

OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE J. PHARMACY AND PHARMACISTS

CHAPTER 555. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

Sec. 555.001. PUBLIC INTEREST INFORMATION. (a) The board shall prepare information of public interest describing the functions of the board and procedures by which complaints are filed with and resolved by the board.

(b) The board shall make the information available to the public and appropriate state agencies.

(c) The board shall provide on its website a list of all Internet pharmacies licensed by the board and shall provide information about each pharmacy, including the pharmacy's name, license number, and state of physical location. In this subsection, an Internet pharmacy is a pharmacy physically located in this state or another state that:

(1) dispenses a prescription drug or device under a prescription drug order in response to a request received by way of the Internet to dispense the drug or device; and

(2) delivers the drug or device to a patient in this state by United States mail, common carrier, or delivery service.

(d) Information regarding the home address or home telephone number of a person licensed or registered under this subtitle, including a pharmacy owner, is confidential and not subject to disclosure under Chapter 552, Government Code, but each person licensed or registered must provide the board with a business address or address of record that is subject to disclosure under Chapter 552, Government Code, and that may be posted on the board's Internet site or in the board's licensure verification database.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1345 (S.B. 410), Sec. 10, eff. September 1, 2005.

Sec. 555.002. COMPLAINTS. (a) The board by rule shall

establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board. The board may provide for that notice:

(1) on each registration form, application, or written contract for services of a person regulated by the board;

(2) on a sign prominently displayed in the place of business of each person regulated by the board;

(3) on an electronic messaging system in a font specified by board rule prominently displayed in the place of business of each person regulated by the board; or

(4) in a bill for service provided by a person regulated by the board.

(b) The board shall list with its regular telephone number any toll-free telephone number established under other state law that may be called to present a complaint about a health professional.

(c) Any person who has knowledge relating to an action or omission of a pharmacist or pharmacy licensed by the board that constitutes a ground for disciplinary action under Section [565.001](#) or [565.002](#), or a rule adopted under one of those sections, may provide relevant records, report relevant information, or provide assistance to the board.

(d) A complaint directed to the board under this section may be made through the Internet.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 972, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 599 (S.B. [460](#)), Sec. 2, eff. September 1, 2015.

Sec. 555.003. COMPLAINT FORM. The board by rule shall adopt a form on which a person may file a complaint with the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 555.004. ASSISTANCE WITH COMPLAINT. The board shall provide reasonable assistance to a person who wants to file a

complaint with the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 555.005. RECORDS OF COMPLAINTS. For each complaint received by the board, the board shall maintain information about parties to the complaint, including the complainant's identity, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and the disposition of the complaint.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1345 (S.B. 410), Sec. 11, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 522 (S.B. 404), Sec. 1, eff. September 1, 2013.

Sec. 555.006. NOTIFICATION CONCERNING COMPLAINT. (a) The board shall notify the complainant not later than the 30th day after the date the board receives the complaint and shall provide an estimated time for resolution of the complaint.

(b) If a written complaint is filed with the board that the board has authority to resolve, the board, at least every four months and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 555.007. GENERAL RULES REGARDING COMPLAINT INVESTIGATION AND DISPOSITION. (a) The board shall adopt policies and procedures concerning the investigation of a complaint filed with the board. The policies and procedures must:

- (1) determine the seriousness of the complaint;
- (2) ensure that a complaint is not closed without appropriate consideration;
- (3) ensure that a letter is sent to the person who filed the complaint explaining the action taken on the complaint;
- (4) ensure that the person who filed the complaint has

an opportunity to explain the allegations made in the complaint;

(5) prescribe guidelines concerning the types of complaints that require the use of a private investigator and the procedures for the board to obtain the services of a private investigator; and

(6) allow appropriate employees of the board to dismiss a complaint if an investigation shows that:

(A) no violation occurred; or

(B) the subject of the complaint is outside the board's jurisdiction.

(b) The board shall:

(1) dispose of a complaint in a timely manner; and

(2) establish a schedule for conducting each phase of the investigation or disposition that is under the control of the board.

(c) At each public meeting of the board, the executive director shall report to the board each complaint dismissed under Subsection (a)(6) since the board's last public meeting.

(d) The board may not consider or act on a complaint involving a violation alleged to have occurred more than seven years before the date the complaint is received by the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1345 (S.B. 410), Sec. 12, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 522 (S.B. 404), Sec. 2, eff. September 1, 2013.

Sec. 555.008. NOTICE TO BOARD CONCERNING COMPLAINTS. (a) The executive director shall notify the board of the number of complaints that are unresolved after two years after the date of the filing of the complaint. The executive director shall provide the board with an explanation of the reason that a complaint has not been resolved.

(b) The executive director shall provide the notice and explanation required under Subsection (a) periodically at regularly scheduled board meetings.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 555.009. PUBLIC PARTICIPATION. (a) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on an issue under the board's jurisdiction.

(b) The board shall prepare and maintain a written plan that describes how a person who does not speak English may be provided reasonable access to the board's programs.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 555.010. CONFIDENTIALITY. The identity of a person who reports to or assists the board under Section 555.002(c) and a document that could disclose the identity of that person are confidential and are not considered public information for the purposes of Chapter 552, Government Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 555.011. IMMUNITY. (a) A person who provides information or assistance under Section 555.002(c) is immune from civil liability arising from providing the information or assistance.

(b) Subsection (a) shall be liberally construed to accomplish the purposes of this chapter, and the immunity provided under that subsection is in addition to any other immunity provided by law.

(c) A person who provides information or assistance to the board under this chapter is presumed to have acted in good faith. A person who alleges a lack of good faith has the burden of proof on that issue.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 555.012. COUNTERCLAIM OR SUIT. (a) A person who provides information or assistance under Section 555.002(c) and who is named as a defendant in a civil action filed as a result of the information or assistance may file a counterclaim in a pending action or may prove a cause of action in a subsequent suit to

recover defense costs, including court costs, attorney's fees, and damages incurred as a result of the civil action, if the plaintiff's original suit is determined to be frivolous, unreasonable, without foundation, or brought in bad faith.

(b) A board employee or member or an agent of the board who is named as a defendant in a civil action filed as a result of an action taken in the person's official capacity or in the course and scope of employment may file a counterclaim in a pending action or may prove a cause of action in a subsequent suit to recover defense costs, including court costs, attorney's fees, and damages incurred as a result of the civil action, if the plaintiff's original suit is determined to be frivolous, unreasonable, without foundation, or brought in bad faith.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.