

1 **§291.1. Pharmacy License Application.**

2 (a) To qualify for a pharmacy license, the applicant must submit an application including the  
3 following information:

4 (1) name and address of pharmacy;

5 (2) type of ownership;

6 (3) names, addresses, phone numbers, dates of birth, copies of [and] social security cards, and  
7 copies of current driver's licenses, state issued photo identification cards, or passports of all  
8 owners, or of all managing officers if the pharmacy is owned by a partnership or corporation. If  
9 [numbers; however, if] an individual is unable to obtain a social security number, an individual  
10 taxpayer identification number may be provided in lieu of a social security number along with  
11 documentation indicating why the individual is unable to obtain a social security number[~~, of all~~  
12 owners; if a partnership or corporation, for all managing officers, the name, title, addresses,  
13 phone numbers, dates of birth, and social security numbers; however, if an individual is unable to  
14 obtain a social security number, an individual taxpayer identification number may be provided in  
15 lieu of a social security number along with documentation indicating why the individual is  
16 unable to obtain a social security number];

17 (4) name and license number of the pharmacist-in-charge [~~and of other pharmacists employed by~~  
18 ~~the pharmacy];~~

19 (5) name(s) and license number(s) of other pharmacists employed by the pharmacy;

20 (6) [~~5~~] anticipated date of opening and hours of operation;

21 (7) [~~6~~] copy of lease agreement or if the location of the pharmacy is owned by the applicant, a  
22 notarized statement certifying such location ownership;

23 (8) [~~7~~] the signature of the pharmacist-in-charge;

24 (9) [~~8~~] the notarized signature of the owner, or if the pharmacy is owned by a partnership or  
25 corporation, the notarized signature of an owner or managing officer;

26 (10) [~~9~~] federal tax ID number of the owner;

27 (11) [~~10~~] description of business services that will be offered;

28 (12) [~~11~~] name and address of malpractice insurance carrier or statement that the business will  
29 be self-insured;

30 **(13) documents from a primary wholesaler showing credit worthiness as approved by the board;**

31 (14) official copy of the business formation documents filed with the Secretary of State;

32 (15) a current certificate of Good Standing for the business structure from the state where the  
33 business structure is located; and

34 ~~{(12) the certificate of authority, if applicant is an out-of-state corporation;}~~

35 ~~{(13) the articles of incorporation, if the applicant is a corporation;}~~

36 ~~{(14) a current Texas Franchise Tax Certificate of Good Standing; and}~~

37 (16) ~~[(15)]~~ any other information requested on the application.

38 ~~{(b) Subsection (c) of this section applies to new pharmacy applications for Class A~~  
39 ~~(Community), Class C (Institutional), or Class F (Freestanding Emergency Medical Care Center)~~  
40 ~~pharmacies owned by a management company with the following exceptions.}~~

41 ~~{(1) Subsection (c) of this section does not apply to a new pharmacy application submitted by an~~  
42 ~~entity which already owns a pharmacy licensed in Texas.}~~

43 ~~{(2) Subsection (c)(1) and (3) of this section do not apply to each individual owner or managing~~  
44 ~~officer listed on a new pharmacy application if the individual possesses an active pharmacist~~  
45 ~~license in Texas.}~~

46 ~~{(c) If the pharmacy is to be licensed as a Class A (Community), Class C (Institutional), or Class~~  
47 ~~F (Freestanding Emergency Medical Care Center) pharmacy owned by a management company,~~  
48 ~~the applicant must submit copies of the following documents in addition to the information~~  
49 ~~required in subsection (a) of this section:}~~

50 ~~{(1) the birth certificate or passport of each individual owner, or, if the pharmacy is owned by a~~  
51 ~~partnership or a closely held corporation;}~~

52 ~~{(A) one of these documents for each managing officer; and}~~

53 ~~{(B) a list of all owners of the corporation;}~~

54 ~~{(2) an approved credit application from a primary wholesaler or other documents showing credit~~  
55 ~~worthiness as approved by the board; and}~~

56 ~~{(3) a current driver license or state issued photo ID card of each individual owner, or, if the~~  
57 ~~pharmacy is owned by a partnership or a closely held corporation, a current driver license or~~  
58 ~~state issued photo ID card for each managing officer.}~~

59 (b) ~~[(d)]~~ The applicant may be required to meet all requirements necessary in order for the Board  
60 to access the criminal history record information, including submitting fingerprint information  
61 and being responsible for all associated costs. The criminal history information may be required  
62 for each individual owner, or if the pharmacy is owned by a partnership or a closely held  
63 corporation for each managing officer.

64 ~~(c)~~ [(e)] A fee as specified in §291.6 of this title (relating to Pharmacy License Fees) will be  
65 charged for the issuance of a pharmacy license.

66 ~~(d)~~ [(f)] For purpose of this section, managing officers are defined as the top four executive  
67 officers, including the corporate officer in charge of pharmacy operations, who are designated by  
68 the partnership or corporation to be jointly responsible for the legal operation of the pharmacy.

69 ~~(e)~~ [(g)] Prior to the issuance of a license for a pharmacy located in Texas, the board shall  
70 conduct an on-site inspection of the pharmacy in the presence of the pharmacist-in-charge and  
71 owner or representative of the owner, to ensure that the pharmacist-in-charge and owner can  
72 meet the requirements of the Texas Pharmacy Act and Board Rules.

73 ~~(f)~~ [(h)] If the applicant holds an active pharmacy license in Texas on the date of application for  
74 a new pharmacy license or for other good cause shown as specified by the board, the board may  
75 waive the pre-inspection as set forth in subsection ~~(e)~~ [(g)] of this section.

76 *§291.3.Required Notifications.*

77 (a) (No change.)

78 (b) Change of Managing Officers.

79 (1) The owner of a pharmacy shall notify the board in writing within 10 days of a change of any  
80 managing officer of a partnership or corporation which owns a pharmacy. The written  
81 notification shall include the effective date of such change and the following information for all  
82 managing officers:

83 (A) name and title;

84 (B) home address and telephone number;

85 (C) date of birth; ~~and~~

86 (D) a copy of social security card; however, if an individual is unable to obtain a social security  
87 number, an individual taxpayer identification number may be provided in lieu of a social security  
88 number along with documentation indicating why the individual is unable to obtain a social  
89 security number; and ~~number.~~

90 (E) a copy of current driver's license, state issued photo identification card, or passport.

91 (2) For purposes of this subsection, managing officers are defined as the top four executive  
92 officers, including the corporate officer in charge of pharmacy operations, who are designated by  
93 the partnership or corporation to be jointly responsible for the legal operation of the pharmacy.

94 (c) Change of Ownership.

95 (1) When a pharmacy changes ownership, a new pharmacy application must be filed with the  
96 board following the procedures as specified in §291.1 of this title (relating to Pharmacy License  
97 Application). In addition, a copy of the purchase contract or mutual agreement between the buyer  
98 and seller must be submitted. ~~[a new/completed pharmacy application must be filed with the~~  
99 ~~board and the licensed issued to previous owner shall be returned to the board.]~~

100 (2) The license issued to the previous owner must be returned to the board. ~~[The new application~~  
101 ~~shall include the following information:]~~

102 ~~[(A) the name and address of pharmacy;]~~

103 ~~[(B) the type of ownership;]~~

104 ~~[(C) the names, home addresses, dates of birth, phone numbers, and social security numbers of~~  
105 ~~all owners; if a partnership or corporation, the name, title, home address, home phone number,~~  
106 ~~date of birth, and social security number of all managing officers;]~~

107 ~~[(D) the name and license number of the pharmacist in charge and of other pharmacists~~  
108 ~~employed by the pharmacy;]~~

109 ~~[(E) a copy of lease agreement or if the location of the pharmacy is owned by the applicant, a~~  
110 ~~notarized statement certifying such location ownership;]~~

111 ~~[(F) a copy of the purchase contract or mutual agreement between the buyer and seller, or a~~  
112 ~~notarized statement of intent to convey ownership signed by both the buyer and seller, stating the~~  
113 ~~proposed date of ownership change;]~~

114 ~~[(G) the signature of the pharmacist in charge;]~~

115 ~~[(H) the notarized signature of the owner, or if the pharmacy is owned by a partnership or~~  
116 ~~corporation, the notarized signature of an owner or managing officer;]~~

117 ~~[(I) federal tax ID number;]~~

118 ~~[(J) description of business services that will be offered;]~~

119 ~~[(K) name and address of malpractice insurance carrier or statement that the business will be~~  
120 ~~self-insured;]~~

121 ~~[(L) the certificate of authority, if applicant is an out-of-state corporation;]~~

122 ~~[(M) the articles of incorporation, if the applicant is a corporation;]~~

123 ~~[(N) a current Texas Franchise Tax Certificate of Good Standing; and]~~

124 ~~[(O) any other information requested on the application.]~~

125 ~~[(3) Paragraph (4) of this subsection applies to all change of ownership applications for Class A~~  
126 ~~(Community pharmacies, Class C (Institutional) pharmacies, or Class F Freestanding Emergency~~  
127 ~~Medical Care Center) pharmacies, owned by a management company with the following~~  
128 ~~exceptions.]~~

129 ~~[(A) Paragraph (4) of this subsection does not apply to a change of ownership application~~  
130 ~~submitted by an entity which already owns a pharmacy licensed in Texas.]~~

131 ~~[(B) Paragraph (4)(A) and (C) of this subsection do not apply to each individual owner or~~  
132 ~~managing officer listed on a new pharmacy application if the individual possesses an active~~  
133 ~~pharmacist license in Texas.]~~

134 ~~[(4) If the pharmacy is to be licensed as a Class A (Community) pharmacy, a Class C~~  
135 ~~(Institutional) pharmacy, or a Class F (Freestanding Emergency Medical Care Center) pharmacy~~  
136 ~~owned by a management company, the applicant must submit copies of the following documents~~  
137 ~~in addition to the information required in paragraph (2) of this subsection:]~~

138 ~~[(A) the birth certificate, passport, or other document proving the date of birth of the owner, or, if~~  
139 ~~the pharmacy is owned by a partnership or a closely held corporation:]~~

140 ~~[(i) one of these documents for each managing officer; and]~~

141 ~~[(ii) a list of all owners of the corporation;]~~

142 ~~[(B) an approved credit application from a primary wholesaler or other documents showing~~  
143 ~~credit worthiness as approved by the board; and]~~

144 ~~[(C) a current driver license or state issued photo ID card of each individual owner, or, if the~~  
145 ~~pharmacy is owned by a partnership or a closely held corporation, a current driver license or~~  
146 ~~state issued photo ID card for each managing officer.]~~

147 (3) ~~[(5)]~~ A fee as specified in §291.6 of this title will be charged for issuance of a new license.

148 (d) Change of Pharmacist Employment.

149 (1) Change of pharmacist employed in a pharmacy. When a change in pharmacist employment  
150 occurs, the pharmacist shall report such change in writing to the board within 10 days.

151 (2) Change of pharmacist-in-charge of a pharmacy.

152 (A) On the date of change of the pharmacist-in-charge of a Class A [~~(Community)~~], Class A-S,  
153 Class C [(Institutional)], Class C-S, or Class F [~~(Freestanding Emergency Medical Care Center)~~]  
154 pharmacy, an inventory specified in §291.17 of this title (relating to Inventory Requirements)  
155 shall be taken.

156 (B) This inventory shall constitute, for the purpose of this section, the closing inventory of the  
157 departing pharmacist-in-charge and the beginning inventory of the incoming pharmacist-in-  
158 charge.

159 (C) If the departing and the incoming pharmacists-in-charge are unable to conduct the inventory  
160 together, a closing inventory shall be conducted by the departing pharmacist-in-charge and a new  
161 and separate beginning inventory shall be conducted by the incoming pharmacist-in-charge.

162 (D) The incoming pharmacist-in-charge shall be responsible for notifying the board within 10  
163 days in writing on a form provided by the board that a change of pharmacist-in-charge has  
164 occurred. The notification shall include the following:

165 (i) the name and license number of the departing pharmacist-in-charge;

166 (ii) the name and license number of the incoming pharmacist-in-charge;

167 (iii) the date the incoming pharmacist-in-charge became the pharmacist-in-charge; and

168 (iv) a statement signed by the incoming pharmacist-in-charge attesting that:

169 (I) an inventory has been conducted by the departing and incoming pharmacists-in-charge; if the  
170 inventory was not taken by both pharmacists, the statement shall provide an explanation; and

171 (II) the incoming pharmacist-in-charge has read and understands the laws and rules relating to  
172 this class of pharmacy.

173 (e) (No change.)

174 (f) Fire or Other Disaster. If a pharmacy experiences a fire or other disaster, the following  
175 requirements are applicable.

176 (1) Responsibilities of the pharmacist-in-charge.

177 (A) The pharmacist-in-charge shall be responsible for reporting the date of the fire or other  
178 disaster which may affect the strength, purity, or labeling of drugs, medications, devices, or other  
179 materials used in the diagnosis or the treatment of the injury, illness, and disease; such  
180 notification shall be immediately reported to the board, but in no event shall exceed 10 days from  
181 the date of the disaster.

182 (B) The pharmacist-in-charge or designated agent shall comply with the following procedures.

183 (i) If controlled substances, dangerous drugs, or Drug Enforcement Administration (DEA) order  
184 forms are lost or destroyed in the disaster, the pharmacy shall:

185 (I) notify the DEA, Department of Public Safety (DPS), and Texas State Board of Pharmacy  
186 (board) of the loss of the controlled substances or order forms. A pharmacy shall be in

187 compliance with this section by submitting to each of these agencies a copy of the DEA's report  
188 of theft or loss of controlled substances, DEA Form-106, immediately on discovery of the loss;  
189 and

190 (II) notify the board [~~Texas State Board of Pharmacy~~] in writing of the loss of the dangerous  
191 drugs by submitting a list of the dangerous drugs lost.

192 (ii) If the extent of the loss of controlled substances or dangerous drugs is not able to be  
193 determined, the pharmacy shall:

194 (I) take a new, complete inventory of all remaining drugs specified in §291.17(c) of this title  
195 (relating to Inventory Requirements);

196 (II) submit to DEA and DPS a statement attesting that the loss of controlled substances is  
197 indeterminable and that a new, complete inventory of all remaining controlled substances was  
198 conducted and state the date of such inventory; and

199 (III) submit to the board a statement attesting that the loss of controlled substances and  
200 dangerous drugs is indeterminable and that a new, complete inventory of the drugs specified in  
201 §291.17(c) of this title was conducted and state the date of such inventory.

202 (C) If the pharmacy changes to a new, permanent location, the pharmacist-in-charge shall  
203 comply with subsection (a) of this section.

204 (D) If the pharmacy moves to a temporary location, the pharmacist shall comply with subsection  
205 (a) of this section. If the pharmacy returns to the original location, the pharmacist-in-charge shall  
206 again comply with subsection (a) of this section.

207 (E) If the pharmacy closes due to fire or other disaster, the pharmacy may not be closed for  
208 longer than 90 days as specified in §291.11 of this title (relating to Operation of [~~Operating~~] a  
209 Pharmacy).

210 (F) If the pharmacy discontinues business (ceases to operate as a pharmacy), the pharmacist-in-  
211 charge shall comply with §291.5 of this title (relating to Closing a Pharmacy).

212 (G) The pharmacist-in-charge shall maintain copies of all inventories, reports, or notifications  
213 required by this section for a period of two years.

214 (2) (No change.)

215 (g) - (h) (No change.)



January 22, 2015

Allison Benz, R.Ph., M.S.  
Director of Professional Services  
Texas State Board of Pharmacy  
333 Guadalupe Street, Suite 3-600  
Austin, Texas 78701

Re: 22 TAC §291.1, §291.3 – Pharmacy License Applications and Associated Notifications

Dear Ms. Benz:

On behalf of our members operating approximately 2,866 chain pharmacies in the state of Texas, the National Association of Chain Drug Stores (NACDS) thanks the Texas State Board of Pharmacy (TSBP) for the opportunity to comment on the proposed rule changes under 22 TAC 291.1 and 22 TAC 291.3 that pertain to the information that pharmacy license applicants are required to submit to TSBP. We appreciate TSBP considering our input on this proposed rule.

While we are generally supportive of this proposal, we have one area of concern that we ask TSBP to address prior to adopting these rule changes. Under 22 TAC 291.1 and 22 TAC 291.3, TSBP has proposed to require pharmacy license applicants and license holders experiencing a change in managing officers to provide to TSBP with a copy of the social security card of all managing officers. We are concerned that such a requirement could place managing officers at increased risk for identity theft, and unnecessarily so. Accordingly, we encourage TSBP to strike this provision from the proposed rule language:

291.1. Pharmacy License Application.

(a) To qualify for a pharmacy license, the applicant must submit an application including the following information:

...

(3) names, addresses, phone numbers, dates of birth, **copies of** and social security **cards numbers**, and copies of current driver's licenses, state issued photo identification cards, or passports of all owners, or of all managing officers if the pharmacy is owned by a partnership or corporation. ~~If numbers; however, if an individual is unable to obtain a social security number, an individual taxpayer identification number may be provided in lieu of a social security number along with documentation indicating why the individual is unable to obtain a social security number, of all owners; if a partnership or corporation, for all managing officers, the name, title, addresses, phone numbers, dates of birth, and social security numbers; however, if an individual is unable to obtain a social security number, an individual taxpayer identification number may be provided in lieu of a social security number along with documentation indicating why the individual is unable to obtain a social security number;~~

...

### 291.3. Required Notifications.

...

#### (b) Change of Managing Officers.

(1) The owner of a pharmacy shall notify the board in writing within 10 days of a change of any managing officer of a partnership or corporation which owns a pharmacy. The written notification shall include the effective date of such change and the following information for all managing officers:

...

(D) a copy of social security card number; however, if an individual is unable to obtain a social security number, an individual taxpayer identification number may be provided in lieu of a social security number along with documentation indicating why the individual is unable to obtain a social security number; and number.

...

NACDS thanks TSBP for considering our comments on this rulemaking. Please do not hesitate to contact me with any questions or for further assistance. I can be reached at: 817-442-1155 or [mstaples@nacds.org](mailto:mstaples@nacds.org).

Sincerely,

A handwritten signature in black ink that reads "Mary Staples". The signature is written in a cursive, flowing style.

Mary Staples  
Regional Director, State Government Affairs