

By: Huffman

S.B. No. 588

A BILL TO BE ENTITLED

AN ACT

relating to the dispensing of aesthetic pharmaceuticals by physicians and therapeutic optometrists; imposing fees.

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

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. In this chapter:

(1) "Aesthetic pharmaceutical" means:

(A) a drug listed in the aesthetic pharmaceutical group under Section 116.005; or

(B) a drug that:

(i) is not a controlled substance;

(ii) requires a prescription for dispensation;

(iii) is legally marketed under 21 U.S.C. Section 355, if it is a new drug subject to that section; and

(iv) is prescribed for the enhancement of an individual's appearance.

(2) "Physician" means a person licensed to practice medicine under Subtitle B.

(3) "Therapeutic optometrist" means a person licensed to practice therapeutic optometry under Chapter 351.

Sec. 116.002. DISPENSING PERMITTED; FEE AUTHORIZED. (a) A

1 physician or therapeutic optometrist may dispense to the  
2 physician's or therapeutic optometrist's patients an aesthetic  
3 pharmaceutical in excess of the patient's immediate needs without  
4 obtaining a license under Chapter 558. The physician or  
5 therapeutic optometrist may charge a fee for dispensing the  
6 pharmaceutical.

7 (b) A therapeutic optometrist may not dispense an aesthetic  
8 pharmaceutical if that prescription does not fall within the scope  
9 of the practice of therapeutic optometry, as defined by Section  
10 [351.002](#).

11 Sec. 116.003. NOTICE; LABELING; RECORDKEEPING.

12 (a) Before dispensing an aesthetic pharmaceutical to a patient, a  
13 physician or therapeutic optometrist must inform the patient that  
14 the prescription for the pharmaceutical may be filled at a  
15 pharmacy, if available at a pharmacy, or dispensed in the  
16 physician's or therapeutic optometrist's office.

17 (b) Each state and federal labeling and recordkeeping  
18 requirement applicable to an aesthetic pharmaceutical must be  
19 followed and documented. A record maintained under this section  
20 must be accessible as provided under state and federal law.

21 Sec. 116.004. RULES; FEES. The Texas Medical Board shall  
22 adopt rules for physicians and the Texas Optometry Board shall  
23 adopt rules for therapeutic optometrists to govern the packaging,  
24 labeling, and dispensing of aesthetic pharmaceuticals under this  
25 chapter. The Texas Medical Board and the Texas Optometry Board  
26 shall adopt reasonable fees as necessary to implement this chapter.  
27 A fee adopted under this section may not exceed a fee adopted under

1 Section 554.006 for authorizing a pharmacist to dispense  
2 pharmaceuticals.

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

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

8 SECTION 2. Section 157.002(f), Occupations Code, is amended  
9 to read as follows:

10 (f) Subsections (b) and (c) do not authorize a physician or  
11 a person acting under the supervision of a physician to keep a  
12 pharmacy, advertised or otherwise, for the retail sale of dangerous  
13 drugs, other than as authorized under Chapter 116 and Section  
14 158.003, without complying with the applicable laws relating to the  
15 dangerous drugs.

16 SECTION 3. Section 563.051(d), Occupations Code, is amended  
17 to read as follows:

18 (d) This section does not authorize a physician or a person  
19 acting under the supervision of a physician to keep a pharmacy,  
20 advertised or otherwise, for the retail sale of dangerous drugs,  
21 other than as authorized under Chapter 116 and Section 158.003,  
22 without complying with the applicable laws relating to the  
23 dangerous drugs.

24 SECTION 4. The Texas Medical Board and the Texas Optometry  
25 Board shall adopt rules for the implementation of Chapter 116,  
26 Occupations Code, as added by this Act, not later than March 1,  
27 2016.

1           SECTION 5. (a) Except as provided by Subsection (b) of  
2 this section, this Act takes effect immediately if it receives a  
3 vote of two-thirds of all the members elected to each house, as  
4 provided by Section 39, Article III, Texas Constitution. If this  
5 Act does not receive the vote necessary for immediate effect, this  
6 Act takes effect September 1, 2015.

7           (b) Sections 116.002 and 116.003, Occupations Code, as  
8 added by this Act, take effect March 1, 2016.