

TITLE 22. EXAMINING BOARDS
Part 15. Texas State Board of Pharmacy
Chapter 297. Pharmacy Technicians

22 TAC §297.1, §297.2, §297.3, §297.4, §297.5, §297.6, §297.8, and §297.9

The Texas State Board of Pharmacy proposes new §297.1, §297.2, §297.3, §297.4, §297.5, §297.6, §297.8, and §297.9 concerning Purpose, Definitions, Registration Requirements, Fees, Pharmacy Technicians Trainees, Pharmacy Technician Training, Exemption from Pharmacy Technician Certification Requirements, Continuing Education Requirements, and Notifications. The new rules, if adopted, will establish a system for the registration of pharmacy technicians.

Gay Dodson, R.Ph., Executive Director/Secretary, has determined that, for the first five-year period the rule is in effect, there will be fiscal implications for state government as a result of enforcing or administering the rule as follows:

	FY2004	FY2005	FY2006	FY2007	FY2008
Revenue	\$914,000	\$632,500	\$632,500	\$632,500	\$632,500
Expenditures	\$366,432	\$506,337	\$506,337	\$506,337	\$506,337
Net Effect	\$547,568	\$126,163	\$126,163	\$126,163	\$126,163

There are no anticipated fiscal implications for local government.

Ms. Dodson 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 rule will be the establishment of a system for the registration of pharmacy technicians. The fiscal impact on large, small or micro-businesses (pharmacies) will be the same as the economic cost to an individual, if the pharmacy chooses to pay the individual fee.

Economic cost to persons who are required to comply with these rules will be a new registration fee which may range from \$24 to \$63, and a biennial renewal fee which may range from \$53 to \$60.

A public hearing to receive comments on the proposed new rules will be held at 9:00 a.m. on Tuesday, November 18, 2003, at the Health Professions Council Board Room, 333 Guadalupe Street, Tower II, Room 2-225, Austin, Texas 78701. Persons planning to present comments to the Board are asked to provide a written copy of their comments prior to the hearing or bring 20 copies to the hearing. Written comments on the new rules may be submitted to Allison Benz, R.Ph., M.S., Director of Professional Services, 333 Guadalupe Street, Suite 3-600, Austin, Texas, 78701, FAX: 512/305-8082, E-mail: allison.benz@tsbp.state.tx.us. Comments must be received by 5 p.m., November 12, 2003.

The new rules are proposed under Chapter 568 and Sections 552.002, 554.002, 554.006, 554.051, 554.053, Occupations Code, and Sections 2054.053 Government Code, and Section 101.307, Occupations Code. The Board interprets section 551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets section 554.002 as authorizing the agency to regulate the training, qualifications, and employment of a pharmacist-intern and pharmacy technician. The Board interprets section 554.006 as authorizing the agency to establish reasonable fees sufficient to cover the costs of administering the Texas Pharmacy Act. The Board interprets section 554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act. The Board interprets Section 554.053 as authorizing the agency to establish rules for the use and the duties of a pharmacy technician in a pharmacy licensed by the board. The Board interprets Chapter 568 as authorizing the agency to establish a system for the registration of pharmacy technicians including the issuance and renewal of registrations, the establishment of grounds for discipline of pharmacy technicians, and the establishment of reasonable fees sufficient to cover the cost of establishing a system to register pharmacy technicians. The Board interprets Section 2054.053 as authorizing the agency to add a surcharge to fund Texas On-line. The Board interprets Section 101.307 as authorizing the agency to add a surcharge to fund the Office of

Patient Protection.

The statutes affected by this rule: Chapters 551-566 and 568-569, Texas Occupations Code.

The agency hereby certifies that the proposed new rules have been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

§297.1 Purpose.

The purpose of this chapter is to provide a comprehensive, coherent regulatory scheme for the registration and training of pharmacy technicians in this state. The provisions of this chapter, in conjunction with the Texas Pharmacy Act (Chapters 551-566 and 568-569, Texas Occupations Code, as amended), govern the method for the issuance of a registration to a pharmacy technician in Texas.

§297.2 Definitions.

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

- (1) *Act* - The Texas Pharmacy Act, Chapters 551-566 and 568-569, Texas Occupations Code, as amended.
- (2) *Board* - The Texas State Board of Pharmacy.
- (3) *Pharmacy technician* - An individual employed by a pharmacy whose responsibility is to provide technical services that do not require professional judgment regarding preparing and distributing drugs and who works under the direct supervision of and is responsible to a pharmacist. Pharmacy technician includes registered pharmacy technicians and pharmacy technician trainees.
- (4) *Pharmacy technician trainee* - A person who is:
 - (A) participating in a pharmacy's technician training program; or
 - (B) currently enrolled in a:
 - (i) pharmacy technician training program accredited by the American Society of Health-System Pharmacists; or
 - (ii) health science technology education program in a Texas high school that is accredited by the Texas Education Agency; and
 - (C) not registered as a pharmacy technician by the board
- (5) *Registered Pharmacy Technician* - A pharmacy technician who is registered with the board.

§297.3 Registration Requirements.

- (a) *General.* Effective June 1, 2004, all persons employed as pharmacy technicians must be registered with the board or be pharmacy technician trainees within the provisions of §297.5 of this title (relating to Pharmacy Technician Trainees).
- (b) *Initial Registration.*
 - (1) Each applicant for registration shall:
 - (A) have a high school or equivalent degree, e.g., GED, or be currently enrolled in a program which awards such a degree; and
 - (B) either have:
 - (i) taken and passed the National Pharmacy Technician Certification Exam or other examination approved by the board and have a current certification certificate; or
 - (ii) been granted an exemption from certification by the board as specified in §297.7 of this title (relating to Exemption from Pharmacy Technician Certification Requirements); and
 - (C) complete the Texas application for registration. Any fraudulent statement made in the application is grounds for denial of the application; if such application is granted, any fraudulent statement is grounds for suspension or revocation of any registration granted by the board; and
 - (D) pay the registration fee specified in §297.4 of this title (relating to Fees).
 - (2) New pharmacy technician registrations shall be assigned an expiration date and the fee shall be prorated based on the assigned expiration date.
 - (3) Once an applicant has successfully completed all requirements of registration, and the board has determined there are no grounds to refuse registration, the applicant will be notified of registration as a pharmacy technician and of his or her pharmacy technician registration number.
- (c) *Renewal.*

- (1) All applicants for renewal shall:
 - (A) complete the Texas application for registration. Any fraudulent statement made in the application is ground for suspension or revocation of any registration renewed by the board;
 - (B) pay the renewal fee specified in §297.4 of this title; and
 - (C) complete 20 contact hours of continuing education per renewal period in as specified in §297.8 of this title (relating to Continuing Education).
- (2) A pharmacy technician registration expires on the last day of the assigned expiration month.
- (3) If the completed application and renewal fee is not received in the board's office on or before the last day of the assigned expiration month, the person's pharmacy technician registration shall expire. A person shall not practice as a pharmacy technician with an expired registration.
- (4) If a pharmacy technician registration has expired, the person may renew the registration by paying to the board the renewal fee and a delinquent fee that is equal to the renewal fee as specified in §297.4 of this title.
- (5) If a pharmacy technician registration has expired for more than one year, the pharmacy technician may not renew the registration and must complete the requirements for initial registration as specified in subsection (b) of this section.
- (6) After review, the board may determine that paragraph (3) does not apply if the registrant is the subject of a pending investigation or disciplinary action.

§297.4 Fees.

- (a) *Biennial Registration.* The board shall require biennial renewal of all pharmacy technician registrations provided under Chapter 568 of the Act.
- (b) *Initial Registration Fee.*
 - (1) The fee for initial registration shall be no more than \$63 for a two year registration and is composed of the following fees:
 - (A) \$48 for processing the application and issuance of the pharmacy technician registration as authorized by the Act, §568.005;
 - (B) up to a \$10 surcharge to fund TexasOnline as authorized by Chapter 2054, Subchapter I, Government Code; and
 - (C) \$5 surcharge to fund the Office of Patient Protection as authorized by Chapter 101, Subchapter G, Occupations Code.
 - (2) The initial registration fee shall be prorated based on the assigned expiration date.
- (c) *Renewal Fee.* The fee for biennial renewal of a pharmacy technician registration shall be no more than \$60 and is composed of the following:
 - (1) \$48 for processing the application and issuance of the pharmacy technician registration as authorized by the Act, §568.005;
 - (2) up to a \$10 surcharge to fund TexasOnline as authorized by Chapter 2054, Subchapter I, Government Code; and
 - (3) \$2 surcharge to fund the Office of Patient Protection as authorized by Chapter 101, Subchapter G, Occupations Code.
- (d) *Duplicate or Amended Certificates.* The fee for issuance of a duplicate or amended pharmacy technician registration renewal certificate shall be \$20.

§297.5. Pharmacy Technician Trainees.

- (a) A person shall be designated as a pharmacy technician trainee at all times prior to registration with the board.
- (b) A person may be designated as a pharmacy technician trainee for no more than one year and they must complete the requirements for registration within the one year period.
- (c) Subsection (b) of this section does not apply to a pharmacy technician trainee working in a pharmacy as part of a training program accredited by the American Society of Health-System Pharmacists or an individual enrolled in a health science technology education program in a Texas high school.
- (d) Individuals enrolled in a health science technology education program in a Texas high school that is accredited by the Texas Education Agency, may be designated as a pharmacy technician trainee for up to two years provided the work as a pharmacy technician is concurrent with enrollment in a health science technology education program, which may include:
 - (1) partial semester breaks such as spring breaks;
 - (2) between semesters; and
 - (3) whole semester breaks provided the individual was enrolled in the health science technology education program in the immediate preceding semester and is scheduled with the high school to attend in the immediate subsequent semester.

§297.6 Pharmacy Technician Training.

- (a) Pharmacy technicians shall complete initial training as outlined by the pharmacist-in-charge in a training manual. Such training:
 - (1) shall meet the requirements of subsection (d) or (e) of this section; and
 - (2) may not be transferred to another pharmacy unless:
 - (A) the pharmacies are under common ownership and control and have a common training program; and
 - (B) the pharmacist-in-charge of each pharmacy in which the pharmacy technician works certifies that the pharmacy technician is competent to perform the duties assigned in that pharmacy.
- (b) The pharmacist-in-charge shall assure the continuing competency of pharmacy technicians through in-service education and training to supplement initial training.
- (c) The pharmacist-in-charge shall document the completion of the training program and certify the competency of pharmacy technicians completing the training. A written record of initial and in-service training of pharmacy technicians shall be maintained and contain the following information:
 - (1) name of the person receiving the training;
 - (2) date(s) of the training;
 - (3) general description of the topics covered;
 - (4) a statement that certifies that the pharmacy technician is competent to perform the duties assigned;
 - (5) name of the person supervising the training; and
 - (6) signature of the pharmacy technician and the pharmacist-in-charge or other pharmacist employed by the pharmacy and designated by the pharmacist-in-charge as responsible for training of pharmacy technicians.
- (d) A person who has previously completed the training program outlined in subsection (e), a licensed nurse, or physician assistant is not required to complete the entire training program outlined in subsection (e) of this section if the person is able to show competency through a documented assessment of competency. Such competency assessment may be conducted by personnel designated by the pharmacist-in-charge, but the final acceptance of competency must be approved by the pharmacist-in-charge.
- (e) Pharmacy technician training shall be outlined in a training manual. Such training manual shall, at a minimum, contain the following:
 - (1) written procedures and guidelines for the use and supervision of pharmacy technicians. Such procedures and guidelines shall:
 - (A) specify the manner in which the pharmacist responsible for the supervision of pharmacy technicians will supervise such personnel and verify the accuracy and completeness of all acts, tasks, and functions performed by such personnel; and
 - (B) specify duties which may and may not be performed by pharmacy technicians;

and

(2) instruction in the following areas and any additional areas appropriate to the duties of pharmacy technicians in the pharmacy:

- (A) Orientation;
- (B) Job descriptions;
- (C) Communication techniques;
- (D) Laws and rules;
- (E) Security and safety;
- (F) Prescription drugs:
 - (i) Basic pharmaceutical nomenclature;
 - (ii) Dosage forms;
- (G) Drug orders:
 - (i) Prescribers;
 - (ii) Directions for use;
 - (iii) Commonly-used abbreviations and symbols;
 - (iv) Number of dosage units;
 - (v) Strengths and systems of measurement;
 - (vi) Routes of administration;
 - (vii) Frequency of administration; and
 - (viii) Interpreting directions for use;
- (H) Drug order preparation:
 - (i) Creating or updating patient medication records;
 - (ii) Entering drug order information into the computer or typing the label in a manual system;
 - (iii) Selecting the correct stock bottle;
 - (iv) Accurately counting or pouring the appropriate quantity of drug product;
 - (v) Selecting the proper container;
 - (vi) Affixing the prescription label;
 - (vii) Affixing auxiliary labels, if indicated; and
 - (viii) Preparing the finished product for inspection and final check by pharmacists;
- (I) Other functions;
- (J) Drug product prepackaging; and
- (K) Written policy and guidelines for use of and supervision of pharmacy technicians.

(f) Pharmacy technicians compounding non-sterile pharmaceuticals shall meet the training and education requirements specified in §291.25 of this title (relating to Pharmacies Compounding Non-sterile Pharmaceuticals).

(g) Pharmacy technicians compounding sterile pharmaceuticals shall meet the training and education requirements specified in §291.26 of this title (relating to Pharmacies Compounding Sterile Pharmaceuticals).

§297.7 Exemption from Pharmacy Technician Certification Requirements.

(a) *Purpose.* The board encourages all pharmacy technicians to become certified by taking and passing the National Pharmacy Technician Certification Exam or other examination approved by the board. However, the board will consider petitions for exemption on a case by case basis. This section outlines procedures for pharmacy technicians to petition the board for an exemption to the certification requirements established by § 568.002 of the Act (relating to Pharmacy Technician Registration Required).

(b) *Long-term Employees.* Pharmacy technicians who, on September 1, 2001, had been continuously employed as a pharmacy technician in this state for at least 10 years and who received an exemption from the board may only use the exemption at the pharmacy noted in the petition and may not transfer the exemption to another pharmacy. If the pharmacy technician ceases employment at the pharmacy or changes employment, the exemption is canceled.

(c) *Rural counties.* Pharmacy technicians working in counties with a population of 50,000 or less.

(1) *Eligibility.* A pharmacy technician may petition the board for an exemption from the certification requirements established by §568.002 of the Act (relating to Pharmacy Technician Registration Required) if the technician works in a county with a population of 50,000 or less.

(2) *Petition process.*

(A) A pharmacy technician shall petition the board for the exemption. The petition shall contain the following:

- (i) name of the pharmacy technician;
- (ii) name, address, and license number of the pharmacy where the pharmacy technician is employed;
- (iii) name of the county in which the pharmacy is located and the most recent official population estimate for the county from the Texas State Data Center;
- (iv) a notarized statement signed by the pharmacy technician stating:
 - (I) the reason(s) the pharmacy technician is asking for the exemption, including reason(s) the pharmacy technician has not taken and passed the National Pharmacy Technician Certification Exam or other examination approved by the board; and
 - (II) that the information provided in the petition is true and correct; and
- (v) a notarized statement signed by the pharmacist-in-charge of the pharmacy the pharmacy technician is currently working, stating that the:
 - (I) pharmacist-in-charge supports the pharmacy technician's petition for exemption;
 - (II) pharmacy technician has completed the pharmacy technician training program at the pharmacy; and
 - (III) pharmacist-in-charge has personally worked with and observed that the pharmacy technician is competent to perform the duties of a pharmacy technician.

(B) Each petition shall be considered on an individual basis. In determining whether to grant the exemption, the board shall consider the information contained in the petition and additional information including the following:

- (i) the accuracy and completeness of the petition;
- (ii) reason(s) the pharmacy technician is asking for the exemption;
- (iii) the population of the county;
- (iv) the number of pharmacies located in the county and adjacent counties and the number of pharmacy technicians working in these pharmacies;
- (v) unemployment rate in the county and adjacent counties; and
- (vi) the following information concerning the pharmacy where the pharmacy technician is currently working:
 - (I) the degree of compliance on previous compliance inspections;
 - (II) history of disciplinary action by the board or other regulatory agencies against the licenses held by the pharmacy or pharmacists working at the pharmacy.

(C) After review of the petition, the pharmacy technician and the pharmacist-in-charge of the pharmacy where the technician is working shall be notified in writing of approval or denial of the petition.

(i) If the petition is approved, the pharmacy technician shall be sent an exemption certificate, which shall be displayed at the pharmacy where the pharmacy technician is working.

(ii) In lieu of the exemption, the board may grant the pharmacy technician up to an additional 12 months to take and pass the National Pharmacy Technician Certification Exam or other examination approved by the board. During this additional time, the pharmacy technician shall be designated a pharmacy technician trainee.

(3) *Limitations.*

(A) The exemption granted under this section may only be used at the pharmacy noted in the petition and may not be transferred to another pharmacy. If the pharmacy technician ceases employment at the pharmacy or changes employment, the exemption is canceled.

(B) If the population of the county exceeds 50,000, the board shall cancel the exemption. The pharmacy technician and the pharmacist-in-charge of the pharmacy shall be notified when an exemption is canceled.

§297.8 Continuing Education Requirements.

(a) All pharmacy technicians shall be exempt from the continuing education requirements during their initial registration period.

(b) All pharmacy technicians must complete 20 contact hours of approved continuing education per renewal period in pharmacy related subjects in order to renew their registration as a pharmacy technician. No more than 10 of the twenty (20) hours may be earned at the pharmacy technician's workplace through in-service education and training under the direct supervision of the pharmacist(s).

(c) Two hours specified in subsection (a) of this section shall be related to pharmacy law and one of the two hours shall be related to Texas pharmacy law.

(d) Pharmacy technicians are required to maintain records of completion of continuing education for three years from the date of reporting the hours on a renewal application. The records must contain at least the following information:

- (1) name of participant;
- (2) title and date of program;
- (3) program sponsor or provider (the organization);
- (4) number of hours awarded; and
- (5) dated signature of sponsor representative.

(e) The board shall audit the records of pharmacy technicians for verification of reported continuing education credit. The following is applicable for such audits.

(1) Upon written request, a pharmacy technician shall provide to the board copies of certificates of completion for all continuing education contact hours reported during a specified registration period. Failure to provide all requested records by the specified deadline constitutes prima facie evidence of a violation of this rule.

(2) Credit for continuing education contact hours shall only be allowed for programs for which the pharmacy technician submits copies of records reflecting that the hours were completed during the specified registration period(s). Any other reported hours shall be disallowed.

(3) A pharmacy technician shall not submit false or fraudulent records to the board.

(f) Pharmacy technicians who are certified by the Pharmacy Technician Certification Board and maintain this certification shall be considered as having met the continuing education requirements of this section and shall not be subject to audit by the board.

§297.9 Notifications.

(a) *Display of Registration Certificate.*

(1) A registered pharmacy technician shall publicly display their current registration certificate in the technician's primary place of employment except as noted in paragraph (2) of this subsection.

(2) A registered pharmacy technician who only works in the inpatient portion of a Class C pharmacy is not required to publicly display their current registration certificate in the pharmacy, provided the pharmacist-in-charge makes and retains a copy of the technician's current registration certificate for inspection by a board representative.

(b) *Change of Address and/or Name*

(1) *Change of address.* A pharmacy technician shall notify the board electronically or in writing 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 shall notify the board in writing within 10 days of a change of name by:

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

(ii) returning the current renewal certificate which reflects the previous name; and

(iii) paying a fee of \$20.

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

(c) *Change of Employment.* A pharmacy technician 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.