

22 Texas Administrative Code §315.16 (effective 6/1/2020)

The Texas State Board of Pharmacy adopts new rule §315.16, concerning Patient Access to Prescription Monitoring Program Prescription Record. The new rule is adopted with changes to the proposed text as published in the January 3, 2020, issue of the *Texas Register* (45 TexReg 97). The rule will be republished.

The new rule establishes the policy and procedures for a patient or the patient's legal guardian to obtain a copy of the patient's Prescription Monitoring Program prescription record, in accordance with HB 3284.

The board received a comment in support of the amendments from Craig Chapman, R.Ph. Mr. Chapman's comment also suggested including FedEx or UPS as delivery options for patients in rural areas who do not have a mailbox at the address listed on their driver's license. The board agreed and made changes to allow for requestors who do not have mailbox at the listed address to receive the records via a trackable delivery service with the requestor being responsible for the additional cost.

The new rule is adopted 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 this rule: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

§315.16. Patient Access to Prescription Monitoring Program Prescription Record.

(a) A patient, the patient's parent or legal guardian if the patient is a minor, or the patient's legal guardian if the patient is an incapacitated person as defined by §1002.017(2) of the Estates Code, may obtain a copy of the patient's prescription record, including a list of persons who have accessed that record, as authorized in §481.076(a)(9) of the Texas Controlled Substances Act, by submitting the following to the board:

(1) a completed, notarized patient data request form, including any information or supporting documentation requested on the form;

(2) a copy of the requestor's driver's license or other state photo identity card issued by the state's Department of Motor Vehicles;

(3) if requesting as a parent or legal guardian of the patient, a copy of the patient's birth certificate or the order of guardianship over the patient; and

(4) a \$50 fee.

(b) The board shall deliver the requested records to the requestor via certified mail to the address listed on the requestor's driver's license or other state photo identity card issued by the state's Department of Motor Vehicles. If the requestor does not have a mailbox at the listed address, the board shall deliver the records to the requestor at the listed address via a trackable delivery service and the requestor shall be responsible for the cost.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on February 14, 2020.

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