure to provide all requested records during the specified time period constitutes prima facie evidence of failure to keep and maintain records and shall subject the pharmacist to disciplinary action by the board;

(B) credit for continuing education contact hours shall only be allowed for approved programs for which the pharmacist submits documentation of proof reflecting that the hours were completed during the specified license period(s). Any other reported hours shall be disallowed. A pharmacist who has received credit for continuing education contact hours disallowed during an audit shall be subject to disciplinary action; and

(C) a pharmacist who submits false or fraudulent records to the board shall be subject to disciplinary action by the board.

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

Filed with the Office of the Secretary of State on March 19, 2020.

TRD-202001199
Allison Vordenbaumen Benz, R.Ph., M.S.
Executive Director
Texas State Board of Pharmacy
Earliest possible date of adoption: May 3, 2020
For further information, please call: (512) 305-8010

CHAPTER 297. PHARMACY TECHNICIANS AND PHARMACY TECHNICIAN TRAINEES

22 TAC §297.9

The Texas State Board of Pharmacy proposes amendments to §297.9, concerning Notifications. The amendments, if adopted, remove the change of name fee for pharmacy technicians and pharmacy technician trainees to reflect the new procedure of no longer charging this fee.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the rules 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 rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be a less costly process for pharmacy technicians and pharmacy technician trainees to notify the board of a change of name. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

(1) The proposed amendments do not create or eliminate a government program;

(2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions;

(3) Implementation of the proposed amendments does not require an increase or decrease in the future legislative appropriations to the agency;

(4) The proposed amendments do require a decrease in fees paid to the agency, but it is anticipated that the proposed amendments will not require an increase in other fees paid to the agency because the agency's revenue is still anticipated to cover the agency's appropriated budget without these fees;

(5) The proposed amendments do not create a new regulation;

(6) The proposed amendments do limit an existing regulation by removing a fee assessed on pharmacy technicians and pharmacy technician trainees;

(7) The proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and

(8) The proposed amendments do 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, Texas 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., May 4, 2020.

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

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

§297.9. Notifications.

(a) Change of Address and/or Name.

(1) Change of address. A pharmacy technician or pharmacy technician trainee shall notify the board electronically or in writ-
ing within 10 days of a change of address, giving the old and new address and registration number.

(2) Change of name.

(A) A pharmacy technician or pharmacy technician trainee shall notify the board in writing within 10 days of a change of name by:

[••] sending a copy of the official document reflecting the name change (e.g., marriage certificate, divorce decree, etc.).[••]

and

[••] paying a fee of $20.-

(B) An amended registration and/or certificate reflecting the new name of the pharmacy technician or pharmacy technician trainee will be issued by the board.

(b) Change of Employment. A pharmacy technician or pharmacy technician trainee shall report electronically or in writing to the board within 10 days of a change of employment giving the name and license number of the old and new pharmacy and registration number.

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

Filed with the Office of the Secretary of State on March 19, 2020.

TRD-202001196

Allison Vordenbaumen Benz, R.Ph., M.S.
Executive Director

Texas State Board of Pharmacy
Earliest possible date of adoption: May 3, 2020

For further information, please call: (512) 305-8010

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 20. TEXAS WORKFORCE COMMISSION

CHAPTER 819. TEXAS WORKFORCE COMMISSION CIVIL RIGHTS DIVISION

SUBCHAPTER B. EQUAL EMPLOYMENT OPPORTUNITY PROVISIONS

40 TAC §819.12

The Texas Workforce Commission (TWC) proposes amendments to the following section of Chapter 819, relating to the Texas Workforce Commission Civil Rights Division: Subchapter B. Equal Employment Opportunity Provisions, §819.12.

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the proposed Chapter 819 rule change is to align TWC’s Chapter 819 Texas Workforce Commission Civil Rights Division rules with amendments to Texas Labor Code §21.054, pursuant to House Bill (HB) 1074, enacted by the 86th Texas Legislature, Regular Session (2019), signed into law effective September 1, 2019.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

(Note: Minor editorial changes are made that do not change the meaning of the rules and, therefore, are not discussed in the Explanation of the Individual Provisions)

SUBCHAPTER B. EQUAL EMPLOYMENT OPPORTUNITY PROVISIONS

TWC proposes the following amendments to Subchapter B:

Section 819.12, Unlawful Employment Practices

Texas Labor Code §21.101 prohibits age discrimination against individuals ages 40 and older. Section 21.054 prohibits age discrimination as it relates to on-the-job training programs, retraining, apprenticeships, and other training. HB 1074 repealed Texas Labor Code §21.054(b), which limited this provision to individuals between the ages of 40 and 56.

Section 819.12(d) is amended to align with Texas Labor Code, Chapter 21, which prohibits age discrimination against individuals ages 40 and older.

PART III. IMPACT STATEMENTS

Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the rules will be in effect, the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the rules.

There are no estimated cost reductions to the state and to local governments as a result of enforcing or administering the rules.

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the rules.

There are no anticipated economic costs to individuals required to comply with the rules.

There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural communities as a result of enforcing or administering the rules.

Based on the analyses required by Texas Government Code, §2001.024, TWC has determined that the requirement to repeal or amend a rule, as required by HB 1290, 85th Texas Legislature, Regular Session (2017) - to be codified at Texas Government Code, §2001.0045 - does not apply to this rulemaking.

Taking Impact Assessment

Under Texas Government Code, §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or the Texas Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action, and is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect. TWC completed a Takings Impact Analysis for the proposed
rulemaking action under Texas Government Code, §2007.043. The primary purpose of this proposed rulemaking action, as discussed elsewhere in this preamble, is to align §819.12(d) with amendments to Texas Labor Code, §21.054, pursuant to HB 1074, enacted by the 86th Texas Legislature, Regular Session (2019), and signed into law effective September 1, 2019.

The proposed rulemaking action will not create any additional burden on private real property. The proposed rulemaking action will not affect private real property in a manner that would require compensation to private real property owners under the United States Constitution or the Texas Constitution. The proposal also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

Government Growth Impact Statement
TWC has determined that during the first five years the proposed amendments will be in effect:

--the proposed amendments will not create or eliminate a government program;
--implementation of the proposed amendments will not require the creation or elimination of employee positions;
--implementation of the proposed amendments will not require an increase or decrease in future legislative appropriations to TWC;
--the proposed amendments will not require an increase or decrease in fees paid to TWC;
--the proposed amendments will not create a new regulation;
--the proposed amendments will not expand, limit, or eliminate an existing regulation;
--the proposed amendments will not change the number of individuals subject to the rules; and
--the proposed amendments will not positively or adversely affect the state's economy.

Economic Impact Statement and Regulatory Flexibility Analysis
TWC has determined that the proposed rules will not have an adverse economic impact on small businesses or rural communities, as the proposed rules place no requirements on small businesses or rural communities.

Mariana Vega, Director of Labor Market and Career Information, has determined that there is no significant negative impact upon employment conditions in the state as a result of the rules.

Bryan Snoddy, Director, Civil Rights Division, has determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the proposed rules will be to align TWC's rules with recent amendments to the Texas Labor Code.

TWC hereby certifies that the proposal has been reviewed by legal counsel and found to be within TWC's legal authority to adopt.

PART IV. COORDINATION ACTIVITIES
In the development of these rules for publication and public comment, TWC considered all information gathered in order to develop rules that provide clear and concise direction to all parties involved.

Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce Program Policy, attn.: Workforce Editing, 101 East 15th Street, Room 459T, Austin, Texas 78778; faxed to (512) 475-3577; or emailed to TWCPolicy-Comments@twc.state.tx.us. Comments must be received or postmarked no later than 30 days from the date this proposal is published in the Texas Register.

The changes are proposed under Texas Labor Code §301.0015 and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed changes affect Texas Labor Code Chapters 301 and 302.


(a) Discrimination by Employer. An employer commits an unlawful employment practice if based on race, color, disability, religion, sex, national origin, or age, the employer:

(1) fails or refuses to hire an individual, discharges an individual, or discriminates in any other manner against an individual in connection with compensation or the terms, conditions, or privileges of employment; or

(2) limits, segregates, or classifies an employee or applicant for employment in a manner that deprives or tends to deprive an individual of an employment opportunity or adversely affects in any other manner the status of an employee.

(b) Discrimination by Employment Agency. An employment agency commits an unlawful employment practice if based on race, color, disability, religion, sex, national origin, or age, it:

(1) fails or refuses to refer for employment or discriminates in any other manner against an individual; or

(2) classifies or refers an individual for employment on that basis.

(c) Discrimination by Labor Organization. A labor organization commits an unlawful employment practice if based on race, color, disability, religion, sex, national origin, or age, it:

(1) excludes or expels from membership or discriminates in any other manner against an individual; or

(2) limits, segregates, or classifies a member or an applicant for membership, or classifies or fails or refuses to refer for employment an individual in a manner that:

(A) deprives or tends to deprive an individual of any employment opportunity;

(B) limits an employment opportunity or adversely affects in any other manner the status of an employee or of an applicant for employment; or

(C) causes or attempts to cause an employer to violate this subchapter.

(d) Admission or Participation in Training Program. An employer, labor organization, or joint labor-management committee controlling an apprenticeship, on-the-job training, or other training or retraining program commits an unlawful employment practice if based on race, color, disability, religion, sex, national origin, or age, it discriminates against an individual in admission to or participation in the program, unless a training or retraining opportunity or program is pro-
vided under an affirmative action plan approved by federal or state law, rule, or court order. The prohibition against discrimination based on age applies only to individuals who are at least 40 years of age [but younger than 56 years of age].

(e) Retaliation. An employer, employment agency, or labor organization, commits an unlawful employment practice based on race, color, disability, religion, sex, national origin, or age if the employer, employment agency, or labor organization retaliates or discriminates against an individual [a person] who:

(1) opposes a discriminatory practice;
(2) makes or files a charge;
(3) files a complaint; or
(4) testifies, assists, or participates in any manner in an investigation, proceeding, or hearing.

(f) Aiding or Abetting Discrimination. An employer, employment agency, or labor organization commits an unlawful employment practice if it aids, abets, incites, or coerces an individual [a person] to engage in an unlawful discriminatory practice based on race, color, disability, religion, sex, national origin, or age.

(g) Interference with the Agency or CRD. An employer, employment agency, or labor organization commits an unlawful employment practice if it willfully interferes with the performance of a duty or the exercise of a power by CRD or by the Agency in relation to CRD.

(h) Prevention of Compliance. An employer, employment agency, or labor organization commits an unlawful employment practice if it willfully obstructs or prevents an individual [a person] from complying with Texas Labor Code, Chapter 21, or a rule adopted or order issued under Texas Labor Code, Chapter 21.

(i) Discriminatory Notice or Advertisement. An employer, employment agency, labor organization, or joint labor-management committee controlling an apprenticeship, on-the-job training, or other training or retraining program commits an unlawful employment practice if it prints or publishes or causes to be printed or published a notice or advertisement relating to employment that:

(1) indicates a preference, limitation, specification, or discrimination based on race, color, disability, religion, sex, national origin, or age; and
(2) concerns an employee's status, employment, or admission to or membership or participation in a labor organization or training or retraining program.

(j) Bona Fide Occupational Qualification. A bona fide occupational qualification is an affirmative defense to discrimination.

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

Filed with the Office of the Secretary of State on March 19, 2020.
TRD-202001203
Jason Vaden
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CHAPTER 821. TEXAS PAYDAY RULES

SUBCHAPTER C. WAGE CLAIMS
40 TAC §821.43

The Texas Workforce Commission (TWC) proposes the amendments to the following section of Chapter 821, relating to Texas Payday Rules: Subchapter C. Wage Claims, §821.43.

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the proposed Chapter 821 rule change is to clarify that a claimant can withdraw a wage claim at any time up to the point at which TWC's written order becomes final. An order becomes final for all purposes under the following circumstances:

--If either party does not file an appeal within 21 days from the date the Preliminary Wage Determination Order is mailed.

--If either party does not file an appeal within 14 days from the date the Wage Claim Appeal Tribunal or Commission order is mailed.

--A denial of a Motion for Rehearing becomes final 14 days after the date it is mailed.

--A denial of a Motion for Rehearing, or order of the Commission when no Motion for Rehearing has been filed, becomes final 14 days from the date it is mailed regardless as to whether a party files for judicial review of the decision.

Per §821.43 as currently written, a claimant may withdraw a wage claim whether or not it has become final. When a withdrawal request is submitted and approved, TWC no longer enforces any orders issued (including administrative penalties) and releases all liens and freezes. It is as if the claimant never filed the wage claim.

The Agency has determined that §821.43(a)(2) creates legal challenges by implying that the wage claimant may alter or set aside a claim that has become final.

Because a claimant may not alter or set aside a claim after the TWC decision is final, TWC no longer accepts a wage claim withdrawal submitted pursuant to §821.43(a)(2). Instead, in cases in which a wage claim decision has become final and the claimant wants TWC to halt collection action, the claimant may file a Satisfaction of Payment Declaration.

A Satisfaction of Payment Declaration differs from a withdrawal in that TWC will still recognize that an order has been issued, but the Collections and Civil Actions department will cease collections action on wages owed by the employer to the claimant under a wage claim. The employer will still be liable for any administrative penalties assessed on the claim. TWC will release any liens or freezes on the claim once the employer pays any administrative penalties owed.

TWC does not process contractual settlements between parties regarding wage claims. If the parties reach an outside settlement, and the TWC order is not yet final, the claimant may withdraw a wage claim. If an order has become final, the claimant may declare satisfaction of payment with respect to the settlement. The Satisfaction of Payment Declaration has the effect of ceasing the wage order collection process.

A claimant may not rescind a withdrawal of wage claim or Satisfaction of Payment Declaration once it has been submitted. If the employer does not fulfill the terms of the settlement, the claimant may not "undo" either action.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

PROPOSED RULES April 3, 2020 45 TexReg 2309
SUBCHAPTER C. WAGE CLAIMS

TWC proposes the following amendments to Subchapter C:

§821.43. Wage Claim Withdrawal

Section 821.43(a) is amended to delete paragraphs (1) and (2) to clearly stipulate that a claimant may withdraw a wage claim at any point up to when TWC’s written order becomes final.

PART III. IMPACT STATEMENTS

Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the rules will be in effect, the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the rules.

There are no estimated cost reductions to the state and to local governments as a result of enforcing or administering the rules.

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the rules.

There are no anticipated economic costs to individuals required to comply with the rules.

There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural communities as a result of enforcing or administering the rules.

Based on the analyses required by Texas Government Code §2001.024, TWC has determined that the requirement to repeal or amend a rule, as required by House Bill 1290, 85th Texas Legislature, Regular Session (2017), codified at Texas Government Code §2001.0045, does not apply to this rulemaking.

Taking Impact Assessment

Under Texas Government Code, §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or the Texas Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action, and is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect. TWC completed a Taking Impact Analysis for the proposed rulemaking action under Texas Government Code, §2007.043. The primary purpose of this proposed rulemaking action, as discussed elsewhere in this preamble, is to clarify that a wage claim may only be withdrawn by the claimant up to the point at which TWC’s written decision becomes final.

The proposed rulemaking action will not create any additional burden on private real property. The proposed rulemaking action will not affect private real property in a manner that would require compensation to private real property owners under the United States Constitution or the Texas Constitution. The proposal also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

Government Growth Impact Statement

TWC has determined that during the first five years the proposed amendments will be in effect:

--the proposed amendments will not create or eliminate a government program;

--implementation of the proposed amendments will not require the creation or elimination of employee positions;

--implementation of the proposed amendments will not require an increase or decrease in future legislative appropriations to TWC;

--the proposed amendments will not require an increase or decrease in fees paid to TWC;

--the proposed amendments will not create a new regulation;

--the proposed amendments will not expand, limit, or eliminate an existing regulation;

--the proposed amendments will not change the number of individuals subject to the rules; and

--the proposed amendments will not positively or adversely affect the state’s economy.

Economic Impact Statement and Regulatory Flexibility Analysis

TWC has determined that the proposed rule will not have an adverse economic impact on small businesses or rural communities, as these proposed rules place no requirements on small businesses or rural communities.

Mariana Vega, Director of Labor Market and Career Information, has determined that there is no significant negative impact upon employment conditions in the state as a result of the rules.

Paul Carmona, Director of the Regulatory Integrity Division, has determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the proposed rules will be clarity for all parties with respect to the conditions under which a wage claim may be withdrawn.

TWC hereby certifies that the proposal has been reviewed by legal counsel and found to be within TWC’s legal authority to adopt.

PART IV. COORDINATION ACTIVITIES

Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce Program Policy, attn.: Workforce Editing, 101 East 15th Street, Room 459T, Austin, Texas 78778; faxed to (512) 475-3577; or emailed to TCWPolic Comments@twc.state.tx.us. Comments must be received or postmarked no later than 30 days from the date this proposal is published in the Texas Register.

The changes are proposed under Texas Labor Code §61.002(a)(2), which directs TWC to adopt rules as necessary to implement Chapter 61, the Texas Payday Law.

The proposed changes affect Texas Labor Code Chapter 61.
§821.43. Wage Claim Withdrawal.

(a) The Commission shall allow a claimant to withdraw a wage claim at any time before the date when the Commission's written decision becomes final. [only under the following circumstances:]

[(1)] [Before the Commission's written decision is final; or]

[(2)] [After the Commission's written decision is final, if the claimant certifies to the Agency that the wage claim is fully satisfied.]

(b) A claimant withdrawing a wage claim shall submit a form as prescribed by the Commission.

(c) The Commission shall apply the withdrawal of a wage claim to both administrative penalties and wages.

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

Filed with the Office of the Secretary of State on March 19, 2020.

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Texas Workforce Commission

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