

By: Delisi

H.B. No. 3078

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the distribution and redistribution of certain drugs.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Sections 562.1085(a), (b), and (e), Occupations
5 Code, are amended to read as follows:

6 (a) A pharmacist who practices in or serves as a consultant
7 for a health care facility or penal institution, as defined by
8 Section 1.07, Penal Code, in this state may return to a pharmacy
9 certain unused drugs, other than a controlled substance as defined
10 by Chapter 481, Health and Safety Code, purchased from the pharmacy
11 as provided by board rule. The unused drugs must:

12 (1) be approved by the federal Food and Drug
13 Administration and be:

14 (A) sealed in unopened tamper-evident packaging
15 and either individually packaged or packaged in unit-dose
16 packaging;

17 (B) oral or parenteral medication in sealed
18 single-dose containers approved by the federal Food and Drug
19 Administration;

20 (C) topical or inhalant drugs in sealed
21 units-of-use containers approved by the federal Food and Drug
22 Administration; or

23 (D) parenteral medications in sealed
24 multiple-dose containers approved by the federal Food and Drug

1 Administration from which doses have not been withdrawn; and

2 (2) not be the subject of a mandatory recall by a state
3 or federal agency or a voluntary recall by a drug seller or
4 manufacturer.

5 (b) A pharmacist for the pharmacy shall examine a drug
6 returned under this section to ensure the integrity of the drug
7 product. A health care facility or penal institution may not return
8 a drug that:

9 (1) has been compounded;

10 (2) appears on inspection to be adulterated;

11 (3) requires refrigeration; or

12 (4) has less than 120 days until the expiration date or
13 end of the shelf life.

14 (e) The board shall adopt the rules, policies, and
15 procedures necessary to administer this section, including rules
16 that require a health care facility or penal institution to inform
17 the Health and Human Services Commission of medicines returned to a
18 pharmacy under this section.

19 SECTION 2. Section 431.321(a), Health and Safety Code, is
20 amended to read as follows:

21 (a) "Charitable medical clinic" means a clinic, including a
22 patient assistance program or charitable pharmacy, that provides
23 medical care or drugs without charge or for a substantially reduced
24 charge, complies with the insurance requirements of Chapter 84,
25 Civil Practice and Remedies Code, and is exempt from federal income
26 tax under Section 501(a) of the Internal Revenue Code of 1986 by
27 being listed as an exempt organization in Section 501(c)(3) or

1 501(c)(4) of the code and is operated exclusively for the promotion
2 of social welfare by being primarily engaged in promoting the
3 common good and general welfare of the people in a community.

4 SECTION 3. Section 431.322, Health and Safety Code, is
5 amended by adding Subsection (e) to read as follows:

6 (e) A charitable drug donor who acts within the scope of
7 this section is not required to hold a license under Subchapter N.

8 SECTION 4. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2007.