

RULE ANALYSIS

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

Short Title: Registration Requirements

Rule Numbers: §283.12

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, eliminate the provisions allowing individuals who are unable to obtain a social security number, to provide an individual taxpayer identification number in lieu of a social security number because a social security number is required in order to process criminal background checks.

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 4591.

1 **CHAPTER 283. LICENSING REQUIREMENTS FOR PHARMACISTS**

2 **22 TAC §283.12**

3 The Texas State Board of Pharmacy proposes amendments to §283.12 concerning Licenses for
4 Military Service Members, Military Veterans, and Military Spouses. The amendments to
5 §283.12, if adopted, eliminate the provisions allowing individuals who are unable to obtain a
6 social security number to provide an individual taxpayer identification number in lieu of a social
7 security number because a social security number is required in order to process criminal
8 background checks.

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

12 Ms. Dodson has determined that, for each year of the first five-year period the rule will be in
13 effect, the public benefit anticipated as a result of enforcing the amendments will ensure
14 individuals applying for a pharmacist license meet the requirements in order to conduct criminal
15 background checks. There is no fiscal impact for individuals, small or large businesses, or to
16 other entities which are required to comply with this section.

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

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

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

28 ***§283.12.Licenses for Military Service Members, Military Veterans, and Military Spouses.***

29 (a) Definitions. The following words and terms, when used in this section, shall have the
30 following meanings, unless the context clearly indicates otherwise.

31 (1) Active duty--Current full-time military service in the armed forces of the United States or
32 active duty military service as a member of the Texas military forces, or similar military service
33 of another state.

34 (2) Armed forces of the United States--The army, navy, air force, coast guard, or marine corps of
35 the United States or a reserve unit of one of those branches of the armed forces.

- 36 (3) Military service member--A person who is on active duty.
- 37 (4) Military spouse--A person who is married to a military service member.
- 38 (5) Military veteran--A person who has served on active duty and who was discharged or
39 released from active duty.
- 40 (b) Alternative licensing procedure. For the purpose of §55.004, Occupations Code, an applicant
41 for a pharmacist's license who is a military service member, military veteran, or military spouse
42 may complete the following alternative procedures for licensing as a pharmacist.
- 43 (1) Requirements for licensing by reciprocity. An applicant for licensing by reciprocity who
44 meets all of the following requirements may be granted a temporary license as specified in this
45 subsection prior to completing the NABP application for pharmacist license by reciprocity, and
46 taking and passing the Texas Pharmacy Jurisprudence Examination. The applicant shall:
- 47 (A) complete the Texas application for pharmacist license by reciprocity that includes the
48 following:
- 49 (i) name;
- 50 (ii) addresses, phone numbers, date of birth, and social security number; [~~however, if an~~
51 ~~individual is unable to obtain a social security number, an individual taxpayer identification~~
52 ~~number may be provided in lieu of a social security number along with documentation indicating~~
53 ~~why the individual is unable to obtain a social security number;~~] and
- 54 (iii) any other information requested on the application;
- 55 (B) meet the educational and age requirements as set forth in §283.3 of this title (relating to
56 Educational and Age Requirements);
- 57 (C) present to the board proof of initial licensing by examination and proof that any current
58 licenses and any other licenses granted to the applicant by any other state have not been
59 suspended, revoked, canceled, surrendered, or otherwise restricted for any reason;
- 60 (D) meet all requirements necessary for the board to access the criminal history records
61 information, including submitting fingerprint information and such criminal history check does
62 not reveal any disposition for a crime specified in §281.64 of this title (relating to Sanctions for
63 Criminal Offenses) indicates a sanction of denial, revocation, or suspension; and
- 64 (E) be exempt from the application and examination fees paid to the board set forth in
65 §283.9(a)(2)(A) and (b) of this title (relating to Fee Requirements for Licensure by Examination,
66 Score Transfer and Reciprocity); and
- 67 (F) provide documentation to include:

68 (i) military identification indicating that the applicant is a military service member, military
69 veteran, or military dependent, if a military spouse; and

70 (ii) marriage certificate, if a military spouse.

71 (2) Requirements for an applicant whose Texas pharmacist's license has expired. An applicant
72 whose Texas pharmacist's license has expired within five years preceding the application date:

73 (A) shall complete the Texas application for licensing that includes the following:

74 (i) name;

75 (ii) addresses, phone numbers, date of birth, and social security number; ~~[however, if an~~
76 ~~individual is unable to obtain a social security number, an individual taxpayer identification~~
77 ~~number may be provided in lieu of a social security number along with documentation indicating~~
78 ~~why the individual is unable to obtain a social security number;]~~ and

79 (iii) any other information requested on the application;

80 (B) shall provide documentation to include:

81 (i) military identification indicating that the applicant is a military service member, military
82 veteran, or military dependent, if a military spouse; and

83 (ii) marriage certificate, if a military spouse;

84 (C) shall pay the renewal fee specified in §295.5 of this title (relating to Pharmacist License
85 Renewal Fees); however, the applicant shall be exempt from the fees specified in §295.7(3) of
86 this title (relating to Pharmacist License Renewal).

87 (D) shall complete approved continuing education requirements according to the following
88 schedule:

89 (i) if the Texas pharmacist license has been expired for more than one year but less than two
90 years, the applicant shall complete 15 contact hours of approved continuing education;

91 (ii) if the Texas pharmacist license has been expired for more than two years but less than three
92 years, the applicant shall complete 30 contact hours of approved continuing education; or

93 (iii) if the Texas pharmacist license has been expired for more than three years but less than five
94 years, the applicant shall complete 45 contact hours of approved continuing education; and

95 (E) is not required to take the Texas Pharmacy Jurisprudence Examination.

96 (3) A temporary license issued under this section is valid for no more than six months and may
97 be extended, if disciplinary action is pending, or upon request, as otherwise determined
98 reasonably necessary by the executive director of the board.

99 (4) A temporary license issued under this section expires within six months of issuance if the
100 individual fails to pass the Texas Pharmacy Jurisprudence Examination within six months or
101 fails to take the Texas Pharmacy Jurisprudence Examination within six months.

102 (5) An individual may not serve as pharmacist-in-charge of a pharmacy with a temporary license
103 issued under this subsection.

104 (c) Expedited licensing procedure. For the purpose of §55.005, Occupations Code, an applicant
105 for a pharmacist license who is a military service member, military veteran, or military spouse
106 and who holds a current license as a pharmacist issued by another state may complete the
107 following expedited procedures for licensing as a pharmacist. The applicant shall:

108 (1) meet the educational and age requirements specified in §283.3 of this title (relating to
109 Educational and Age Requirements);

110 (2) meet all requirements necessary in order for the board to access the criminal history record
111 information, including submitting fingerprint information and being responsible for all
112 associated costs;

113 (3) complete the Texas and NABP applications for reciprocity. Any fraudulent statement made in
114 the application for reciprocity is grounds for denial of the application; if such application is
115 granted, any fraudulent statement is grounds for suspension, revocation, and/or cancellation of
116 any license so granted by the board. The Texas application includes the following information:

117 (A) name;

118 (B) addresses, phone numbers, date of birth, and social security number; ~~[however, if an~~
119 ~~individual is unable to obtain a social security number, an individual taxpayer identification~~
120 ~~number may be provided in lieu of a social security number along with documentation indicating~~
121 ~~why the individual is unable to obtain a social security number;]~~ and

122 (C) any other information requested on the application.

123 (4) shall present to the board proof of initial licensing by examination and proof that their current
124 license and any other license or licenses granted to the applicant by any other state have not been
125 suspended, revoked, canceled, surrendered, or otherwise restricted for any reason;

126 (5) shall pass the Texas Pharmacy Jurisprudence Examination with a minimum grade of 75. (The
127 passing grade may be used for the purpose of licensure by reciprocity for a period of two years
128 from the date of passing the examination.) Should the applicant fail to achieve a minimum grade
129 of 75 on the Texas Pharmacy Jurisprudence Examination, such applicant, in order to be licensed,
130 shall retake the Texas Pharmacy Jurisprudence Examination as specified in §283.11 of this title

131 (relating to Examination Retake Requirements) until such time as a minimum grade of 75 is
132 achieved; and

133 (6) shall be exempt from the application and examination fees paid to the board set forth in
134 §283.9(a)(2)(A) and (b).

135 (d) License renewal. As specified in §55.003, Occupations Code, a military service member who
136 holds a pharmacist license is entitled to two years of additional time to complete any
137 requirements related to the renewal of the military service member's license as follows:

138 (1) A military service member who fails to renew their pharmacist license in a timely manner
139 because the individual was serving as a military service member shall submit to the board:

140 (A) name, address, and license number of the pharmacist;

141 (B) military identification indicating that the individual is a military service member; and

142 (C) a statement requesting up to two years of additional time to complete the renewal.

143 (2) A military service member specified in paragraph (1) of this subsection shall be exempt from
144 fees specified in §295.7(3) of this title (relating to Pharmacist License Renewal).

145 (3) A military service member specified in paragraph (1) of this subsection is entitled to two
146 additional years of time to complete the continuing education requirements specified in §295.9 of
147 this title (relating to Continuing Education Requirements).

148