

## **BILL ANALYSIS**

C.S.S.B. 227  
By: Williams  
Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties report that Texas is one of only a handful of states that prohibit a physician from dispensing certain aesthetic medications directly to patients and that these medications require a prescription but are not controlled substances and are used for the enhancement of the individual's appearance. C.S.S.B. 227 seeks to allow physicians and therapeutic optometrists to dispense certain aesthetic prescription drugs under certain conditions.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Medical Board, the Texas State Board of Pharmacy, and the Texas Optometry Board in SECTIONS 1 and 4 of this bill.

### **ANALYSIS**

C.S.S.B. 227 amends the Occupations Code, effective March 1, 2014, to authorize a physician or therapeutic optometrist to dispense to the physician's or therapeutic optometrist's patients an aesthetic pharmaceutical in excess of the patient's immediate needs without obtaining a license to practice pharmacy and authorizes the physician or therapeutic optometrist to charge a fee for dispensing the pharmaceutical. The bill prohibits a therapeutic optometrist from dispensing an aesthetic pharmaceutical if that prescription does not fall within the scope of the practice of therapeutic optometry.

C.S.S.B. 227, effective March 1, 2014, requires a physician or therapeutic optometrist, before dispensing an aesthetic pharmaceutical to a patient, to inform the patient that the prescription for the pharmaceutical may be filled at a pharmacy, if available at a pharmacy, or dispensed in the physician's or therapeutic optometrist's office. The bill requires each state and federal labeling and recordkeeping requirement applicable to an aesthetic pharmaceutical to be followed and documented, and requires such a record to be accessible as provided under state and federal law.

C.S.S.B. 227 requires the Texas Medical Board and the Texas State Board of Pharmacy to jointly adopt rules for physicians, and the Texas Optometry Board and the Texas State Board of Pharmacy to jointly adopt rules for therapeutic optometrists, to govern the packaging, labeling, and dispensing of aesthetic pharmaceuticals under the bill's provisions and requires the rules to be adopted not later than March 1, 2014. The bill requires the Texas Medical Board and the Texas Optometry Board to adopt reasonable fees as necessary to implement the bill's provisions and prohibits such a fee from exceeding a fee for authorizing a pharmacist to dispense pharmaceuticals. The bill establishes that the aesthetic pharmaceutical group consists of bimatoprost, hydroquinone, and tretinoin.

### **EFFECTIVE DATE**

Except as otherwise provided, on passage, or, if the bill does not receive the necessary vote, September 1, 2013.

## COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.S.B. 227 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

### SENATE ENGROSSED

SECTION 1. Subtitle A, Title 3, Occupations Code, is amended by adding Chapter 116 to read as follows:

#### CHAPTER 116. DISPENSING OF AESTHETIC PHARMACEUTICALS

##### Sec. 116.001. DEFINITIONS.

##### Sec. 116.002. DISPENSING PERMITTED; FEE AUTHORIZED.

##### Sec. 116.003. NOTICE; LABELING; RECORDKEEPING.

##### Sec. 116.004. RULES; FEES.

Sec. 116.005. AESTHETIC PHARMACEUTICAL GROUP. The aesthetic pharmaceutical group consists of:

- (1) bimatoprost;
- (2) hydroquinone;
- (3) tretinoin;
- (4) metronidazole; and
- (5) tazarotene.

SECTION 2. Subsection (f), Section 157.002, Occupations Code, is amended.

SECTION 3. Subsection (d), Section 563.051, Occupations Code, is amended.

SECTION 4. The Texas Medical Board and Texas Optometry Board shall adopt rules for the implementation of Chapter 116, Occupations Code, as added by this Act, not later than March 1, 2014.

SECTION 5. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for

### HOUSE COMMITTEE SUBSTITUTE

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Sec. 116.005. AESTHETIC PHARMACEUTICAL GROUP. The aesthetic pharmaceutical group consists of:

- (1) bimatoprost;
- (2) hydroquinone; and
- (3) tretinoin.

SECTION 2. Same as engrossed version.

SECTION 3. Same as engrossed version.

SECTION 4. The Texas Medical Board, Texas Optometry Board, **and Texas State Board of Pharmacy** shall adopt rules for the implementation of Chapter 116, Occupations Code, as added by this Act, not later than March 1, 2014.

SECTION 5. Same as engrossed version.

immediate effect, this Act takes effect September 1, 2013.

(b) Sections 116.002 and 116.003, Occupations Code, as added by this Act, take effect March 1, 2014.