

SUBJECT: Requirements for licensing and regulation of certain pharmacies

COMMITTEE: Public Health — committee substitute recommended

VOTE: 10 ayes — S. Thompson, Wray, Allison, Coleman, Frank, Guerra, Ortega, Price, Sheffield, Zedler

0 nays

1 absent — Lucio

WITNESSES: For — Bradley Howard, Brown and Fortunato

Against — (*Registered, but did not testify*: Gregory Young)

On — (*Registered, but did not testify*: Duane Galligher, Texas Independent Pharmacies Association; Stephanie Chiarello, Texas Pharmacy Association; Michael Wright, Texas Pharmacy Business Council)

DIGEST: CSHB 3496 would add requirements for certain pharmacy license applicants to include a disclosure statement. The bill would permit the Texas State Board of Pharmacy to impose an administrative penalty on an applicant who failed to submit a sworn disclosure statement and to require a license holder to submit a surety bond.

Disclosure statement. The bill would require a sworn disclosure statement as prescribed by the bill from an applicant for a pharmacy license unless the pharmacy for which the application was made was operated by a publicly traded company or wholly owned by a retail grocery store chain or the applicant was applying for a Class B (nuclear pharmacy) or Class C (hospital pharmacy) license.

The disclosure statement would have to include information about each person who had a direct financial investment in the pharmacy and the name of each person who was not an individual that had any financial

investment in the pharmacy and who was not otherwise disclosed. The statement also would require information about the total amount or percentage of the financial investment of each of those persons.

The disclosure statement would have to include the names of each person who would have direct or indirect influence or control over the pharmacy, specified in the bill.

An applicant would have to notify the pharmacy board of any administrative sanction or criminal penalty that had been imposed against a person who was named in the disclosure statement by the 60th day after the sanction or penalty was imposed.

The pharmacy board could adopt rules regarding the disclosure of any other person based on the person's exercise of direct or indirect influence or control and requiring the disclosure of the source of a financial investment. The board could impose an administrative penalty on an applicant who failed to submit the required disclosure statement. Information contained in a statement would be confidential and not subject to the Public Information Act.

Surety bond. The executive director of the pharmacy board could require a license holder to submit a surety bond to the board in an amount as prescribed by board rule, not to exceed \$25,000. The surety bond could be used to secure the payment of a fine, fee, or penalty imposed on the pharmacy or for costs incurred by the board in investigating the pharmacy for certain violations. The bill would add to an application for a pharmacy license notice that a surety bond may be required.

CSHB 3496 would add dispensing drugs for nontherapeutic purposes to the list of fraudulent activities for which the pharmacy board could discipline an applicant for or the holder of a pharmacy license.

The bill would take effect January 1, 2020, and would apply to an application for a pharmacy license that was submitted on or after that date.

**SUPPORTERS
SAY:**

CSHB 3496 would increase regulatory oversight of pharmacies to deter fraudulent behavior and prevent so-called "pill mills" from contributing to the ongoing opioid crisis. The bill would provide closer scrutiny of pharmacies that did not operate as publicly traded companies or part of a retail grocery chain by requiring them to disclose all persons with a direct or indirect interest in the pharmacy. This would allow the Texas State Board of Pharmacy to better vet a pharmacy's owners and operators before it issued a license.

The \$25,000 surety bond required from license holders is a modest means to help the board with expenses to combat fraud.

**OPPONENTS
SAY:**

CSHB 3496 would create an administrative burden for private enterprises trying to establish new pharmacies and grow the economy. The pharmacy board has sufficient regulatory oversight to discipline bad actors.