

By: Van de Putte

S.B. No. 1853

A BILL TO BE ENTITLED

AN ACT

relating to disciplinary actions regarding a pharmacy technician or
pharmacy technician trainee.

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

SECTION 1. Section 568.003, Occupations Code, is amended to
read as follows:

Sec. 568.003. GROUNDS FOR DISCIPLINARY ACTION. (a) The
board may take disciplinary action under Section 568.0035 if the
board determines that the applicant or registrant has:

(1) violated this subtitle or a rule adopted under
this subtitle;

(2) engaged in gross immorality, as that term is
defined by the rules of the board;

(3) engaged in any fraud, deceit, or
misrepresentation, as those terms are defined by the rules of the
board, in seeking a registration to act as a pharmacy technician;

(4) been convicted of or placed on deferred
adjudication community supervision or deferred disposition or the
applicable federal equivalent for:

(A) a misdemeanor:

(i) involving moral turpitude; or

(ii) under Chapter 481 or 483, Health and
Safety Code, or the Comprehensive Drug Abuse Prevention and Control
Act of 1970 (21 U.S.C. Section 801 et seq.); or

1 (B) a felony;

2 (5) developed an incapacity that prevents the
3 applicant or registrant from practicing as a pharmacy technician or
4 pharmacy technician trainee with reasonable skill, competence, and
5 safety to the public [~~a drug or alcohol dependency~~];

6 (6) violated:

7 (A) Chapter 481 or 483, Health and Safety Code,
8 or rules relating to those chapters;

9 (B) Sections 485.031-485.035, Health and Safety
10 Code; or

11 (C) a rule adopted under Section 485.011, Health
12 and Safety Code;

13 (7) violated the pharmacy or drug laws or rules of this
14 state, another state, or the United States; [~~or~~]

15 (8) performed duties in a pharmacy that only a
16 pharmacist may perform, as defined by the rules of the board;

17 (9) used alcohol or drugs in an intemperate manner
18 that, in the board's opinion, could endanger a patient's life;

19 (10) engaged in negligent, unreasonable, or
20 inappropriate conduct when working in a pharmacy;

21 (11) violated a disciplinary order;

22 (12) been convicted or adjudicated of a criminal
23 offense that requires registration as a sex offender under Chapter
24 62, Code of Criminal Procedure; or

25 (13) been disciplined by a pharmacy or other health
26 regulatory board of this state or another state [~~had a registration~~
27 ~~as a pharmacy technician issued by another state revoked,~~

1 ~~surrendered, or suspended~~] for conduct substantially equivalent to
2 conduct described by this subsection [~~Subdivisions (1)-(6)~~].

3 (b) A certified copy of the record of a state taking action
4 described by Subsection (a)(13) [~~(a)(8)~~] is conclusive evidence of
5 the action taken by the state.

6 SECTION 2. Section 568.0035, Occupations Code, is amended
7 to read as follows:

8 Sec. 568.0035. DISCIPLINE AUTHORIZED; EFFECT ON TRAINEE.

9 (a) On a determination that a ground for discipline exists under
10 Section 568.003, the board may:

- 11 (1) suspend the person's registration;
- 12 (2) revoke the person's registration;
- 13 (3) restrict the person's registration to prohibit the
14 person from performing certain acts or from practicing as a
15 pharmacy technician in a particular manner for a term and under
16 conditions determined by the board;
- 17 (4) impose an administrative penalty under Chapter
18 566;
- 19 (5) refuse to issue or renew the person's
20 registration;
- 21 (6) place the offender's registration on probation and
22 supervision by the board for a period determined by the board and
23 impose a requirement that the registrant:
 - 24 (A) report regularly to the board on matters that
25 are the basis of the probation;
 - 26 (B) limit practice to the areas prescribed by the
27 board;

1 (C) continue or review professional education
2 until the registrant attains a degree of skill satisfactory to the
3 board in each area that is the basis of the probation; or

4 (D) pay the board a probation fee to defray the
5 costs of monitoring the registrant during the period of probation;

6 (7) reprimand the person;

7 (8) retire the person's registration as provided by
8 board rule; or

9 (9) impose more than one of the sanctions listed in
10 this section.

11 (b) A disciplinary action affecting the registration of a
12 pharmacy technician trainee remains in effect if the trainee
13 obtains registration as a pharmacy technician.

14 SECTION 3. Chapter 568, Occupations Code, is amended by
15 adding Section 568.0036 to read as follows:

16 Sec. 568.0036. SUBMISSION TO MENTAL OR PHYSICAL
17 EXAMINATION. (a) This section applies to a pharmacy technician,
18 pharmacy technician applicant, pharmacy technician trainee, or
19 pharmacy technician trainee applicant.

20 (b) In enforcing Section 568.003(a)(5), the board, on
21 probable cause, may request a person subject to this section to
22 submit to a mental or physical examination by a physician or other
23 health care professional designated by the board.

24 (c) If the person refuses to submit to the examination, the
25 board shall:

26 (1) issue an order requiring the person to show cause
27 why the person will not submit to the examination; and

1 (2) schedule a hearing on the order not later than the
2 30th day after the date notice of the order is served on the person
3 under Subsection (d).

4 (d) The person shall be notified by either personal service
5 or certified mail, return receipt requested.

6 (e) At the hearing, the person and the person's counsel may
7 present testimony or other evidence to show why the person should
8 not be required to submit to the examination.

9 (f) After the hearing, the board shall, by order:

10 (1) require the person to submit to the examination;
11 or

12 (2) withdraw the request for examination.

13 SECTION 4. The changes in law made by this Act apply only to
14 conduct occurring on or after the effective date of this Act.
15 Conduct occurring before the effective date of this Act is governed
16 by the law in effect immediately before the effective date of this
17 Act, and the former law is continued in effect for that purpose.

18 SECTION 5. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2009.