

OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE J. PHARMACY AND PHARMACISTS

CHAPTER 554. BOARD POWERS AND DUTIES; RULEMAKING AUTHORITY

SUBCHAPTER A. POWERS AND DUTIES

Sec. 554.001. GENERAL POWERS AND DUTIES OF BOARD. (a) The board shall:

(1) administer and enforce this subtitle and rules adopted under this subtitle and enforce other laws relating to the practice of pharmacy and other powers and duties granted under other law;

(2) cooperate with other state and federal agencies in the enforcement of any law relating to the practice of pharmacy or any drug or drug-related law;

(3) maintain an office in which permanent records are kept; and

(4) preserve a record of the board's proceedings.

(b) The board may:

(1) join a professional organization or association organized to promote the improvement of the standards of the practice of pharmacy for protecting the health and welfare of the public; and

(2) appoint committees from the board's membership, an advisory committee from the pharmacy profession, and any other group to assist in administering this subtitle.

(c) The board may:

(1) issue a duplicate copy of a license to practice pharmacy or a license renewal certificate on a request from the holder and on payment of a fee determined by the board; and

(2) inspect a facility licensed under this subtitle for compliance with this subtitle.

(d) The board may be represented by counsel, including the attorney general, district attorney, or county attorney, if necessary in a legal action taken under this subtitle.

(e) The board shall develop formal policies outlining the

structure, role, and responsibilities of each committee established under Subsection (b)(2) that contains board members. The board may adopt rules to implement this subsection. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1345 (S.B. 410), Sec. 8, eff. September 1, 2005.

Sec. 554.0011. USE OF ALTERNATIVE RULEMAKING AND DISPUTE RESOLUTION. (a) The board shall develop a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of board rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the board's jurisdiction.

(b) The board's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The board shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

Added by Acts 2017, 85th Leg., R.S., Ch. 485 (H.B. 2561), Sec. 12, eff. September 1, 2017.

Sec. 554.002. REGULATION OF PRACTICE OF PHARMACY. The board shall regulate the practice of pharmacy in this state by:

(1) issuing a license after examination or by reciprocity to an applicant qualified to practice pharmacy and issuing a license to a pharmacy under this subtitle;

(2) renewing a license to practice pharmacy and a license to operate a pharmacy;

(3) determining and issuing standards for recognizing and approving degree requirements of colleges of pharmacy whose graduates are eligible for a license in this state;

(4) specifying and enforcing requirements for practical training, including an internship;

(5) enforcing the provisions of this subtitle relating to:

(A) the conduct or competence of a pharmacist practicing in this state and the conduct of a pharmacy operating in this state; and

(B) the suspension, revocation, retirement, or restriction of a license to practice pharmacy or to operate a pharmacy or the imposition of an administrative penalty or reprimand on a license holder;

(6) regulating the training, qualifications, and employment of a pharmacist-intern, pharmacy technician, and pharmacy technician trainee; and

(7) determining and issuing standards for recognizing and approving a pharmacy residency program for purposes of Subchapter W, Chapter 61, Education Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.301(a), eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 583 (S.B. 869), Sec. 4, eff. June 14, 2013.

Sec. 554.0021. RECOGNITION AND APPROVAL OF PHARMACIST CERTIFICATION PROGRAMS. (a) The board shall determine and issue standards for recognizing and approving pharmacist certification programs.

(b) In adopting standards under Subsection (a), the board shall include a requirement that a pharmacist may not use the designation "board certified" unless the pharmacist has successfully completed a certification program that meets the

board's standards.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.301(c), eff. Sept. 1, 2001.

Sec. 554.003. PROCEDURES. The board by rule shall specify:

(1) the licensing procedures to be followed, including specification of forms to be used, in applying for a pharmacy license; and

(2) fees for filing an application for a pharmacy license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 554.004. ADMINISTRATION OF MEDICATION. (a) The board shall specify conditions under which a pharmacist may administer medication, including an immunization and vaccination. The conditions must ensure that:

(1) a licensed health care provider authorized to administer the medication is not reasonably available to administer the medication;

(2) failure to administer the medication, other than an immunization or vaccination, might result in a significant delay or interruption of a critical phase of drug therapy;

(3) the pharmacist possesses the necessary skill, education, and certification as specified by the board to administer the medication;

(4) within a reasonable time after administering medication, the pharmacist notifies the licensed health care provider responsible for the patient's care that the medication was administered;

(5) the pharmacist may not administer medication to a patient at the patient's residence, except at a licensed nursing home or hospital;

(6) the pharmacist administers an immunization or vaccination under a physician's written protocol and meets the standards established by the board; and

(7) the authority of a pharmacist to administer medication may not be delegated.

(b) This section does not prohibit a pharmacist from preparing or manipulating a biotechnological agent or device.

(c) This section does not prohibit a pharmacist from performing an act delegated by a physician in accordance with Chapter 157. The pharmacist performing a delegated medical act under that chapter is considered to be performing a medical act and not to be engaging in the practice of pharmacy.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 554.005. PRESCRIPTION DRUGS AND DEVICES. (a) In regulating the practice of pharmacy and the use in this state of prescription drugs and devices in the diagnosis, mitigation, or treatment or prevention of injury, illness, or disease, the board shall:

(1) regulate the delivery or distribution of a prescription drug or device;

(2) specify minimum standards for the professional environment, technical equipment, and security in a prescription dispensing area;

(3) specify minimum standards for:

(A) drug storage;

(B) maintenance of prescription drug records;

and

(C) procedures for the:

(i) delivering and dispensing in a suitable, appropriately labeled container;

(ii) providing of prescription drugs or devices;

(iii) monitoring of drug therapy; and

(iv) counseling of patients on proper use of a prescription drug or device in the practice of pharmacy;

(4) adopt rules regulating a prescription drug order or medication order transmitted by electronic means; and

(5) register a balance used for compounding drugs in a pharmacy licensed in this state and periodically inspect the balance to verify accuracy.

(b) In implementing Subsection (a)(1), the board may, after

notice and hearing, seize any prescription drug or device that poses a hazard to the public health and welfare.

(c) In implementing Subsection (a)(1), the board may not regulate:

(1) any manufacturer's representative or employee acting in the normal course of business;

(2) a person engaged in the wholesale drug business and licensed by the commissioner of public health as provided by Chapter 431, Health and Safety Code; or

(3) an employee of a person described by Subdivision (2) if the employee is acting in the normal course of business.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.301(d), eff. Sept. 1, 2001.

Sec. 554.006. FEES. (a) The board by rule shall establish reasonable and necessary fees so that the fees, in the aggregate, produce sufficient revenue to cover the cost of administering this subtitle.

(b) The board by rule shall establish reasonable and necessary fees so that the fees, in the aggregate, produce sufficient revenue to cover the cost of establishing and maintaining the program described by Sections 481.075, 481.076, and 481.0761, Health and Safety Code.

(c) The board may assess the fee described by Subsection (b) on individuals or entities authorized to prescribe or dispense controlled substances under Chapter 481, Health and Safety Code, and to access the program described by Sections 481.075, 481.076, and 481.0761, Health and Safety Code.

(d) Each agency that licenses individuals or entities authorized to prescribe or dispense controlled substances under Chapter 481, Health and Safety Code, and to access the program described by Sections 481.075, 481.076, and 481.0761, Health and Safety Code, shall increase the occupational license, permit, or registration fee of the license holders or use available excess revenue in an amount sufficient to operate that program as specified by the board.

(e) A fee collected by an agency under Subsection (d) shall be transferred to the board for the purpose of establishing and maintaining the program described by Sections 481.075, 481.076, and 481.0761, Health and Safety Code.

(f) Grants received by the board to implement or operate the program described by Sections 481.075, 481.076, and 481.0761, Health and Safety Code, may be used by the board to offset or reduce the amount of fees paid by each agency that licenses individuals or entities who are or may be authorized to prescribe or dispense controlled substances under Chapter 481, Health and Safety Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 23, eff. September 1, 2016.

Sec. 554.007. FUNDS. (a) The board shall deposit revenue collected under this subtitle to the credit of the general revenue fund.

(b) The board may receive and spend money, or use gifts, grants, and other funds and assets, in addition to money collected under Subsection (a), in accordance with state law.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1345 (S.B. 410), Sec. 9, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 583 (S.B. 869), Sec. 5, eff. June 14, 2013.

Sec. 554.009. LEASE OR PURCHASE OF VEHICLES. (a) The board may lease or purchase vehicles for use in official board business.

(b) A vehicle acquired under Subsection (a) is exempt from a requirement to bear state government identification.

(c) The board may register a vehicle with the Texas Department of Motor Vehicles in an alias name only for investigative personnel.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 3I.01, eff. September 1, 2009.

Sec. 554.010. PEACE OFFICERS. (a) The board may commission as a peace officer to enforce this subtitle an employee who has been certified as qualified to be a peace officer by the Texas Commission on Law Enforcement.

(b) An employee commissioned as a peace officer under this subtitle has the powers, privileges, and immunities of a peace officer while carrying out duties as a peace officer under this subtitle.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1361 (S.B. 650), Sec. 1, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.57, eff. May 18, 2013.

Sec. 554.011. PILOT AND DEMONSTRATION RESEARCH PROJECTS.

(a) The board may approve pilot and demonstration research projects for innovative applications in the practice of pharmacy.

(b) The board shall specify the procedures to be followed in applying for approval of a project.

(c) The approval may include a provision granting an exception to any rule adopted under this subtitle. The board may extend the time an exception to a rule is granted as necessary for the board to adopt an amendment or modification of the rule. The board may condition approval of a project on compliance with this section and rules adopted under this section.

(d) A project may not include therapeutic substitution or substitution of a medical device used in patient care.

(e) This section does not expand the definition of pharmacy under this subtitle.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.302(a), eff. Sept. 1, 2001.



Sec. 554.012. NOTIFICATION RELATING TO THERAPEUTIC OPTOMETRISTS. The board shall inform each holder of a license to practice pharmacy and each holder of a license to operate a pharmacy of the authority of a therapeutic optometrist to prescribe a drug under Section 351.357 by annually mailing to each license holder a notice that:

(1) describes the authority of a therapeutic optometrist to prescribe a drug; and

(2) lists each drug that a therapeutic optometrist may lawfully prescribe.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 554.014. INFORMATION PROVIDED TO LICENSE HOLDERS. At least once each biennium, the board shall provide to license holders information on:

(1) prescribing and dispensing pain medications, with particular emphasis on Schedule II and Schedule III controlled substances;

(2) abusive and addictive behavior of certain persons who use prescription pain medications;

(3) common diversion strategies employed by certain persons who use prescription pain medications, including fraudulent prescription patterns; and

(4) the appropriate use of pain medications and the differences between addiction, pseudo-addiction, tolerance, and physical dependence.

Added by Acts 2003, 78th Leg., ch. 1163, Sec. 7, eff. Sept. 1, 2003.

Sec. 554.015. POISON CONTROL CENTER INFORMATION. The board shall provide to license holders information regarding the services provided by poison control centers.

Added by Acts 2003, 78th Leg., ch. 1163, Sec. 7, eff. Sept. 1, 2003.

Sec. 554.016. CANADIAN PHARMACY INSPECTION; DESIGNATION; FEES; INFORMATION. (a) The board shall designate at least one and not more than 10 Canadian pharmacies whose primary business is to dispense prescription drugs under prescription drug orders to

Canadian residents, as having passed inspection by the board for shipping, mailing, or delivering to this state a prescription dispensed under a prescription drug order to a resident in this state.

(b) The board by rule shall set fees in amounts reasonable and necessary to cover the costs incurred by the board in inspecting Canadian pharmacies as provided by Subsection (a).

(c) The board shall establish and maintain an Internet website to provide information necessary to enable residents of this state to conveniently order prescription drugs from Canadian pharmacies designated by the board as having passed inspection to dispense prescription drugs to residents in this state in accordance with this subtitle and board rules. The board shall include on the website a statement that the board is not liable for any act or omission of a Canadian pharmacy designated as having passed inspection to dispense prescription drugs to residents in this state.

Added by Acts 2005, 79th Leg., Ch. 1345 (S.B. 410), Sec. 37, eff. September 1, 2005.

Sec. 554.017. LIST OF PHARMACISTS AUTHORIZED TO SIGN PRESCRIPTION DRUG ORDERS. The board shall provide on its Internet website a list of pharmacists who are authorized to sign a prescription drug order under Section 157.101(b-1), including the name of the pharmacist's delegating physician under the protocol required under that subsection.

Added by Acts 2009, 81st Leg., R.S., Ch. 271 (S.B. 381), Sec. 2, eff. September 1, 2009.

#### SUBCHAPTER B. RULEMAKING

Sec. 554.051. RULEMAKING: GENERAL POWERS AND DUTIES. (a) The board shall adopt rules consistent with this subtitle for the administration and enforcement of this subtitle.

(a-1) The board may adopt rules to administer Sections 481.073, 481.074, 481.075, 481.076, 481.0761, 481.0762, 481.0763, 481.0764, 481.0765, and 481.0766, Health and Safety Code.

(b) If the board determines it necessary to protect the health and welfare of the citizens of this state, the board may make a rule concerning the operation of a licensed pharmacy located in this state applicable to a pharmacy licensed by the board that is located in another state.

(c) The board shall adopt rules regarding records to be maintained by a pharmacist performing a specific act under a written protocol.

(d) The board by rule shall specify minimum standards for professional responsibility in the conduct of a pharmacy.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 24, eff. September 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 485 (H.B. 2561), Sec. 13, eff. September 1, 2017.

Sec. 554.052. IMMUNIZATIONS AND VACCINATIONS; PHYSICIAN SUPERVISION. (a) The board by rule shall require a pharmacist to notify a physician who prescribes an immunization or vaccination within 24 hours after the pharmacist administers the immunization or vaccination.

(b) The board shall establish minimum education and continuing education standards for a pharmacist who administers an immunization or vaccination. The standards must include Centers for Disease Control and Prevention training, basic life support training, and hands-on training in techniques for administering immunizations and vaccinations.

(c) Supervision by a physician is adequate if the delegating physician:

(1) is responsible for formulating or approving an order or protocol, including the physician's order, standing medical order, or standing delegation order, and periodically reviews the order or protocol and the services provided to a patient under the order or protocol;

(2) except as provided by Subsection (c-1), has established a physician-patient relationship with each patient

under 14 years of age and referred the patient to the pharmacist;

(3) is geographically located to be easily accessible to the pharmacy where an immunization or vaccination is administered;

(4) receives, as appropriate, a periodic status report on the patient, including any problem or complication encountered; and

(5) is available through direct telecommunication for consultation, assistance, and direction.

(c-1) A pharmacist may administer an influenza vaccination to a patient over seven years of age without an established physician-patient relationship.

(d) The Texas Medical Board by rule shall establish the minimum content of a written order or protocol. The order or protocol may not permit delegation of medical diagnosis.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 375 (H.B. 1409), Sec. 1, eff. September 1, 2009.

Sec. 554.053. RULEMAKING: PHARMACY TECHNICIAN AND PHARMACY TECHNICIAN TRAINEE. (a) The board shall establish rules for the use and the duties of a pharmacy technician and pharmacy technician trainee employed by a pharmacy licensed by the board. A pharmacy technician and pharmacy technician trainee shall be responsible to and must be directly supervised by a pharmacist.

(b) The board may not adopt a rule establishing a ratio of pharmacists to pharmacy technicians and pharmacy technician trainees in a Class C pharmacy or limiting the number of pharmacy technicians or pharmacy technician trainees that may be used in a Class C pharmacy.

(c) The board shall determine and issue standards for recognition and approval of a training program for pharmacy technicians and maintain a list of board-approved training programs that meet those standards.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.303(a), eff. Sept. 1,

2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 583 (S.B. 869), Sec. 6, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 583 (S.B. 869), Sec. 7, eff. June 14, 2013.

Acts 2017, 85th Leg., R.S., Ch. 929 (S.B. 1633), Sec. 2, eff. September 1, 2017.

Sec. 554.054. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The board may not adopt rules restricting advertising or competitive bidding by a person regulated by the board except to prohibit false, misleading, or deceptive practices by that person.

(b) The board may not include in rules to prohibit false, misleading, or deceptive practices by a person regulated by the board a rule that:

(1) restricts the use of any advertising medium;

(2) restricts the person's personal appearance or use of the person's voice in an advertisement;

(3) relates to the size or duration of an advertisement used by the person; or

(4) restricts the use of a trade name in advertising by the person.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 554.055. RULEMAKING; ELECTRONIC MEDIA. The board shall adopt rules regarding the sale and delivery of drugs by use of electronic media, including the Internet.

Added by Acts 2001, 77th Leg., ch. 972, Sec. 1, eff. Sept. 1, 2001.

Sec. 554.056. RULEMAKING; ADDITION OF FLAVORING TO COMMERCIAL PRODUCT. The board may adopt rules governing the procedures for a pharmacist, as part of compounding, to add flavoring to a commercial product at the request of a patient or a patient's agent.

Added by Acts 2007, 80th Leg., R.S., Ch. 550 (S.B. 1274), Sec. 1, eff. September 1, 2007.

Sec. 554.057. RULEMAKING; IMPLEMENTATION OF DRUG THERAPY UNDER PROTOCOL. The board, with the advice of the Texas Medical Board, shall adopt rules that allow a pharmacist to implement or modify a patient's drug therapy pursuant to a physician's delegation under Section [157.101\(b-1\)](#).

Added by Acts 2009, 81st Leg., R.S., Ch. 271 (S.B. [381](#)), Sec. 3, eff. September 1, 2009.