

BILL ANALYSIS

S.B. 803
By: Janek
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, Texas law allows advertising and marketing by compounding pharmacists to promote the provision of nonsterile prescription compounding services. Previous advertising restrictions on compounding pharmacists were enacted in accordance with the Food and Drug Administration Modernization Act (FDAMA) which exempts compounded drugs from the FDA's standard drug approval requirements under the Federal Food, Drug, and Cosmetic Act (FDCA), so long as the providers of the compounded drugs abide by several restrictions. However, the United States Supreme Court held in *Thompson v. Western States Medical Center* that the FDAMA's prohibitions on soliciting prescriptions for and advertising of compounded drugs amounted to an unconstitutional restriction on commercial speech. The Act would change Texas law to reflect the U.S. Supreme Court decision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Chapter 562, Occupations Code is amended by adding Subchapter D. A compounding pharmacist or pharmacy may advertise or promote nonsterile prescription compounding services and specific compounded drug products.

EFFECTIVE DATE

September 1, 2003