

## BILL ANALYSIS

Senate Research Center

S.B. 1853  
By: Van de Putte  
Health & Human Services  
8/4/2009  
Enrolled

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Pharmacy technicians are held to a lower standard of discipline than pharmacists with regard to drug abuse. The Texas State Board of Pharmacy (TSBP) must prove that the technician has a drug dependency problem before TSBP can take any disciplinary action.

Currently, the Pharmacy Act does not allow TSBP to mandate that a suspected technician be evaluated for drug use.

S.B. 1853 amends current law relating to disciplinary actions regarding a pharmacy technician or pharmacy technician trainee.

### RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 568.003, Occupations Code, as follows:

Sec. 568.003. GROUND FOR DISCIPLINARY ACTION. (a) Authorizes the Texas State Board of Pharmacy (TSBP) to take disciplinary action under Section 568.0035 (Discipline Authorized) if TSBP determines that the applicant or registrant has committed certain acts, including developed an incapacity that prevents the applicant or registrant from practicing as a pharmacy technician or pharmacy trainee with reasonable skill, competence, and safety to the public, rather than a drug or alcohol dependency; performed duties in a pharmacy that only a pharmacist is authorized to perform, as defined by the rules of TSBP; used alcohol or drugs in an intemperate manner that, in TSBP's opinion, could endanger a patient's life; engaged in negligent, unreasonable, or inappropriate conduct when working in a pharmacy; violated a disciplinary order; been convicted or adjudicated of a criminal offense that requires registration as a sex offender under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure; or been disciplined by a pharmacy or other health regulatory board of this state or another state for conduct substantially equivalent to conduct described by this subsection, rather than had a registration as a pharmacy technician issued by another state revoked, surrendered, or suspended, for conduct equivalent to conduct described by Subdivisions (1)-(6) (relating to certain acts that TSBP may take disciplinary action against).

(b) Provides that a certified copy of the record of a state taking action described by Subsection (a)(13) (relating to disciplinary action if the applicant or registrant has had a registration as a pharmacy technician issued by another state revoked, surrendered, or suspended for certain conduct), rather than (a)(8) (relating to disciplinary action if the applicant or registrant has been disciplined by a pharmacy or other health regulatory board of this state or another state for certain conduct), is conclusive evidence of the action taken by the state.

SECTION 2. Amends Section 568.0035, Occupations Code, as follows:

Sec. 568.0035. New heading: DISCIPLINE AUTHORIZED; EFFECT ON TRAINEE.  
(a) Creates this subsection from existing text.

(b) Provides that a disciplinary action affecting the registration of a pharmacy technician trainee remains in effect if the trainee obtains registration as a pharmacy technician.

SECTION 3. Amends Chapter 568, Occupations Code, by adding Section 568.0036, as follows:

Sec. 568.0036. SUBMISSION TO MENTAL OR PHYSICAL EXAMINATION. (a) Provides that this section applies to a pharmacy technician, pharmacy technician applicant, pharmacy technician trainee, or pharmacy technician trainee applicant.

(b) Authorizes TSBP, in enforcing Section 568.003(a)(5) (relating to disciplinary action if the applicant or registrant developed an incapacity that prevents the applicant or registrant from certain actions), on probable cause, to request a person subject to this section to submit to a mental or physical examination by a physician or other health care professional designated by TSBP.

(c) Requires TSBP, if the person refuses to submit to the examination, to issue an order requiring the person to show cause why the person will not submit to the examination and schedule a hearing on the order not later than the 30th day after the date notice of the order is served on the person under Subsection (d).

(d) Requires the person to be notified by either personal service or certified mail, return receipt requested.

(e) Authorizes the person and the person's counsel, at the hearing, to present testimony or other evidence to show why the person should not be required to submit to the examination.

(f) Requires TSBP, after the hearing, to by order require the person to submit to the examination or withdraw the request for examination.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: upon passage or September 1, 2009.