

RULE ANALYSIS

Introduction: THE AMENDMENTS ARE SUBMITTED TO THE BOARD FOR CONSIDERATION AS A PROPOSED RULE

Short Title: Communication with Prescriber.

Rule Numbers: §309.5

Statutory Authority: Texas Pharmacy Act, Chapter 551-569, Occupations Code:

- (1) Section 551.002 specifies that the purpose of the Act is to protect the public through the effective control and regulation of the practice of pharmacy; and
- (2) Section 554.051 gives the Board the authority to adopt rules for the proper administration and enforcement of the Act.

Purpose: The amendments, if adopted,

- (1) remove the section's expiration date, in accordance with House Bill 1264; and
- (2) clarify that the notification requirement is fulfilled when the pharmacist enters the information into an interoperable electronic records system as provided for in law in Texas Pharmacy Act, Chapter 562, Occupations Code and Subsection 309.5 (b) of this rule.

PROPOSED AMENDMENT TO THE AMENDMENT TO RULE §309.5

Amend the amendment to **§309.5 Communication with Prescriber** by adding a new (c) to read as follows:

(c) Entry into an electronic records system as described in this subsection is presumed to provide notice to the prescribers.

CURRENT PROPOSED AMENDMENT TO RULE §309.5 AT 8.6.2019 TSBP MEETING:

§309.5 Communication with Prescriber

(a) Not later than the third business day after the date of dispensing a biological product, the dispensing pharmacist or the pharmacist's designee shall communicate to the prescribing practitioner the specific product provided to the patient, including the name of the product and the manufacturer or national drug code number.

(b) The communication must be conveyed by making an entry into an interoperable electronic medical records system or through electronic prescribing technology or a pharmacy benefit management system or a pharmacy record, which may include information submitted for the payment of claims, that a pharmacist reasonably concludes is electronically accessible by the prescribing practitioner. Otherwise, the pharmacist or the pharmacist's designee shall communicate the biological product dispensed to the prescribing practitioner, using facsimile, telephone, electronic transmission, or other prevailing means, provided that communication is not required if:

(1) there is no interchangeable biological product approved by the United States Food and Drug Administration for the product prescribed; or

(2) a refill prescription is not changed from the product dispensed on the prior filling of the prescription.

~~(c) This section expires September 1, 2019.~~

PROPOSED AMENDMENT TO THE AMENDMENT TO RULE §309.5

Amend the amendment to **§309.5 Communication with Prescriber** by adding a new (c) to read as follows:

(c) Entry into an electronic records system as described in this subsection is presumed to provide notice to the prescribers.