

By: Sheffield

H.B. No. 3496

A BILL TO BE ENTITLED

AN ACT

1
2 relating to financial investor disclosure and surety bond
3 requirements for certain pharmacies; providing an administrative
4 penalty.

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

6 SECTION 1. Section 560.052(b), Occupations Code, is amended
7 to read as follows:

8 (b) To qualify for a pharmacy license, an applicant must
9 submit to the board:

10 (1) a license fee set by the board, except as provided
11 by Subsection (d); ~~and~~

12 (2) a completed application that:

13 (A) is on a form prescribed by the board;

14 (B) is given under oath;

15 (C) includes proof that:

16 (i) a pharmacy license held by the
17 applicant in this state or another state, if applicable, has not
18 been restricted, suspended, revoked, or surrendered for any reason;
19 and

20 (ii) no owner of the pharmacy for which the
21 application is made has held a pharmacist license in this state or
22 another state, if applicable, that has been restricted, suspended,
23 revoked, or surrendered for any reason; and

24 (D) includes a statement of:

- 1 (i) the ownership;
- 2 (ii) the location of the pharmacy;
- 3 (iii) the license number of each pharmacist
- 4 who is employed by the pharmacy, if the pharmacy is located in this
- 5 state, or who is licensed to practice pharmacy in this state, if the
- 6 pharmacy is located in another state;
- 7 (iv) the pharmacist license number of the
- 8 pharmacist-in-charge; and
- 9 (v) any other information the board
- 10 determines necessary; and
- 11 (3) if the applicant is not a pharmacy operated by a
- 12 publicly traded company:
- 13 (A) a statement disclosing:
- 14 (i) the pharmacy's financial investors as
- 15 provided by Section 560.0521; and
- 16 (ii) the criminal history record
- 17 information of each individual owner and financial investor of the
- 18 pharmacy, or of each individual managing officer of the pharmacy if
- 19 the pharmacy is a partnership or closely held corporation,
- 20 accompanied by a complete and legible set of fingerprints of each
- 21 individual owner, financial investor, and managing officer, as
- 22 applicable; and
- 23 (B) a surety bond that meets the requirements of
- 24 Section 560.0522.

25 SECTION 2. Subchapter B, Chapter 560, Occupations Code, is

26 amended by adding Sections 560.0521 and 560.0522 to read as

27 follows:

1 Sec. 560.0521. FINANCIAL INVESTOR DISCLOSURE STATEMENT.

2 (a) A disclosure statement of financial investors included with an
3 application under Section 560.052(b)(3) must include:

4 (1) the name of each person who is financially
5 invested in the pharmacy;

6 (2) the total amount of the financial investment made
7 by each person; and

8 (3) the source of the financial investment as required
9 by Subsection (b).

10 (b) The disclosure of the source of a financial investment
11 required by Subsection (a)(3) must include:

12 (1) if the source is money from a checking or savings
13 account at a financial institution:

14 (A) the name and address of the financial
15 institution; and

16 (B) the account number from which the financial
17 investment was obtained or in which the financial investment is
18 maintained;

19 (2) if the source is from the sale of property:

20 (A) the type of property sold; and

21 (B) if the property sold is real property:

22 (i) the property's address;

23 (ii) the buyer's name and address;

24 (iii) the date of the sale; and

25 (iv) the amount of the net proceeds from the
26 sale of the property;

27 (3) if the source is from a loan:

- 1 (A) the date the loan was made;
2 (B) the amount and terms of the loan;
3 (C) the collateral securing the loan, if any;
4 (D) the name and address of the lender; and
5 (E) a copy of the loan agreement;
6 (4) if the source is from an inheritance or gift:
7 (A) the amount of the inheritance or gift; and
8 (B) the donor's name, address, and relation to
9 the investor, if any; and
10 (5) a description of any other source not specified by
11 this subsection.

12 Sec. 560.0522. SURETY BOND. (a) A person required to
13 submit a surety bond to the board under Section 560.052(b)(3) or
14 562.1015 must obtain the bond from a surety company authorized by
15 the board and keep the bond in force until the later of the date:

16 (1) the license issued to the person under this
17 chapter expires; or

18 (2) the surety company exercises its right of
19 termination.

20 (b) The board may use a pharmacy's surety bond to secure the
21 payment of a fine, fee, or penalty imposed on the pharmacy or costs
22 incurred by the board in conducting an investigation of the
23 pharmacy under this subtitle if the pharmacy fails to pay the fine,
24 fee, penalty, or cost not later than the 30th day after the date an
25 order requiring payment becomes final.

26 (c) The surety bond must:

27 (1) identify on the face of the bond the parties to the

1 bond as follows:

2 (A) the pharmacy as principal;

3 (B) the board as obligee; and

4 (C) the surety company, and its heirs, executors,
5 administrators, successors, and assignees, jointly and severally,
6 as surety;

7 (2) state an effective date and expiration date;

8 (3) be in an amount not to exceed \$25,000; and

9 (4) provide that:

10 (A) the surety is liable on the obligations of
11 the surety bond; and

12 (B) after the bond's expiration, unless the
13 pharmacy provides a new, updated, or renewed surety bond that meets
14 the requirements of this subsection, the surety remains liable for
15 any fine or penalty imposed on the pharmacy during the term of the
16 bond until the later of the second anniversary of the date:

17 (i) the bond expires; or

18 (ii) the pharmacy's license is terminated
19 by the board.

20 (d) A surety's liability to the board is not affected or
21 terminated by:

22 (1) an action taken by the pharmacy or surety to
23 terminate the bond or to reduce or limit the scope or term of the
24 bond; or

25 (2) the pharmacy:

26 (A) ceasing operations;

27 (B) selling or transferring any assets or

1 ownership interests;

2 (C) filing for bankruptcy; or

3 (D) failing to pay the surety.

4 (e) A surety's liability is terminated only if:

5 (1) the surety provides to the board at least 30 days'
6 written notice of the surety's intent to terminate the surety bond;

7 (2) the pharmacy provides the board with a new surety
8 bond that meets the requirements of this section; and

9 (3) the surety guarantees that on receipt of a written
10 request for payment by the board, the surety will reimburse the
11 board for the amount stated in the request that does not exceed the
12 amount of the bond.

13 SECTION 3. Subchapter C, Chapter 562, Occupations Code, is
14 amended by adding Section 562.1015 to read as follows:

15 Sec. 562.1015. SURETY BOND REQUIRED FOR CHANGE OF
16 OWNERSHIP. A pharmacy that is not operated by a publicly traded
17 company must submit to the board a surety bond that meets the
18 requirements of Section 560.0522 before the date of a change of
19 ownership of the pharmacy.

20 SECTION 4. Section 566.001, Occupations Code, is amended to
21 read as follows:

22 Sec. 566.001. IMPOSITION OF PENALTY. The board may impose
23 an administrative penalty on:

24 (1) a person licensed or regulated under this subtitle
25 who violates this subtitle or a rule or order adopted under this
26 subtitle; and

27 (2) an applicant who fails to disclose criminal

1 history record information in the manner required by Section
2 560.052(b).

3 SECTION 5. The changes in law made by this Act apply only to
4 an application for a pharmacy license that is submitted or a change
5 of ownership by a pharmacy that occurs on or after the effective
6 date of this Act. An application for a pharmacy license that was
7 submitted or a change of ownership by a pharmacy that occurred
8 before the effective date of this Act is governed by the law in
9 effect on the date the application was submitted or the change of
10 ownership occurred, and the former law is continued in effect for
11 that purpose.

12 SECTION 6. This Act takes effect September 1, 2019.