

Chapter 837

AN ACT

1  
2 relating to disciplinary actions regarding a pharmacy technician or  
3 pharmacy technician trainee.

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

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

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

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

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

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

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

20 (A) a misdemeanor:

21 (i) involving moral turpitude; or

22 (ii) under Chapter 481 or 483, Health and  
23 Safety Code, or the Comprehensive Drug Abuse Prevention and Control  
24 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;

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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.

S.B. No. 1853

David Newkum  
President of the Senate

John Strawn  
Speaker of the House

I hereby certify that S.B. No. 1853 passed the Senate on May 6, 2009, by the following vote: Yeas 31, Nays 0.

Patsy Spaw  
Secretary of the Senate

I hereby certify that S.B. No. 1853 passed the House on May 27, 2009, by the following vote: Yeas 148, Nays 0, one present not voting.

Robert Haney  
Chief Clerk of the House

Approved:

19 JUN '09  
Date

RICK PERRY  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
2PM O'CLOCK  
JUN 19 2009

Colby Hunter III