

## **BILL ANALYSIS**

Senate Research Center  
83R2570 SLB-F

S.B. 227  
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Health & Human Services  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Certain topically applied medications prescribed to treat skin pigmentation disorders are more safely and effectively administered when supervised by a physician. However, Texas is one of only five states that prohibit a physician's ability to dispense aesthetic medications directly to patients. S.B. 227 enables patients to easily receive a physician's counsel to simplify what is often a complicated treatment process as well as modification of the application regimen to respond to the patient's particular response.

S.B. 227 amends the Occupations Code by very narrowly expanding physician dispensing in Texas to permit physicians to dispense aesthetic prescription drugs if it makes sense for their practices and their patients. The only aesthetic pharmaceuticals which will be allowed to be dispensed by the physician are bimatoprost, hydroquinone, tretinoin, metronidazole, and tazarotene.

Physicians who do not wish to dispense will not be adversely affected by S.B. 227; they will retain the same options to provide prescription aesthetic drugs to their patients through regular pharmacies and compounding pharmacies. Furthermore, S.B. 227 requires the physician to inform the patient that the prescription may be filled at the pharmacy or dispensed in the physician's office.

As proposed, S.B. 227 amends current law relating to the dispensation of aesthetic pharmaceuticals by physicians.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Medical Board in SECTION 2 (Section 158.004, Occupations Code) and SECTION 4 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 157.002(f), Occupations Code, to provide that Subsections (b) (relating to a physician delegating the act of administering or providing dangerous drugs in the physician's office) and (c) (relating to a physician delegating the act of administering or providing dangerous drugs through a facility licensed by the Texas State Board of Pharmacy (TSBP)), other than as authorized under Sections 158.003 (Dispensing of Dangerous Drugs in Certain Rural Areas) and 158.004, do not authorize a physician or a person acting under the supervision of a physician to keep a pharmacy, advertised or otherwise, for the retail sale of dangerous drugs, without complying with the applicable laws relating to the dangerous drugs.

SECTION 2. Amends Chapter 158, Occupations Code, by adding Sections 158.004 and 158.005, as follows:

Sec. 158.004. DISPENSING OF AESTHETIC PHARMACEUTICALS. (a) Defines "aesthetic pharmaceutical" in this section.

(b) Authorizes a physician licensed under this subtitle (Physicians) to dispense to that physician's patients an aesthetic pharmaceutical in excess of the patient's immediate needs without obtaining a license under Chapter 558 (License to

Practice Pharmacy). Authorizes the physician to charge a fee for dispensing the aesthetic pharmaceutical.

(c) Requires a physician, before dispensing an aesthetic pharmaceutical to a patient, to inform the patient that the prescription for the aesthetic pharmaceutical may be filled at a pharmacy, if available at a pharmacy, or dispensed in the physician's office.

(d) Requires that each state and federal labeling and recordkeeping requirement applicable to the aesthetic pharmaceutical be followed and documented. Requires that a record maintained under this section be accessible as provided under state and federal law.

(e) Requires the Texas Medical Board (TMB), with the advice of TSBP, to adopt rules to govern the packaging, labeling, and dispensation of aesthetic pharmaceuticals by a physician under this section and reasonable fees as necessary to implement this section. Prohibits a fee adopted under this subsection from exceeding a fee adopted under Section 554.006 (Fees) for authorizing a pharmacist to dispense pharmaceuticals.

Sec. 158.005. AESTHETIC PHARMACEUTICAL GROUP. Provides that the aesthetic pharmaceutical group consists of bimatoprost, hydroquinone, tretinoin, metronidazole, and tazarotene.

SECTION 3. Amends Section 563.051(d), Occupations Code, to provide that this section (General Delegation of Administration and Provision of Dangerous Drugs), other than as authorized under Sections 158.003 and 158.004, does not authorize a physician or a person acting under the supervision of a physician to keep a pharmacy, advertised or otherwise, for the retail sale of dangerous drugs, without complying with the applicable laws relating to the dangerous drugs.

SECTION 4. Requires TMB to adopt rules for the implementation of Section 158.004, Occupations Code, as added by this Act, not later than March 1, 2014.

SECTION 5. (a) Effective date, except as provided by Subsection (b) of this section: upon passage or September 1, 2013.

(b) Effective date, Section 158.004, Occupations Code, as added by this Act: March 1, 2014.