

RULE ANALYSIS

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

Short Title: Military Spouses

Rule Numbers: §§283.12 and 297.10

Statutory Authority: Chapter 55, Occupations Code and Texas Pharmacy Act, Chapter 551-566 and 568-569, Occupations Code:

- (1) Chapter 55 gives the Board the authority to allow for alternative procedures for licensing and registration of military service members, veterans, and spouses;
- (2) 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
- (3) 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, implement S.B. 162 as passed by the 83rd Texas Legislature.

Background: S.B. allows for expedited procedures for licensure as a pharmacist and registration as a pharmacy technician for military spouses.

The Board reviewed and voted to propose the amendments during the August 6, 2013, meeting. The proposed amendments were published in the September 27, 2013, issue of the *Texas Register* at 38 TexReg 6501 and 38 TexReg 6534.

1 **CHAPTER 283. LICENSING REQUIREMENTS FOR PHARMACISTS**
2 **§283.12**

3 The Texas State Board of Pharmacy proposes amendments to §283.12, regarding Licenses for
4 Military Spouses. These amendments implement Senate Bill 162 as passed by the 83rd Texas
5 Legislature to allow for expedited procedures for licensure as a pharmacist for military spouses.

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

9 Ms. Dodson has determined that, for each year of the first five-year period the amended rule will
10 be in effect, the public benefit anticipated as a result of enforcing the rule will be to ensure that
11 applicants who are military spouses are allowed expedited procedures for licensure. Economic
12 cost to persons who are required to comply with the amended rule will be the fee for registration
13 as outlined in §295.5 concerning fees for pharmacists. The effect on large, small or micro-
14 businesses (pharmacies) will be the same as the economic cost to an individual, if the pharmacy
15 chooses to pay the fee for the individual.

16 Comments on the amendments may be submitted to Allison Benz, R.Ph., M.S., Director of
17 Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600,
18 Austin, Texas 78701, fax (512) 305-8008. Comments must be received by 5:00 p.m., October 31,
19 2013.

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

25 The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 566, 568 and
26 569, Texas Occupations Code.

27 **§283.12.Licenses for Military Spouses.**

28 (a) Alternative licensing procedure. For the purpose of §55.004, Occupations Code, an applicant
29 for a pharmacist's license who is the spouse of a person serving on active duty as a member of
30 the armed forces of the United States may complete the following alternative procedures for
31 licensing as a pharmacist.

32 (1) Requirements for licensing by reciprocity. An applicant for licensing by reciprocity who
33 meets all of the following requirements may be granted a temporary license as specified in
34 subsection (b) of this section prior to completing the NABP application for pharmacist license by
35 reciprocity, and taking and passing the Texas Pharmacy Jurisprudence Examination. The
36 applicant shall:

- 37 (A) complete the Texas application for pharmacist license by reciprocity that includes the
38 following:
- 39 (i) name;
- 40 (ii) addresses, phone numbers, date of birth, and social security number; however, if an
41 individual is unable to obtain a social security number, an individual taxpayer identification
42 number may be provided in lieu of a social security number along with documentation indicating
43 why the individual is unable to obtain a social security number; and
- 44 (iii) any other information requested on the application;
- 45 (B) meet the educational and age requirements as set forth in §283.3 of this title (relating to
46 Educational and Age Requirements);
- 47 (C) present to the board proof of initial licensing by examination and proof that any current
48 licenses and any other licenses granted to the applicant by any other state have not been
49 suspended, revoked, canceled, surrendered, or otherwise restricted for any reason;
- 50 (D) meet all requirements necessary for the board to access the criminal history records
51 information, including submitting fingerprint information and such criminal history check does
52 not reveal any disposition for a crime that board rule §281.64 of this title (relating to Sanctions
53 for Criminal Offenses) indicates a sanction of denial, revocation, or suspension;
- 54 (E) pay the licensing fee set out in §283.9 of this title (relating to Fee Requirements for
55 Licensure by Examination, Score Transfer and Reciprocity); and
- 56 (F) provide documentation that the applicant is the spouse of a member of the armed forces of
57 the United States to include:
- 58 (i) marriage certificate; and
- 59 (ii) military identification indicating that the:
- 60 (I) applicant is a military dependent; and
- 61 (II) applicant's spouse is on active duty status.
- 62 (2) Requirements for an applicant whose Texas pharmacist's license has expired. An applicant
63 whose Texas pharmacist's license has expired within five years preceding the application date
64 and while the applicant lived in another state for at least six months:
- 65 (A) shall complete the Texas application for licensing that includes the following:
- 66 (i) name;

67 (ii) addresses, phone numbers, date of birth, and social security number; however, if an
68 individual is unable to obtain a social security number, an individual taxpayer identification
69 number may be provided in lieu of a social security number along with documentation indicating
70 why the individual is unable to obtain a social security number; and

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

72 (B) shall provide documentation that the applicant is the spouse of a person serving on active
73 duty as a member of the armed forces of the United States to include:

74 (i) marriage certificate; and

75 (ii) military identification;

76 (C) shall pay the renewal fee specified in §295.5 of this title (relating to Pharmacist License
77 Renewal Fees);

78 (D) shall complete approved continuing education requirements according to the following
79 schedule:

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

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

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

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

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

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

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

95 (b) Expedited licensing procedure. For the purpose of §55.005, Occupations Code, an applicant
96 for a pharmacist license who is the spouse of a person serving on active duty as a member of the
97 armed forces of the United States and who holds a current license as a pharmacist issued by

98 another state may complete the following expedited procedures for licensing as a pharmacist.
99 The applicant shall:

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

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

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

109 (A) name;

110 (B) addresses, phone numbers, date of birth, and social security number; however, if an
111 individual is unable to obtain a social security number, an individual taxpayer identification
112 number may be provided in lieu of a social security number along with documentation indicating
113 why the individual is unable to obtain a social security number; and

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

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

118 (5) shall pass the Texas Pharmacy Jurisprudence Examination with a minimum grade of 75. (The
119 passing grade may be used for the purpose of licensure by reciprocity for a period of two years
120 from the date of passing the examination.) Should the applicant fail to achieve a minimum grade
121 of 75 on the Texas Pharmacy Jurisprudence Examination, such applicant, in order to be licensed,
122 shall retake the Texas Pharmacy Jurisprudence Examination as specified in §283.11 of this title
123 (relating to Examination Retake Requirements) until such time as a minimum grade of 75 is
124 achieved.

125 ~~[(b) A temporary license issued under this section is valid for no more than six months and may~~
126 ~~be extended, if disciplinary action is pending, or upon request, as otherwise determined~~
127 ~~reasonably necessary by the executive director of the board.]~~

128 ~~[(c) A temporary license issued under this section expires within six months of issuance if the~~
129 ~~individual fails to pass the Texas Pharmacy Jurisprudence Examination within six months or~~
130 ~~fails to take the Texas Pharmacy Jurisprudence Examination within six months.~~

131 ~~[(d) An individual may not serve as pharmacist in charge of a pharmacy with a temporary~~
132 ~~license issued under this section.]~~

1 **CHAPTER 297. PHARMACY TECHNICIANS AND PHARMACY TECHNICIAN TRAINEES**
2 **§297.10**

3 The Texas State Board of Pharmacy proposes amendments to §297.10, regarding Registration for
4 Military Spouses. These amendments implement Senate Bill 162 as passed by the 83rd Texas
5 Legislature to allow for expedited procedures for registration as a pharmacy technician for
6 military spouses.

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

10 Ms. Dodson has determined that, for each year of the first five-year period the amended rule will
11 be in effect, the public benefit anticipated as a result of enforcing the rule will be to ensure that
12 applicants who are military spouses are allowed an expedited procedure for registration.
13 Economic cost to persons who are required to comply with the amended rule will be the fee for
14 registration as outlined in §297.4 concerning fees for pharmacy technician trainees and pharmacy
15 technicians. The effect on large, small or micro-businesses (pharmacies) will be the same as the
16 economic cost to an individual, if the pharmacy chooses to pay the fee for the individual.

17 Comments on the amendments may be submitted to Allison Benz, R.Ph., M.S., Director of
18 Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600,
19 Austin, Texas 78701, fax (512) 305-8008. Comments must be received by 5:00 p.m., October 31,
20 2013.

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

26 The statutes affected by the amendments: Texas Pharmacy Act, Chapters 551 - 566, 568 and 569,
27 Texas Occupations Code.

28 ***§297.10.Registration for Military Spouses.***

29 (a) Alternative registration procedure. For the purpose of §55.004, Occupations Code, an
30 applicant for a pharmacy technician registration who is the spouse of a person serving on active
31 duty as a member of the armed forces of the United States may complete the following
32 alternative procedures for registering as a pharmacy technician.

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

37 (2) An applicant who held a pharmacy technician registration in Texas that expired within the
38 five years preceding the application date and the registration expired while the applicant lived in
39 another state for at least six months who meets the following requirements may be granted a
40 pharmacy technician registration. The applicant:

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

42 (i) name;

43 (ii) addresses, phone numbers, date of birth, and social security number; however, if an
44 individual is unable to obtain a social security number, an individual taxpayer identification
45 number may be provided in lieu of a social security number along with documentation indicating
46 why the individual is unable to obtain a social security number; and

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

48 (B) shall provide documentation that the applicant is the spouse of a member of the armed forces
49 of the United States to include:

50 (i) marriage certificate; and

51 (ii) military identification indicating that the:

52 (I) applicant is a military dependent; and

53 (II) applicant's spouse is on active duty status;

54 (C) shall pay the registration fee set out in §297.4 of this title;

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

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

60 (b) Expedited registration procedure. For the purpose of §55.005, Occupations Code, an
61 applicant for a pharmacy technician registration who is the spouse of a person serving on active
62 duty as a member of the armed forces of the United States and who holds a current registration as
63 a pharmacy technician issued by another state may complete the following expedited procedures
64 for registering as a pharmacy technician.

65 (1) The applicant shall:

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

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

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

73 (i) name;

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

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

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

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

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

86 (3) All applicants for renewal of an expedited pharmacy technician registration issued to a
87 military spouse shall comply with the renewal procedures as specified in §297.3 of this title
88 (relating to Registration Requirements).

AN ACT

relating to the occupational licensing of spouses of members of the military and the eligibility requirements for certain occupational licenses issued to applicants with military experience.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Chapter 55, Occupations Code, is amended to read as follows:

CHAPTER 55. LICENSING OF MILITARY SERVICE MEMBERS, MILITARY VETERANS, [~~LICENSE WHILE ON MILITARY DUTY~~] AND [~~FOR~~] MILITARY SPOUSES [~~SPOUSE~~]

SECTION 2. Section 55.001, Occupations Code, is amended by adding Subdivisions (1-a), (1-b), and (1-c) to read as follows:

(1-a) "Military service member" means a person who is currently serving in the armed forces of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state.

(1-b) "Military spouse" means a person who is married to a military service member who is currently on active duty.

(1-c) "Military veteran" means a person who has served in the army, navy, air force, marine corps, or coast guard of the United States, or in an auxiliary service of one of those branches

of the armed forces.

SECTION 3. Chapter 55, Occupations Code, is amended by adding Sections 55.005, 55.006, and 55.007 to read as follows:

Sec. 55.005. EXPEDITED LICENSE PROCEDURE FOR MILITARY SPOUSES. (a) A state agency that issues a license shall, as soon as practicable after a military spouse files an application for a license:

(1) process the application; and

(2) issue a license to a qualified military spouse applicant who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the licensing requirements in this state.

(b) A license issued under this section may not be a provisional license and must confer the same rights, privileges, and responsibilities as a license not issued under this section.

Sec. 55.006. RENEWAL OF EXPEDITED LICENSE ISSUED TO MILITARY SPOUSE. (a) As soon as practicable after a state agency issues a license under Section 55.005, the state agency shall determine the requirements for the license holder to renew the license.

(b) The state agency shall notify the license holder of the requirements for renewing the license in writing or by electronic means.

(c) A license issued under Section 55.005 has the term established by law or state agency rule, or a term of 12 months from the date the license is issued, whichever term is longer.

Sec. 55.007. LICENSE ELIGIBILITY REQUIREMENTS FOR APPLICANTS

WITH MILITARY EXPERIENCE. (a) Notwithstanding any other law, a state agency that issues a license shall, with respect to an applicant who is a military service member or military veteran, credit verified military service, training, or education toward the licensing requirements, other than an examination requirement, for a license issued by the state agency.

(b) The state agency shall adopt rules necessary to implement this section.

(c) Rules adopted under this section may not apply to an applicant who:

(1) holds a restricted license issued by another jurisdiction; or

(2) has an unacceptable criminal history according to the law applicable to the state agency.

SECTION 4. Subchapter G, Chapter 1701, Occupations Code, is amended by adding Section 1701.315 to read as follows:

Sec. 1701.315. LICENSE REQUIREMENTS FOR PERSONS WITH MILITARY SPECIAL FORCES TRAINING. (a) In this section, "special forces" means a special forces component of the United States armed forces, including:

(1) the United States Army Special Forces;

(2) the United States Navy SEALs;

(3) the United States Air Force Pararescue;

(4) the United States Marine Corps Force Reconnaissance;

and

(5) any other component of the United States Special

Operations Command approved by the commission.

(b) The commission shall adopt rules to allow an applicant to qualify to take an examination described by Section 1701.304 if the applicant:

(1) has served in the special forces;

(2) has successfully completed a special forces training course and provides to the commission documentation verifying completion of the course;

(3) completes a supplemental peace officer training course; and

(4) completes any other training required by the commission after the commission has reviewed the applicant's military training.

(c) Commission rules adopted under Subsection (b) shall include rules:

(1) to determine acceptable forms of documentation that satisfy the requirements of Subsection (b);

(2) under which the commission may waive any other license requirement for an applicant described by Subsection (b) based on other relevant military training the applicant has received, as determined by the commission, including intelligence or medical training; and

(3) to establish an expedited application process for an applicant described by Subsection (b).

(d) The commission shall review the content of the training course for each special forces component described by Subsection

(a) and in adopting rules under Subsection (b) specify the training requirements an applicant who has completed that training course must complete and the training requirements from which an applicant who has completed that training course is exempt.

SECTION 5. (a) Sections 55.005, 55.006, and 55.007, Occupations Code, as added by this Act, apply only to an application for a license filed with a state agency as defined by Section 55.001, Occupations Code, on or after March 1, 2014. An application for a license filed before March 1, 2014, is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) Each state agency as defined by Section 55.001, Occupations Code, shall adopt rules under Sections 55.005, 55.006, and 55.007, Occupations Code, as added by this Act, not later than January 1, 2014.

(c) Section 1701.315, Occupations Code, as added by this Act, applies only to an application for a license filed with the Commission on Law Enforcement Officer Standards and Education on or after March 1, 2014. An application for a license filed before March 1, 2014, is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(d) The Commission on Law Enforcement Officer Standards and Education shall adopt rules under Section 1701.315, Occupations Code, as added by this Act, not later than January 1, 2014.

SECTION 6. This Act takes effect immediately if it receives a

S.B. No. 162

vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 162 passed the Senate on April 2, 2013, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 162 passed the House on May 2, 2013, by the following vote: Yeas 147, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor