

By: Oliverson

H.B. No. 2420

A BILL TO BE ENTITLED

AN ACT

relating to the dispensing of aesthetic pharmaceuticals by physicians; authorizing fees.

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

SECTION 1. Section 157.002(f), Occupations Code, is amended to read as follows:

(f) Subsections (b) and (c) 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, other than as authorized under Section 158.003 and Subchapter B, Chapter 158, without complying with the applicable laws relating to the dangerous drugs.

SECTION 2. Chapter 158, Occupations Code, is amended by designating Sections 158.001, 158.002, and 158.003, Occupations Code, as Subchapter A, Chapter 158, Occupations Code, and adding a subchapter heading to read as follows:

SUBCHAPTER A. PROVISION OF DRUGS AND SUPPLIES UNDER CERTAIN CIRCUMSTANCES

SECTION 3. Chapter 158, Occupations Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. DISPENSING OF AESTHETIC PHARMACEUTICALS

Sec. 158.051. DEFINITION. In this subchapter, "aesthetic pharmaceutical" means:

(1) a drug listed in the aesthetic pharmaceutical

1 group under Section 158.055; or

2 (2) a drug that:

3 (A) is not a controlled substance;

4 (B) requires a prescription for dispensation;

5 (C) is legally marketed under 21 U.S.C. Section  
6 355, if it is a new drug subject to that section; and

7 (D) is prescribed for the enhancement of an  
8 individual's appearance.

9 Sec. 158.052. DISPENSING PERMITTED; FEE AUTHORIZED. A  
10 physician may dispense to the physician's patients an aesthetic  
11 pharmaceutical in excess of the patient's immediate needs without  
12 obtaining a license under Chapter 558. The physician may charge a  
13 fee for dispensing the pharmaceutical.

14 Sec. 158.053. NOTICE; LABELING; RECORDKEEPING. (a) Before  
15 dispensing an aesthetic pharmaceutical to a patient, a physician  
16 must inform the patient that the prescription for the  
17 pharmaceutical may be filled at a pharmacy, if available at a  
18 pharmacy, or dispensed in the physician's office.

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

23 Sec. 158.054. RULES; FEES. The board shall adopt rules to  
24 govern the packaging, labeling, and dispensing of aesthetic  
25 pharmaceuticals under this subchapter. The board shall adopt  
26 reasonable fees as necessary to implement this subchapter. A fee  
27 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. 158.055. AESTHETIC PHARMACEUTICAL GROUP. The  
4 aesthetic pharmaceutical group consists of:

- 5 (1) bimatoprost;
- 6 (2) hydroquinone;
- 7 (3) tretinoin;
- 8 (4) metronidazole;
- 9 (5) tazarotene;
- 10 (6) eflornithine;
- 11 (7) dapsone;
- 12 (8) salicylic acid;
- 13 (9) topical medications containing urea;
- 14 (10) mequinol; and
- 15 (11) resorcinol.

16 SECTION 4. 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 Section 158.003 and Subchapter B,  
22 Chapter 158, without complying with the applicable laws relating to  
23 the dangerous drugs.

24 SECTION 5. The Texas Medical Board shall adopt rules for the  
25 implementation of Subchapter B, Chapter 158, Occupations Code, as  
26 added by this Act, not later than January 1, 2018.

27 SECTION 6. (a) Except as provided by Subsection (b) of this

1 section, this Act takes effect immediately if it receives a vote of  
2 two-thirds of all the members elected to each house, as provided by  
3 Section 39, Article III, Texas Constitution. If this Act does not  
4 receive the vote necessary for immediate effect, this Act takes  
5 effect September 1, 2017.

6 (b) Sections 158.052 and 158.053, Occupations Code, as  
7 added by this Act, take effect July 1, 2018.