

RULE ANALYSIS

Introduction: THE AMENDMENTS ARE SUBMITTED TO THE BOARD FOR CONSIDERATION AS AN ADOPTED RULE

Short Title: Application for Reissuance or Removal of Restrictions of a License or Registration

Rule Numbers: §281.66

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, correct grammar in the rule.

The Board reviewed and voted to propose the amendments during the May 3, 2016, meeting. The proposed amendments were published in the March 11, 2016, issue of the *Texas Register* at 41 TexReg 4590.

1 **SUBCHAPTER C. DISCIPLINARY GUIDELINES**

2 **22 TAC §281.66**

3 The Texas State Board of Pharmacy proposes amendments to §281.66, concerning Application
4 for Reissuance or Removal of Restrictions of a License or Registration. The amendments to
5 §281.66, if adopted, correct grammar.

6 Gay Dodson, R.Ph., Executive Director/Secretary, has determined that, for the first five-year
7 period the rule is in effect, there will be no fiscal implications for state or local government as a
8 result of enforcing or administering the rule.

9 Ms. Dodson has determined that, for each year of the first five-year period the rule will be in
10 effect, the public benefit anticipated as a result of enforcing the amendments will ensure
11 appropriate sanctions for individuals applying for reinstatement or removal of restrictions of a
12 license. There is no fiscal impact for individuals, small or large businesses, or to other entities
13 which are required to comply with this section.

14 Written comments on the amendments may be submitted to Allison Vordenbaumen Benz, R.Ph.,
15 M.S., Director of Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street,
16 Suite 3-600, Austin, Texas 78701, FAX (512) 305-6778. Comments must be received by 5:00
17 p.m., August 1, 2016.

18 The amendments are proposed under §551.002 and §554.051 of the Texas Pharmacy Act
19 (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the
20 agency to protect the public through the effective control and regulation of the practice of
21 pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the
22 proper administration and enforcement of the Act.

23 The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas
24 Occupations Code.

25 ***§281.66.Application for Reissuance or Removal of Restrictions of a License or Registration.***

26 (a) A person whose pharmacy license, pharmacy technician registration, or license or registration
27 to practice pharmacy has been canceled, revoked, or restricted, whether voluntary or by action of
28 the board, may, after 12 months from the effective date of such cancellation, revocation, or
29 restriction, apply to the board for reinstatement or removal of the restriction of the license or
30 registration.

31 (1) The application shall be given under oath and on the form prescribed by the board.

32 (2) A person applying for reinstatement or removal of restrictions may be required to meet all
33 requirements necessary in order for the board to access the criminal history record information,
34 including submitting fingerprint information and being responsible for all associated costs.

- 35 (3) A person applying for reinstatement or removal of restrictions has the burden of proof.
- 36 (4) On investigation and hearing, the board may in its discretion grant or deny the application or
37 it may modify its original finding to reflect any circumstances that have changed sufficiently to
38 warrant the modification.
- 39 (5) If such application is denied by the board, a subsequent application may not be considered by
40 the board until 12 months from the date of denial of the previous application.
- 41 (6) The board in its discretion may require a person to pass an examination or examinations to
42 reenter the practice of pharmacy.
- 43 (7) The fee for reinstatement of a license or registration shall be \$100 which is to be paid to the
44 Texas State Board of Pharmacy and includes the processing of the reinstatement application.
- 45 (b) In reinstatement cases not involving criminal offenses, the board may consider the following
46 items in determining the reinstatement of an applicant's previously revoked or canceled license
47 or registration:
- 48 (1) moral character in the community;
- 49 (2) employment history;
- 50 (3) financial support to his/her family;
- 51 (4) participation in continuing education programs or other methods of maintaining currency
52 with the practice of pharmacy;
- 53 (5) criminal history record, including arrests, indictments, and convictions relating to felonies or
54 misdemeanors involving moral turpitude;
- 55 (6) offers of employment in pharmacy;
- 56 (7) involvement in public service activities in the community;
- 57 (8) failure to comply with the provisions of the board order revoking or canceling the applicant's
58 license or registration;
- 59 (9) action by other state or federal regulatory agencies;
- 60 (10) any physical, chemical, emotional, or mental impairment;
- 61 (11) the gravity of the offense for which the applicant's license or registration was canceled,
62 revoked, or restricted and the impact the offense had upon the public health, safety and welfare;

63 (12) the length of time since the applicant's license or registration was canceled, revoked or
64 restricted, as a factor in determining whether the time period has been sufficient for the applicant
65 to have rehabilitated himself/herself to be able to practice pharmacy in a manner consistent with
66 the public health, safety and welfare;

67 (13) competency to engage in the practice of pharmacy; or

68 (14) other rehabilitation actions taken by the applicant.

69 (c) If a reinstatement case [~~eases~~] involves criminal offenses, the sanctions specified in §281.64
70 of this chapter (relating to Sanctions for Criminal Offenses) apply.