

# ARKANSAS REGISTER

## Transmittal Sheet FILED



Sharon Priest  
Secretary of State  
State Capitol Rm. 01  
Little Rock, Arkansas

SEP 19 1996

**SHARON PRIEST**  
SECRETARY OF STATE

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For Office

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Name of Agency Arkansas State Board of Pharmacy

Department \_\_\_\_\_

Contact Person John T. Douglas, P.D. Phone 682-0190

Statutory Authority for Promulgating Rules 17-92-205 (A)

### Regulation 28

Date

Intended Effective Date

Legal Notice Published 7/24, 7/31, 8/7, 8/14/96

☐ Emergency

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Reviewed by Legislative Council . . . . . 9/12/96

Adopted by State Agency . . . . . 8/23/96

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with Act 434 of 1967 As Amended.

*John T. Douglas P.D.*

Signature

682-0190

Phone Number

Executive Director

Title

September 17, 1996

Date

SEP 19 1996

SHARON PRIEST  
SECRETARY OF STATE

28. Licensed pharmacy permits will be considered by the Board <sup>upon written</sup> application in such forms as may be adopted by the Board. The permit will be issued in the name of the licensed pharmacist who shall be directly responsible to the Board of Pharmacy for the operation of the prescription department.

- A. Applications for pharmacy permits other than annual renewal of existing permits, will be reviewed by the Board of Pharmacy Staff. Provided that no pharmacy may open for business within 30 days of submission of original application. Applications for a pharmacy permit for a new pharmacy must have the name and license number of the pharmacist in charge at the time of submission and cannot be altered except by submission of an application for change of pharmacist in charge and the fee as defined in regulation 59. The pharmacist in charge of the new pharmacy application cannot be the pharmacist in charge of another pharmacy at the time submission of the new pharmacy application. If a post office box is used as the address for the pharmacy, the actual street address must also be included on the application. The Executive Director may require that a representative of the ownership and pharmacist in charge appear before the Board of Pharmacy to finalize the application. After review by the Board of Pharmacy Staff, an "Inspection Request Form" will be sent to the address given as that of the ownership of the pharmacy making application. The inspection request form must be received in the Board of Pharmacy office at least one week before the facility will be ready for inspection. Upon approval of the inspection of the physical facility by the Board of Pharmacy Inspector, the Executive Director will complete the final approval of the application and the permit number will be issued.
- B. In any building, firm, or place of business where the pharmacy is a leased operation, and/or in situations where the pharmacist in charge does not own a substantial part of the business and is not manager of the total operation, and/or where the pharmacy is a department in a larger business that is not a drugstore or pharmacy, the prescription department shall be completely separated from the remainder of the building by some type of partition and said department shall be arranged and constructed so that the public will not have access to any legend drugs or medicine.

The prescription area or department of any pharmacy, firm or place of business must be constructed so that it may be locked to prevent unauthorized persons from entering it in the absence of a licensed pharmacist, (or other authorized prescription personnel.)

A copy of the signed lease must be submitted with the application of the original permit, and at such other times as the original lease is changed or renewed.

- C. No pharmacy permit shall be issued or continued for the conduct of a pharmacy or drugstore unless the premises are equipped with the necessary appliances for maintenance of proper sanitation and kept in a clean, sanitary and orderly manner.

- D. Pharmacists, employed and in charge of pharmacies or drugstores, are required to notify the Board of Pharmacy and surrender for cancellation the permit issued in their names immediately upon the termination of such employment. It shall be the duty of the owner of such pharmacies or drugstores to immediately notify the Board upon the termination of employment of licensed pharmacists and to cause the surrender of permit as indicated. The further operation of the pharmacy or drugstore in the absence of a replacement and the issuance of a new permit is forbidden by law and each day so operated will be considered a separate offense.
- E. The permit licenses the pharmacy or drugstore to which it is issued and is not transferable. It is issued on the application of the owner and the licensed pharmacist in charge, on the sworn statement that it will be conducted in accordance with the provisions of law.
- F. When a licensed pharmacist in whose name a permit has been issued leaves the employment of such pharmacy or drugstore, he will be held responsible for proper notification to the Board of Pharmacy of such termination of his services within five days in addition to providing the Board of Pharmacy with an inventory of controlled drugs as defined in Regulation 29. Neglect on his part to so notify the Board and to provide said inventory will operate to prevent his securing a permit to take charge or operate another pharmacy or drugstore at a subsequent date.
- G. When the licensed pharmacist in whose name a permit has been issued to a pharmacy for any reason ceases to be actually the person who has responsible supervision over said pharmacy or drugstore the permit becomes void, and must be surrendered to the Board before a duplicate will be issued to said pharmacy. Where there is merely a change of licensed pharmacist one replacing the other as the pharmacist in charge, a duplicate permit will be issued upon proper application and payment of a fee as defined in regulation 59.
- H.
  - 1. Upon a change of ownership of a pharmacy as set out herein, a new permit shall be secured by the new owner(s). The new owner(s) can continue operation of the pharmacy for fourteen (14) days after the effective date of the change of ownership; after the said fourteen (14) day period, the permit issued to the prior owner shall be void and same shall be surrendered to the Executive Director of the Board of Pharmacy.
  - 2. A change of ownership of a pharmacy occurs under, but is not limited to the following circumstances:
    - A. A change of ownership of a pharmacy, owned by a **SOLE PROPRIETOR**, is deemed to have occurred when:
      - 1. The pharmacy is sold and the sale becomes final or the new owner assumes control of the pharmacy--which ever occurs first.
      - 2. The proprietor enters into a partnership with another individual or business entity.

- B. A change of ownership of a pharmacy, owned by a PARTNERSHIP, is deemed to have occurred when:
  - 1. There is an addition or deletion of one or more partners in a partnership to which a pharmacy license has been issued.
  - 2. The pharmacy is sold and the sale becomes final or the new owner assumes control of the pharmacy--which ever occurs first.
- C. A change of ownership of a pharmacy, owned by a CORPORATION, is deemed to have occurred when:
  - 1. An individual or business acquires or disposes of twenty percent (20%) or more of the corporation's outstanding shares of voting stock. (This shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over the counter market); or
  - 2. The corporation merges with another business or corporation; (The corporation owning the pharmacy is required to notify the Arkansas State Board of Pharmacy if a change of ownership or merger occurs within the parent corporation of the corporation which owns the pharmacy); or
  - 3. The corporation's charter expires or is forfeited; or
  - 4. The pharmacy is sold and the sale becomes final or the new owner assumes control of the pharmacy--which ever occurs first.
- I. Pharmacies or drugstores opening for business must first secure a permit and be licensed with the Board of Pharmacy before they may lawfully conduct a pharmacy or drugstore. A fee of as defined in regulation 59 is charged for issuing such original permit. All pharmacies or drugstores must register with the Board annually and secure an annual permit and pay a Renewal fee as defined in regulation 59.
- J. Permits must be posted in a conspicuous place. This requirement is not met when a permit is locked in a safe, placed in a desk drawer, or otherwise hidden away.
- K. No pharmacy permit shall be issued to any drugstore or pharmacy when the licensed pharmacist in charge of the prescription department is not on duty in that pharmacy a minimum of 40 hours per week. A pharmacist in charge of a retail pharmacy may act as a consultant or part-time pharmacist.
- L. The pharmacist in charge is responsible for the security and accountability of all drugs, legend and/or controlled, stored in said pharmacy and is responsible for the validity and legality of all prescriptions upon which drugs are dispensed in said drugstore or pharmacy. Dispensing of drugs classified as controlled drugs under any of the schedules classifying drugs under either state or federal law governing controlled substances is the primary responsibility of the Pharmacist in Charge and is also the responsibility of such other pharmacist, interns or students as may have dispensed said drugs. In the event of a shortage of said drugs revealed by an accountability inventory of either federal or state agencies, the Pharmacist in Charge shall be held primarily responsible for such shortage and shall be subject to disciplinary action by the State Board

of Pharmacy. Any other pharmacists, interns, or students causing or aiding or abetting the said unlawful shortage of said drugs shall also be subject to disciplinary action by the State Board of Pharmacy.

- M. No pharmacy may open for business, nor may it be inspected for the purpose of obtaining a permit, prior to the approval by the Board.
- N. Any pharmacist, when making his or her initial application to be licensed as Pharmacist in Charge, must satisfactorily complete a test on the requirements and responsibilities of a Pharmacist in Charge. The test shall be developed and administered by the Board of Pharmacy or its representatives.
- O. The Pharmacist in Charge named on any licensed pharmacy permit or pharmacist on call as designated by the Pharmacist in Charge, shall have immediate access to the pharmacy at all times and if requested by Board of Pharmacy Inspectors he/she shall show satisfactory proof of access.

The responsibility to assure compliance with this regulation rests both with the pharmacist and with the pharmacy owner if they are not the same.  
10/09/80 (Revised 2/17/82, 6/13/85, 2/10/87, 4/07/89, 6/20/91, and 6/20/96)

28. Licensed pharmacy permits will be considered by the Board staff upon written application in such forms as may be adopted by the Board. The permit will be issued in the name of the licensed pharmacist who shall be directly responsible to the Board of Pharmacy for the operation of the prescription department.

A. Applications for pharmacy permits other than annual renewal of existing permits, will be reviewed by the Board of Pharmacy Staff. ~~considered by the Board the second Tuesday of February, The second Tuesday of June and the second Tuesday of October of each year, and applications to be considered must be received in the Board of Pharmacy office at least 14 days prior to the next scheduled meeting.~~ Provided that no pharmacy may open for business within 30 days of submission of original application. Applications for a pharmacy permit for a new store must have the name and license number of the pharmacist in charge at the time of submission and cannot be altered except by submission of an application for change of pharmacist in charge and the fee as defined in regulation 59 within 14 days of the consideration meeting day. The pharmacist in charge of the new pharmacy application cannot be the pharmacist in charge of another pharmacy at the time submission of the new pharmacy application. If a post office box is used as the address for the pharmacy, the actual street address must also be included on the application. ~~of the meeting that the new pharmacy application is heard. The pharmacist in charge and a representative of ownership shall appear before the Board when the pharmacy application is heard.~~ The Executive Director may require that a representative of the ownership and pharmacist in charge appear before the Board of Pharmacy to finalize the application. After review by the Board of Pharmacy Staff, an "Inspection Request Form" will be sent to the address given as that of the ownership of the pharmacy making application. The inspection request form must be received in the Board of Pharmacy office at least one week before the facility will be ready for inspection. Upon approval of the inspection of the physical facility by the Board of Pharmacy Inspector, the Executive Director will complete the final approval of the application and the permit number will be issued.

B. In any building, firm, or place of business where the pharmacy is a leased operation, and/or in situations where the pharmacist in charge does not own a substantial part of the business and is not manager of the total operation, and/or where the pharmacy is a department in a larger business that is not a drugstore or pharmacy, the prescription department shall be completely separated from the remainder of the building by some type of partition and said department shall be arranged and constructed so that the public will not have access to any legend drugs or medicine.

The prescription area or department of any pharmacy, firm or place of business must be constructed so that it may be locked to prevent unauthorized persons from entering it in the absence of a licensed pharmacist, (or other authorized prescription personnel.)

A copy of the signed lease must be submitted with the application of the original permit, and at such other times as the original lease is changed or renewed.

- C. No pharmacy permit shall be issued or continued for the conduct of a pharmacy or drugstore unless the premises are equipped with the necessary appliances for maintenance of proper sanitation and kept in a clean, sanitary and orderly manner.
- D. Pharmacists, employed and in charge of pharmacies or drugstores, are required to notify the Board of Pharmacy and surrender for cancellation the permit issued in their names immediately upon the termination of such employment. It shall be the duty of the owner of such pharmacies or drugstores to immediately notify the Board upon the termination of employment of licensed pharmacists and to cause the surrender of permit as indicated. The further operation of the pharmacy or drugstore in the absence of a replacement and the issuance of a new permit is forbidden by law and each day so operated will be considered a separate offense.
- E. The permit licenses the pharmacy or drugstore to which it is issued and is not transferable. It is issued on the application of the owner and the licensed pharmacist in charge, on the sworn statement that it will be conducted in accordance with the provisions of law.
- F. When a licensed pharmacist in whose name a permit has been issued leaves the employment of such pharmacy or drugstore, he will be held responsible for proper notification to the Board of Pharmacy of such termination of his services within five days in addition to providing the Board of Pharmacy with an inventory of controlled drugs as defined in Regulation 29. Neglect on his part to so notify the Board and to provide said inventory will operate to prevent his securing a permit to take charge or operate another pharmacy or drugstore at a subsequent date.
- G. When the licensed pharmacist in whose name a permit has been issued to a pharmacy for any reason ceases to be actually the person who has responsible supervision over said pharmacy or drugstore the permit becomes void, and must be surrendered to the Board before a duplicate will be issued to said pharmacy. Where there is merely a change of licensed pharmacist one replacing the other as the pharmacist in charge, a duplicate permit will be issued upon proper application and payment of a ~~\$25.00~~ fee as defined in regulation 59.
- H. 1. Upon a change of ownership of a pharmacy as set out herein, a new permit shall be secured by the new owner(s). The new owner(s) can continue operation of the pharmacy for fourteen (14) days after the effective date of the change of ownership; after the said fourteen (14) day period, the permit issued to the prior owner shall be void and same shall be surrendered to the Executive Director of the Board of Pharmacy.

2. A change of ownership of a pharmacy occurs under, but is not limited to the following circumstances:
  - A. A change of ownership of a pharmacy, owned by a **SOLE PROPRIETOR**, is deemed to have occurred when:
    1. The pharmacy is sold and the sale becomes final or the new owner assumes control of the pharmacy--which ever occurs first.
    2. The proprietor enters into a partnership with another individual or business entity.
  - B. A change of ownership of a pharmacy, owned by a **PARTNERSHIP**, is deemed to have occurred when:
    1. There is an addition or deletion of one or more partners in a partnership to which a pharmacy license has been issued.
    2. The pharmacy is sold and the sale becomes final or the new owner assumes control of the pharmacy--which ever occurs first.
  - C. A change of ownership of a pharmacy, owned by a **CORPORATION**, is deemed to have occurred when:
    1. An individual or business acquires or disposes of twenty percent (20%) or more of the corporation's outstanding shares of voting stock. (This shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over the counter market); or
    2. The corporation merges with another business or corporation; (The corporation owning the pharmacy is required to notify the Arkansas State Board of Pharmacy if a change of ownership or merger occurs within the parent corporation of the corporation which owns the pharmacy); or
    3. The corporation's charter expires or is forfeited; or
    4. The pharmacy is sold and the sale becomes final or the new owner assumes control of the pharmacy--which ever occurs first.
- I. Pharmacies or drugstores opening for business must first secure a permit and be licensed with the Board of Pharmacy before they may lawfully conduct a pharmacy or drugstore. A fee of ~~\$200~~ as defined in regulation 59 is charged for issuing such original permit. All pharmacies or drugstores must register with the Board annually and secure an annual permit and pay a Renewal fee of ~~\$100~~ as defined in regulation 59. The annual registration takes place on January 1 of each year.
- J. Permits must be posted in a conspicuous place. This requirement is not met when a permit is locked in a safe, placed in a desk drawer, or otherwise hidden away.
- K. No pharmacy permit shall be issued to any drugstore or pharmacy when the licensed pharmacist in charge of the prescription department is not on duty in that pharmacy a minimum of 40 hours per week. A pharmacist in charge of a retail pharmacy may act as a consultant or part-time pharmacist.
- L. The pharmacist in charge is responsible for the security and accountability of all drugs, legend and/or controlled, stored in said pharmacy and is responsible for the validity and legality of all prescriptions upon which drugs are dispensed



in said drugstore or pharmacy. Dispensing of drugs classified as controlled drugs under any of the schedules classifying drugs under either state or federal law governing controlled substances is the primary responsibility of the Pharmacist in Charge and is also the responsibility of such other pharmacist, interns or students as may have dispensed said drugs. In the event of a shortage of said drugs revealed by an accountability inventory of either federal or state agencies, the Pharmacist in Charge shall be held primarily responsible for such shortage and shall be subject to disciplinary action by the State Board of Pharmacy. Any other pharmacists, interns, or students causing or aiding or abetting the said unlawful shortage of said drugs shall also be subject to disciplinary action by the State Board of Pharmacy.

- M. No ~~store~~ pharmacy may open for business, nor may it be inspected for the purpose of obtaining a permit, prior to the approval by the Board.
- N. Any pharmacist, when making his or her initial application to be licensed as Pharmacist in Charge, must satisfactorily complete a test on the requirements and responsibilities of a Pharmacist in Charge. The test shall be developed and administered by the Board of Pharmacy or its representatives.
- O. The Pharmacist in Charge named on any licensed pharmacy permit or pharmacist on call as designated by the Pharmacist in Charge, shall have immediate access to the pharmacy at all times and if requested by Board of Pharmacy Inspectors he/she shall show satisfactory proof of access.

The responsibility to assure compliance with this regulation rests both with the pharmacist and with the pharmacy owner if they are not the same.  
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