

SENATE BILL 133

J2

2lr0927
CF 2lr0736

By: **Senator Conway**

Introduced and read first time: January 18, 2012

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Pharmacy – Wholesale Distributor Permits – Application**
3 **Requirements**

4 FOR the purpose of altering the information required to be included in an application
5 for a wholesale distributor permit; limiting a requirement that the State Board
6 of Pharmacy or its designee conduct a certain inspection to apply only to
7 applicants that hold prescription drugs or devices; altering certain requirements
8 for a criminal history records check of a designated representative and the
9 supervisor of a designated representative of an applicant; and generally relating
10 to application requirements for a wholesale distributor permit issued by the
11 State Board of Pharmacy.

12 BY repealing and reenacting, without amendments,
13 Article – Health Occupations
14 Section 12–6C–05(a), (c), and (h)
15 Annotated Code of Maryland
16 (2009 Replacement Volume and 2011 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Health Occupations
19 Section 12–6C–05(b) and (d)
20 Annotated Code of Maryland
21 (2009 Replacement Volume and 2011 Supplement)

22 BY repealing
23 Article – Health Occupations
24 Section 12–6C–05(e)
25 Annotated Code of Maryland
26 (2009 Replacement Volume and 2011 Supplement)

27 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Health Occupations
2 Section 12–6C–05(e) and 12–6C–05.1
3 Annotated Code of Maryland
4 (2009 Replacement Volume and 2011 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article – Health Occupations**

8 12–6C–05.

9 (a) To apply for a wholesale distributor permit, an applicant shall:

10 (1) Pay to the Board an application fee set by the Board; and

11 (2) Submit an application to the Board on the form that the Board
12 requires.

13 (b) The application shall include the following:

14 (1) The name, full business address, and telephone number of the
15 applicant;

16 (2) All trade or business names used by the applicant;

17 (3) Addresses, telephone numbers, and the names of contact persons
18 for the facility used by the applicant for the storage, handling, and distribution of
19 prescription drugs;

20 (4) The type of business form under which the applicant operates,
21 such as partnership, corporation, or sole proprietorship;

22 (5) The name of each owner and operator of the applicant, including:

23 (i) If an individual, the name of the individual;

24 (ii) If a partnership, the name of the partnership and of each
25 partner;

26 (iii) If a corporation, the name of the corporation, the name and
27 title of each corporate officer and director, and the state of incorporation; and

28 (iv) If a sole proprietorship, the full name of the sole proprietor
29 and the name of the sole proprietor's business entity;

1 (6) A list of all licenses and permits issued to the applicant by any
2 other state that authorizes the applicant to purchase or possess prescription drugs;

3 (7) For the designated representative and the immediate supervisor of
4 the designated representative at the applicant's place of business, **THE FOLLOWING:**

5 [(i) Fingerprints necessary to conduct a criminal history records
6 check; and

7 (ii) The following:

8 1.] (I) Name;

9 [2.] (II) Places of residence for the past 7 years;

10 [3.] (III) Date and place of birth;

11 [4.] (IV) The name and address of each business where
12 the individual was employed during the past 7 years, and the individual's job title or
13 office held at each business;

14 [5.] (V) A statement of whether, during the past 7
15 years, the individual has been the subject of any proceeding for the revocation of any
16 professional or business license or any criminal violation and, if so, the nature and
17 disposition of the proceeding;

18 [6.] (VI) A statement of whether, during the past 7
19 years, the individual has been enjoined, either temporarily or permanently, by a court
20 of competent jurisdiction from violating any federal or state law regulating the
21 possession, control, or distribution of prescription drugs, together with details
22 concerning the event;

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

28 [8.] (VIII) [A.] 1. A description of any misdemeanor
29 or felony offense of which the individual, as an adult, was found guilty, regardless of
30 whether adjudication of guilt was withheld or whether the individual pled guilty or
31 nolo contendere; and

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

1 [9.] (IX) A photograph of the individual taken in the
2 previous 180 days.

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

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

7 (1) [Conducts] **IF THE APPLICANT HOLDS PRESCRIPTION DRUGS**
8 **OR DEVICES, CONDUCTS** a physical inspection of the applicant's place of business,
9 including any facility of the applicant;

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

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

14 (i) Is at least 21 years of age;

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

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

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

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

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

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

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

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

3 (i) Is at least 21 years of age;

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

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

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

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

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

16 [(e) (1) In this subsection, “Central Repository” means the Criminal
17 Justice Information System Central Repository of the Department of Public Safety and
18 Correctional Services.

19 (2) In accordance with the requirements of this subsection, the Board
20 shall submit the fingerprints provided with a permit application to the Central
21 Repository for a State and national criminal history records check of the designated
22 representative and the immediate supervisor of the designated representative.

23 (3) As part of an application to the Central Repository for a State and
24 national criminal history records check, the Board shall submit to the Central
25 Repository:

26 (i) Two complete sets of legible fingerprints taken on forms
27 approved by the director of the Central Repository and the Director of the Federal
28 Bureau of Investigation;

29 (ii) The fee authorized under § 10–221(b)(7) of the Criminal
30 Procedure Article for access to State criminal history records; and

31 (iii) The processing fee required by the Federal Bureau of
32 Investigation for a national criminal history records check.

1 (4) In accordance with §§ 10–201 through 10–228 of the Criminal
2 Procedure Article, the Central Repository shall forward to the Board and to the
3 applicant the criminal history record information of the applicant.

4 (5) Information obtained from the Central Repository under this
5 subsection:

6 (i) Shall be confidential;

7 (ii) May not be disseminated; and

8 (iii) Shall be used only for the permitting purpose authorized by
9 this subtitle.

10 (6) The subject of a criminal history records check under this
11 subsection may contest the contents of the printed statement issued by the Central
12 Repository as provided in § 10–223 of the Criminal Procedure Article.]

13 **(E) THE DESIGNATED REPRESENTATIVE AND THE IMMEDIATE**
14 **SUPERVISOR OF THE DESIGNATED REPRESENTATIVE OF AN APPLICANT SHALL**
15 **SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH**
16 **§ 12–6C–05.1 OF THIS SUBTITLE.**

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

20 **12–6C–05.1.**

21 **(A) (1) IN THIS SUBSECTION, “CENTRAL REPOSITORY” MEANS THE**
22 **CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE**
23 **DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.**

24 **(2) THIS SUBSECTION APPLIES TO APPLICANTS LOCATED IN THE**
25 **STATE.**

26 **(3) AS PART OF AN APPLICATION TO THE CENTRAL REPOSITORY**
27 **FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK, THE**
28 **DESIGNATED REPRESENTATIVE AND THE IMMEDIATE SUPERVISOR OF THE**
29 **DESIGNATED REPRESENTATIVE OF AN APPLICANT SHALL SUBMIT TO THE**
30 **CENTRAL REPOSITORY:**

31 **(i) TWO COMPLETE SETS OF LEGIBLE FINGERPRINTS**
32 **TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY**
33 **AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;**

1 (II) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE
2 CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO STATE CRIMINAL HISTORY
3 RECORDS; AND

4 (III) THE PROCESSING FEE REQUIRED BY THE FEDERAL
5 BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS
6 CHECK.

7 (4) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-228 OF THE
8 CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD
9 THE CRIMINAL HISTORY RECORDS INFORMATION OF THE DESIGNATED
10 REPRESENTATIVE AND THE IMMEDIATE SUPERVISOR OF THE DESIGNATED
11 REPRESENTATIVE OF AN APPLICANT TO THE BOARD AND THE APPLICANT.

12 (5) THE BOARD SHALL ENSURE THAT INFORMATION OBTAINED
13 FROM THE CENTRAL REPOSITORY UNDER THIS SUBSECTION:

14 (i) IS KEPT CONFIDENTIAL;

15 (ii) IS NOT REDISSEMINATED; AND

16 (iii) IS USED ONLY FOR THE PERMITTING PURPOSE
17 AUTHORIZED BY THIS SUBTITLE.

18 (6) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK
19 UNDER THIS SUBSECTION MAY CONTEST THE CONTENTS OF THE PRINTED
20 STATEMENT ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223
21 OF THE CRIMINAL PROCEDURE ARTICLE.

22 (B) (1) THIS SUBSECTION APPLIES TO APPLICANTS LOCATED
23 OUTSIDE THE STATE.

24 (2) THE DESIGNATED REPRESENTATIVE AND THE IMMEDIATE
25 SUPERVISOR OF THE DESIGNATED REPRESENTATIVE OF AN APPLICANT SHALL
26 SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK BY THE APPLICANT'S STATE
27 OF RESIDENCE, IN ACCORDANCE WITH THE LAWS OF THE APPLICANT'S STATE
28 OF RESIDENCE.

29 (3) THE CRIMINAL HISTORY RECORDS CHECK SHALL CONSIST OF:

30 (i) A STATE CRIMINAL HISTORY RECORDS CHECK FOR THE
31 APPLICANT'S STATE OF RESIDENCE; AND

1 **(II) A NATIONAL CRIMINAL HISTORY RECORDS CHECK.**

2 **(4) THE DESIGNATED REPRESENTATIVE AND THE IMMEDIATE**
3 **SUPERVISOR OF THE DESIGNATED REPRESENTATIVE OF AN APPLICANT SHALL**
4 **REQUEST THE APPROPRIATE ENTITY IN THE APPLICANT'S STATE OF RESIDENCE**
5 **TO FORWARD THE RESULTS OF THE CRIMINAL HISTORY RECORDS CHECK TO**
6 **THE BOARD AND THE APPLICANT.**

7 **(5) THE BOARD SHALL ENSURE THAT INFORMATION OBTAINED**
8 **UNDER THIS SUBSECTION:**

9 **(I) IS KEPT CONFIDENTIAL;**

10 **(II) IS NOT REDISSEMINATED; AND**

11 **(III) IS USED ONLY FOR THE PERMITTING PURPOSE**
12 **AUTHORIZED BY THIS SUBTITLE.**

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2012.