

Article - Health Occupations

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§12-6C-05.

- (a) To apply for a wholesale distributor permit, an applicant shall:
 - (1) Pay to the Board an application fee set by the Board; and
 - (2) Submit an application to the Board on the form that the Board requires.
- (b) The application shall include the following:
 - (1) The name, full business address, and telephone number of the applicant;
 - (2) All trade or business names used by the applicant;
 - (3) Addresses, telephone numbers, and the names of contact persons for the facility used by the applicant for the storage, handling, and distribution of prescription drugs;
 - (4) The type of business form under which the applicant operates, such as partnership, corporation, or sole proprietorship;
 - (5) The name of each owner and operator of the applicant, including:
 - (i) If an individual, the name of the individual;
 - (ii) If a partnership, the name of the partnership and of each partner;
 - (iii) If a corporation, the name of the corporation, the name and title of each corporate officer and director, and the state of incorporation; and
 - (iv) If a sole proprietorship, the full name of the sole proprietor and the name of the sole proprietor's business entity;
 - (6) A list of all licenses and permits issued to the applicant by any other state that authorizes the applicant to purchase or possess prescription drugs;
 - (7) For the designated representative and the immediate supervisor of the designated representative at the applicant's place of business, the following:
 - (i) Name;
 - (ii) Places of residence for the past 7 years;
 - (iii) Date and place of birth;

(iv) The name and address of each business where the individual was employed during the past 7 years, and the individual's job title or office held at each business;

(v) A statement of whether, during the past 7 years, the individual has been the subject of any proceeding for the revocation of any professional or business license or any criminal violation and, if so, the nature and disposition of the proceeding;

(vi) A statement of whether, during the past 7 years, the individual has been enjoined, either temporarily or permanently, by a court of competent jurisdiction from violating any federal or state law regulating the possession, control, or distribution of prescription drugs, together with details concerning the event;

(vii) A description of any involvement, including any investments other than the ownership of stock in a publicly traded company or mutual fund, by the individual during the past 7 years with any business that manufactures, administers, prescribes, distributes, or stores prescription drugs, and any lawsuits in which the business was named as a party;

(viii) 1. A description of any misdemeanor or felony offense of which the individual, as an adult, was found guilty, regardless of whether adjudication of guilt was withheld or whether the individual pled guilty or nolo contendere; and

2. If the individual indicates that a criminal conviction is under appeal and submits a copy of the notice of appeal, within 15 days after the disposition of the appeal, a copy of the final written order of disposition; and

(ix) A photograph of the individual taken in the previous 180 days.

(c) The information required under subsection (b) of this section shall be provided under oath.

(d) The Board may not issue a wholesale distributor permit to an applicant unless the Board or its designee:

(1) If the applicant holds prescription drugs or devices, conducts a physical inspection of the applicant's place of business, including any facility of the applicant;

(2) Finds that the place of business and facility, if any, meets the Board's requirements;

(3) Determines that the designated representative of the applicant meets the following qualifications:

(i) Is at least 21 years of age;

(ii) Has been employed full time for at least 3 years in a pharmacy or with a wholesale distributor in a capacity related to the dispensing and distribution

of, and record keeping relating to, prescription drugs;

(iii) Is employed by the applicant full time in a managerial level position;

(iv) Is actively involved in and aware of the daily operation of the wholesale distributor;

(v) Is physically present, except for an authorized absence such as sick leave or vacation leave, at the facility of the applicant during regular business hours;

(vi) Is serving as a designated representative for only one applicant at a time, or for two or more wholesale distributors who are located in the same facility and are members of an affiliated group, as defined in § 1504 of the Internal Revenue Code;

(vii) Does not have any convictions for a violation of any federal, state, or local laws relating to wholesale or retail prescription drug distribution or distribution of controlled substances; and

(viii) Does not have any convictions for a felony under federal, state, or local laws; and

(4) Determines that the immediate supervisor of the designated representative of the applicant meets the following qualifications:

(i) Is at least 21 years of age;

(ii) Has been employed full time for at least 3 years in a pharmacy or with a wholesale distributor in a capacity related to the dispensing and distribution of, and record keeping relating to, prescription drugs;

(iii) Is employed by the applicant full time in a managerial level position;

(iv) Is actively involved in and aware of the daily operation of the wholesale distributor;

(v) Does not have any convictions for a violation of any federal, state, or local laws relating to wholesale or retail prescription drug distribution or distribution of controlled substances; and

(vi) Does not have any convictions for a felony under federal, state, or local laws.

(e) The designated representative and the immediate supervisor of the designated representative of an applicant shall submit to a criminal history records

check in accordance with § 12–6C–05.1 of this subtitle.

(f) (1) In this subsection, “gross receipts” means gross receipts from sales of prescription drugs and devices in the State.

(2) This subsection does not apply to a pharmacy warehouse that is not engaged in wholesale distribution.

(3) (i) An applicant for a wholesale distributor permit shall submit a surety bond or other equivalent means of security acceptable to the State, such as an irrevocable letter of credit or a deposit in a trust account or financial institution, payable to the State Board of Pharmacy to be deposited into an account established by the State under paragraph (7) of this subsection.

(ii) The surety bond or other security shall be in the amount of:

1. \$100,000, if the annual gross receipts of the applicant for the previous tax year are \$10,000,000 or more; or

2. \$50,000, if the annual gross receipts of the applicant for the previous tax year are less than \$10,000,000.

(iii) The Board may require by regulation documentation for the gross receipts of the wholesale distributor to qualify for a surety bond or other security in the amount of \$50,000.

(4) The purpose of the surety bond is to secure payment of any fines or penalties imposed by the Board and any fees and costs incurred by the State relating to the permit that:

(i) Are authorized under State law; and

(ii) Are not paid by the permit holder within 30 days after the fines, penalties, fees, or costs become final.

(5) The State may make a claim against the surety bond or other security until 2 years after the permit holder’s permit ceases to be valid.

(6) A single surety bond shall cover all facilities operated by the applicant in the State.

(7) The Board shall establish an account, separate from its other accounts, in which to deposit the applicant’s surety bond or other security.

(g) If a wholesale distributor distributes prescription drugs or prescription devices from more than one facility, the wholesale distributor shall obtain a permit for each facility.

(h) Within 30 days after the date the Board receives a completed application, including the results of all required criminal history records checks, the Board shall notify the applicant of the Board's acceptance or rejection of the application.

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