

RULE ANALYSIS

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

Short Title: Registration Requirements

Rule Numbers: §§297.3, 297.10

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 February 2, 2016, meeting. The proposed amendments were published in the March 11, 2016, issue of the *Texas Register* at 41 TexReg 1819.

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

3 **22 TAC §297.3, §297.10**

4 The Texas State Board of Pharmacy proposes amendments to §297.3, concerning Registration
5 Requirements, and §297.10, concerning Registration for Military Service Members, Military
6 Veterans, and Military Spouses. The amendments, if adopted, eliminate the provisions allowing
7 individuals who are unable to obtain a social security number to provide an individual taxpayer
8 identification number in lieu of a social security number because a social security number is
9 required in order to process criminal background checks.

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

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

18 Written comments on the amendments may be submitted to Allison Vordenbaumen Benz, R.Ph.,
19 M.S., Director of Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street,
20 Suite 3-600, Austin, Texas 78701, FAX (512) 305-6778. Comments must be received by 5 p.m.,
21 April 25, 2016.

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

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

29 **§297.3. Registration Requirements.**

30 (a) General.

31 (1) Individuals who are not registered with the Board may not be employed as or perform the
32 duties of a pharmacy technician or pharmacy technician trainee.

33 (2) Individuals who have previously applied and registered as a pharmacy technician, regardless
34 of the pharmacy technician's current registration status, may not register as a pharmacy
35 technician trainee.

36 (3) Individuals who apply and are qualified for both a pharmacy technician trainee registration
37 and a pharmacy technician registration concurrently will not be considered for a pharmacy
38 technician trainee registration.

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

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

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

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

46 (i) name;

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

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

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

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

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

60 (c) Initial registration for pharmacy technicians.

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

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

65 (B) either have:

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

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

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

72 (i) name;

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

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

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

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

81 (2) Once an applicant has successfully completed all requirements of registration, and the board
82 has determined there are no grounds to refuse registration, the applicant will be notified of
83 registration as a registered pharmacy technician and of his or her pharmacy technician
84 registration number. If the pharmacy technician applicant was registered as a pharmacy
85 technician trainee at the time the pharmacy technician registration issued, the pharmacy
86 technician trainee registration expires.

87 (d) Renewal.

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

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

90 (i) name;

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

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

- 98 (iv) any other information requested on the application.
- 99 (B) pay the renewal fee specified in §297.4 of this title; and
- 100 (C) complete 20 contact hours of continuing education per renewal period as specified in §297.8
101 of this title (relating to Continuing Education).
- 102 (2) A pharmacy technician registration expires on the last day of the assigned expiration month.
- 103 (3) If the completed application and renewal fee are not received in the board's office on or
104 before the last day of the assigned expiration month, the person's pharmacy technician
105 registration shall expire. A person shall not practice as a pharmacy technician with an expired
106 registration.
- 107 (4) If a pharmacy technician registration has expired, the person may renew the registration by
108 paying to the board the renewal fee and a delinquent fee that is equal to the renewal fee as
109 specified in §297.4 of this title.
- 110 (5) If a pharmacy technician registration has expired for more than one year, the pharmacy
111 technician may not renew the registration and must complete the requirements for initial
112 registration as specified in subsection (c) of this section.
- 113 (6) After review, the board may determine that paragraph (5) of this subsection does not apply if
114 the registrant is the subject of a pending investigation or disciplinary action.
- 115 (e) An individual may use the title "Registered Pharmacy Technician" or "Ph.T.R." if the
116 individual is registered as a pharmacy technician in this state.

117 ***§297.10. Registration for Military Service Members, Military Veterans, and Military Spouses.***

- 118 (a) Definitions. The following words and terms, when used in this section, shall have the
119 following meanings, unless the context clearly indicates otherwise.
- 120 (1) Active duty--Current full-time military service in the armed forces of the United States or
121 active duty military service as a member of the Texas military forces, or similar military service
122 of another state.
- 123 (2) Armed forces of the United States--The army, navy, air force, coast guard, or marine corps of
124 the United States or a reserve unit of one of those branches of the armed forces.
- 125 (3) Military service member--A person who is on active duty.
- 126 (4) Military spouse--A person who is married to a military service member.
- 127 (5) Military veteran--A person who has served on active duty and who was discharged or
128 released from active duty.

129 (b) Alternative registration procedure. For the purpose of §55.004, Occupations Code, an
130 applicant for a pharmacy technician registration who is a military service member, military
131 veteran, or military spouse may complete the following alternative procedures for registering as a
132 pharmacy technician.

133 (1) An applicant who holds a current registration as a pharmacy technician issued by another
134 state but does not have a current PTCB certificate shall meet the requirements for registration as
135 a pharmacy technician trainee as specified in §297.3 of this chapter (relating to Registration
136 Requirements).

137 (2) An applicant who held a pharmacy technician registration in Texas that expired within the
138 five years preceding the application date who meets the following requirements may be granted a
139 pharmacy technician registration. The applicant:

140 (A) shall complete the Texas application for registration that includes the following:

141 (i) name;

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

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

147 (B) shall provide documentation to include:

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

150 (ii) marriage certificate, if the applicant is a military spouse; applicant's spouse is on active duty
151 status;

152 (C) be exempt from the application fees paid to the board set forth in §297.4(a) and (b)(2) of this
153 chapter;

154 (D) shall meet all necessary requirements in order for the board to access the criminal history
155 records information, including submitting fingerprint information and such criminal history
156 check does not reveal any charge or conviction for a crime that §281.64 of this title (relating to
157 Sanctions for Criminal Offenses) indicates a sanction of denial, revocation, or suspension; and

158 (E) is not required to have a current PTCB certificate.

159 (c) Expedited registration procedure. For the purpose of §55.005, Occupations Code, an
160 applicant for a pharmacy technician registration who is a military service member, military
161 veteran or military spouse and who holds a current registration as a pharmacy technician issued

162 by another state or who held a pharmacy technician registration in Texas that expired within the
163 five years preceding the application date may complete the following expedited procedures for
164 registering as a pharmacy technician.

165 (1) The applicant shall:

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

169 (B) have taken and passed the Pharmacy Technician Certification Board's National Pharmacy
170 Technician Certification Examination or other examination approved by the board and have a
171 current certification certificate; and

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

173 (i) name;

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

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

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

181 (E) shall be exempt from the registration fee as specified in §297.4(b)(2) of this chapter (relating
182 to Fees).

183 (2) Once an applicant has successfully completed all requirements of registration, and the board
184 has determined there are no grounds to refuse registration, the applicant will be notified of
185 registration as a registered pharmacy technician and of his or her pharmacy technician
186 registration number.

187 (3) All applicants for renewal of an expedited pharmacy technician registration issued to a
188 military service member, military veteran, or military spouse shall comply with the renewal
189 procedures as specified in §297.3 of this chapter (relating to Registration Requirements).

190 (d) License renewal. As specified in §55.003, Occupations Code, a military service member who
191 holds a pharmacy technician registration is entitled to two years of additional time to complete
192 any requirements related to the renewal of the military service member's registration as follows:

193 (1) A military service member who fails to renew their pharmacy technician registration in a
194 timely manner because the individual was serving as a military service member shall submit to
195 the board:

196 (A) name, address, and registration number of the pharmacy technician;

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

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

199 (2) A military service member specified in paragraph (1) of this subsection shall be exempt from
200 fees specified in §297.3(d)(4) of this chapter (relating to Registration Requirements).

201 (3) A military service member specified in paragraph (1) of this subsection is entitled to two
202 additional years of time to complete the continuing education requirements specified in §297.8 of
203 this title (relating to Continuing Education Requirements).