

RULE ANALYSIS

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

Short Title: Pharmacy Application

Rule Numbers: §291.1

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, update the requirements for a pharmacy license application to include copies of the owners' or managing officers drivers' licenses; require an approved credit application showing credit worthiness; the entities business filing structure; and a current certificate of good standing from the state where the entity is located. The amendments, if adopted, also remove items no longer required for a pharmacy license application and eliminate the requirements for pharmacies owned by management companies.

1 TITLE 22 EXAMINING BOARDS
2 PART 15 TEXAS STATE BOARD OF PHARMACY
3 CHAPTER 291 PHARMACIES
4 SUBCHAPTER A ALL CLASSES OF PHARMACIES

5
6 **§291.1 Pharmacy License Application**
7

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

10
11 (1) name and address of pharmacy;

12
13 (2) type of ownership;

14
15 (3) names, addresses, phone numbers, dates of birth, ~~[and]~~ **copies of social security cards,**
16 ~~[numbers]~~ **and copies of current driver's licenses, state issued photo identification cards,**
17 **or passports of all owners, or of all managing officers if the pharmacy is owned by a**
18 **partnership or corporation. If** ~~[however, if]~~ an individual is unable to obtain a social security
19 number, an individual taxpayer identification number may be provided in lieu of a social security
20 number along with documentation indicating why the individual is unable to obtain a social
21 security number~~[- of all owners; if a partnership or corporation, for all managing officers, the~~
22 ~~name, title, addresses, phone numbers, dates of birth, and social security numbers; however, if~~
23 ~~an individual is unable to obtain a social security number, an individual taxpayer identification~~
24 ~~number may be provided in lieu of a social security number along with documentation indicating~~
25 ~~why the individual is unable to obtain a social security number];~~

26
27 (4) name and license number of the pharmacist-in-charge ~~[and of other pharmacists employed~~
28 ~~by the pharmacy];~~

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

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32 **(6)** ~~[(5)]~~ anticipated date of opening and hours of operation;

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34 **(7)** ~~[(6)]~~ copy of lease agreement or if the location of the pharmacy is owned by the applicant, a
35 notarized statement certifying such location ownership;

36
37 **(8)** ~~[(7)]~~ the signature of the pharmacist-in-charge;

38
39 **(9)** ~~[(8)]~~ the notarized signature of the owner, or if the pharmacy is owned by a partnership or
40 corporation, the notarized signature of an owner or managing officer;

41
42 **(10)** ~~[(9)]~~ federal tax ID number of the owner;

43
44 **(11)** ~~[(10)]~~ description of business services that will be offered;

45
46 **(12)** ~~[(11)]~~ name and address of malpractice insurance carrier or statement that the business
47 will be self-insured;

48
49 **(13) an approved credit application from a primary wholesaler or other documents**
50 **showing credit worthiness as approved by the board;**

51
52 **(14) official copy of the business formation documents filed with the Secretary of State;**

53
54 **(15) a current certificate of Good Standing for the business structure from the state**
55 **where the business structure is located; and**

56
57 [~~(12) the certificate of authority, if applicant is an out-of-state corporation;~~]

58
59 [~~(13) the articles of incorporation, if the applicant is a corporation;~~]

60
61 [~~(14) a current Texas Franchise Tax Certificate of Good Standing; and~~]

62
63 **(16)** [~~(15)~~] any other information requested on the application.

64
65 (b) [~~Subsection (c) of this section applies to new pharmacy applications for Class A~~
66 [~~Community~~], [~~Class C (Institutional)~~], or [~~Class F (Freestanding Emergency Medical Care Center)~~]
67 [~~pharmacies owned by a management company with the following exceptions.~~]

68
69 [~~(1) Subsection (c) of this section does not apply to a new pharmacy application submitted by~~
70 [~~an entity which already owns a pharmacy licensed in Texas.~~]

71
72 [~~(2) Subsection (c)(1) and (3) of this section do not apply to each individual owner or managing~~
73 [~~officer listed on a new pharmacy application if the individual possesses an active pharmacist~~
74 [~~license in Texas.~~]

75
76 [~~(c) If the pharmacy is to be licensed as a Class A (Community), Class C (Institutional), or Class~~
77 [~~F (Freestanding Emergency Medical Care Center) pharmacy owned by a management~~
78 [~~company, the applicant must submit copies of the following documents in addition to the~~
79 [~~information required in subsection (a) of this section:~~

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81 [~~(1) the birth certificate or passport of each individual owner, or, if the pharmacy is owned by a~~
82 [~~partnership or a closely held corporation:~~

83
84 [~~(A) one of these documents for each managing officer; and~~

85
86 [~~(B) a list of all owners of the corporation;~~

87
88 [~~(2) an approved credit application from a primary wholesaler or other documents showing~~
89 [~~credit worthiness as approved by the board; and~~

90
91 [~~(3) a current driver license or state issued photo ID card of each individual owner, or, if the~~
92 [~~pharmacy is owned by a partnership or a closely held corporation, a current driver license or~~
93 [~~state issued photo ID card for each managing officer.]~~

94
95 [~~(d)] The applicant may be required to meet all requirements necessary in order for the Board to~~
96 [~~access the criminal history record information, including submitting fingerprint information and~~
97 [~~being responsible for all associated costs. The criminal history information may be required for~~
98 [~~each individual owner, or if the pharmacy is owned by a partnership or a closely held~~
99 [~~corporation for each managing officer.~~

100

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

103
104 **(d)** ~~[(f)]~~ For purpose of this section, managing officers are defined as the top four executive
105 officers, including the corporate officer in charge of pharmacy operations, who are designated
106 by the partnership or corporation to be jointly responsible for the legal operation of the
107 pharmacy.

108
109 **(e)** ~~[(g)]~~ Prior to the issuance of a license for a pharmacy located in Texas, the board shall
110 conduct an on-site inspection of the pharmacy in the presence of the pharmacist-in-charge and
111 owner or representative of the owner, to ensure that the pharmacist-in-charge and owner can
112 meet the requirements of the Texas Pharmacy Act and Board Rules.

113
114 **(f)** ~~[(h)]~~ If the applicant holds an active pharmacy license in Texas on the date of application for
115 a new pharmacy license or for other good cause shown as specified by the board, the board
116 may waive the pre-inspection as set forth in subsection **(e)** ~~[(g)]~~ of this section.