

RULE ANALYSIS

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

Short Title: Technician Background Check

Rule Numbers: §297.3

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, require a criminal history background check, including fingerprints, for a pharmacy technician renewal application.

The Board reviewed and voted to propose the amendments during the February 3, 2015, meeting. The proposed amendments were published in the March 27, 2015, issue of the Texas Register at 40 TexReg 1805.

1 **CHAPTER 297. PHARMACY TECHNICIANS AND PHARMACY TECHNICIAN**
2 **TRAINEES**

3 **22 TAC §297.3**

4 The Texas State Board of Pharmacy proposes amendments to §297.3 concerning Registration
5 Requirements. The amendments, if adopted, require a criminal history background check,
6 including fingerprints, for a pharmacy technician renewal application.

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

10 Ms. Dodson has determined that, for each year of the first five-year period the rule will be in
11 effect, the public benefit anticipated as a result of enforcing the amendment will be to ensure a
12 criminal history background check, including fingerprints, for a pharmacy technician renewal
13 application. There is no fiscal impact for individuals, small or large businesses, or to other
14 entities which are required to comply with this section.

15 Comments on the amendments may be submitted to Allison Benz, R.Ph., M.S., Director of
16 Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600,
17 Austin, Texas 78701, FAX (512) 305-8008. Comments must be received by 5:00 p.m., April 30,
18 2015.

19 The amendments are proposed under §551.002 and §554.051 of the Texas Pharmacy Act
20 (Chapters 551 - 566 and 568 - 569, Texas Occupations Code). The Board interprets §551.002 as
21 authorizing the agency to protect the public through the effective control and regulation of the
22 practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules
23 for the proper administration and enforcement of the Act.

24 The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 566 and 568 -
25 569, Texas Occupations Code.

26 **§297.3.Registration Requirements.**

27 (a) (No change.)

28 (b) Registration for pharmacy technician trainees. An individual may register as a pharmacy
29 technician trainee only once and the registration may not be renewed.

30 (1) Each applicant for pharmacy technician trainee registration shall:

31 (A) have a high school or equivalent diploma (e.g., GED), or be working to achieve a high
32 school or equivalent diploma. For the purposes of this subparagraph, an applicant for registration
33 may be working to achieve a high school or equivalent diploma for no more than two years;

34 (B) complete the Texas application for registration that includes the following information:

35 (i) name;

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

40 (iii) any other information requested on the application.

41 (C) meet all requirements necessary in order for the Board to access the criminal history record
42 information, including submitting fingerprint information and paying the required fees.

43 (2) Once an applicant has successfully completed all requirements of registration, and the board
44 has determined there are no grounds to refuse registration, the applicant will be notified of
45 registration as a pharmacy technician trainee and of his or her pharmacy technician trainee
46 registration number.

47 (3) Pharmacy technician trainee registrations expire two years from the date of registration or
48 upon issuance of registration as a registered pharmacy technician, whichever is earlier.

49 (c) Initial registration for pharmacy technicians.

50 (1) Each applicant for pharmacy technician registration shall:

51 (A) have a high school or equivalent diploma (e.g., GED), or be working to achieve a high
52 school or equivalent diploma. For the purpose of this clause, an applicant for registration may be
53 working to achieve a high school or equivalent diploma for no more than two years; and

54 (B) either have:

55 (i) taken and passed the Pharmacy Technician Certification Board's National Pharmacy
56 Technician Certification Examination or other examination approved by the board and have a
57 current certification certificate; or

58 (ii) been granted an exemption from certification by the board as specified in §297.7 of this title
59 (relating to Exemption from Pharmacy Technician Certification Requirements); and

60 (C) complete the Texas application for registration that includes the following information:

61 (i) name;

62 (ii) addresses, phone numbers, date [~~dates~~] of birth, and social security number [~~numbers~~];
63 however, if an individual is unable to obtain a social security number, an individual taxpayer

64 identification number may be provided in lieu of a social security number along with
65 documentation indicating why the individual is unable to obtain a social security number; and

66 (iii) any other information requested on the application.

67 (D) meet all requirements necessary in order for the Board to access the criminal history record
68 information, including submitting fingerprint information and paying the required fees; and

69 (E) pay the registration fee specified in §297.4 of this title (relating to Fees).

70 (2) Once an applicant has successfully completed all requirements of registration, and the board
71 has determined there are no grounds to refuse registration, the applicant will be notified of
72 registration as a registered pharmacy technician and of his or her pharmacy technician
73 registration number. If the pharmacy technician applicant was registered as a pharmacy
74 technician trainee at the time the pharmacy technician registration issued, the pharmacy
75 technician trainee registration expires.

76 (d) Renewal.

77 (1) All applicants for renewal of a pharmacy technician registration shall:

78 (A) complete the Texas application for registration that includes the following information:

79 (i) name;

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

84 (iii) meet all requirements necessary in order for the Board to access the criminal history record
85 information, including submitting fingerprint information and being responsible for all
86 associated costs; and

87 (iv) ~~[(iii)]~~ any other information requested on the application.

88 (B) pay the renewal fee specified in §297.4 of this title; and

89 (C) complete 20 contact hours of continuing education per renewal period ~~[in]~~ as specified in
90 §297.8 of this title (relating to Continuing Education).

91 (2) A pharmacy technician registration expires on the last day of the assigned expiration month.

92 (3) If the completed application and renewal fee are not received in the board's office on or
93 before the last day of the assigned expiration month, the person's pharmacy technician

94 registration shall expire. A person shall not practice as a pharmacy technician with an expired
95 registration.

96 (4) If a pharmacy technician registration has expired, the person may renew the registration by
97 paying to the board the renewal fee and a delinquent fee that is equal to the renewal fee as
98 specified in §297.4 of this title.

99 (5) If a pharmacy technician registration has expired for more than one year, the pharmacy
100 technician may not renew the registration and must complete the requirements for initial
101 registration as specified in subsection (c) of this section.

102 (6) After review, the board may determine that paragraph (5) of this subsection does not apply if
103 the registrant is the subject of a pending investigation or disciplinary action.

104 (e) (No change.)

105 The agency certifies that legal counsel has reviewed the proposal and found it to be within the
106 state agency's legal authority to adopt.