

By: Roberts

H.B. No. 3273

Substitute the following for H.B. No. 3273:

By: Price

C.S.H.B. No. 3273

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of pharmacies,
pharmacists, and pharmacy technicians.

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

SECTION 1. Section 551.003(9), Occupations Code, is amended
to read as follows:

(9) "Compounding" means the preparation, mixing,
assembling, packaging, and ~~or~~ labeling of a drug or device:

(A) as the result of a practitioner's
prescription drug order based on the
practitioner-patient-pharmacist relationship in the course of
professional practice;

(B) for administration to a patient by a
practitioner as the result of a practitioner's initiative based on
the practitioner-patient-pharmacist relationship in the course of
professional practice;

(C) in anticipation of a prescription drug order
based on a routine, regularly observed prescribing pattern; or

(D) for or as an incident to research, teaching,
or chemical analysis and not for selling or dispensing, except as
allowed under Section 562.154 or Chapter 563.

SECTION 2. Subchapter C, Chapter 560, Occupations Code, is
amended by adding Section 560.1025 to read as follows:

Sec. 560.1025. PHARMACY OPERATIONS REQUIRED. The board

1 shall revoke a pharmacy license issued under this chapter if the
2 pharmacy has not begun operations as a pharmacy within six months
3 after the date the pharmacy license is issued.

4 SECTION 3. Chapter 561, Occupations Code, is amended by
5 adding Section 561.006 to read as follows:

6 Sec. 561.006. PROHIBITED ISSUANCE OF CERTAIN RENEWAL
7 CERTIFICATES. The board may not issue a license renewal
8 certificate for a pharmacy that the board determines, on inspection
9 of the address of the pharmacy on file with the board, is not
10 operating at that location.

11 SECTION 4. Section 565.002(a), Occupations Code, is amended
12 to read as follows:

13 (a) The board may discipline an applicant for or the holder
14 of a pharmacy license, including a Class E pharmacy license subject
15 to Section 565.003, if the board finds that the applicant or license
16 holder has:

17 (1) been convicted of or placed on deferred
18 adjudication community supervision or deferred disposition or the
19 applicable federal equivalent for:

20 (A) a misdemeanor:

21 (i) involving moral turpitude; or

22 (ii) under Chapter 481, 482, ~~or~~ 483, or
23 486, Health and Safety Code, or the Comprehensive Drug Abuse
24 Prevention and Control Act of 1970 (21 U.S.C. Section 801 et seq.);
25 or

26 (B) a felony;

27 (2) advertised a prescription drug or device in a

1 deceitful, misleading, or fraudulent manner;

2 (3) violated any provision of this subtitle or any
3 rule adopted under this subtitle or that an owner or employee of a
4 pharmacy has violated any provision of this subtitle or any rule
5 adopted under this subtitle;

6 (4) sold without legal authorization a prescription
7 drug or device to a person other than:

8 (A) a pharmacy licensed by the board;

9 (B) a practitioner;

10 (C) a person who procures a prescription drug or
11 device for lawful research, teaching, or testing, and not for
12 resale;

13 (D) a manufacturer or wholesaler licensed by the
14 commissioner of public health as required by Chapter 431, Health
15 and Safety Code; or

16 (E) a carrier or warehouseman;

17 (5) allowed an employee who is not a pharmacist to
18 practice pharmacy;

19 (6) sold an adulterated or misbranded prescription or
20 nonprescription drug;

21 (7) failed to engage in or ceased to engage in the
22 business described in the application for a license;

23 (8) failed to maintain records as required by this
24 subtitle, Chapter 481 or 483, Health and Safety Code, the
25 Comprehensive Drug Abuse Prevention and Control Act of 1970 (21
26 U.S.C. Section 801 et seq.), or any rule adopted under this subtitle
27 or Chapter 483, Health and Safety Code;

1 (9) failed to establish and maintain effective
2 controls against diversion of prescription drugs into other than a
3 legitimate medical, scientific, or industrial channel as provided
4 by this subtitle, another state statute or rule, or a federal
5 statute or rule;

6 (10) engaged in fraud, deceit, or misrepresentation as
7 defined by board rule in operating a pharmacy or in applying for a
8 license to operate a pharmacy;

9 (11) violated a disciplinary order;

10 (12) had ~~been responsible for~~ a drug audit shortage;

11 (13) been disciplined by the regulatory board of
12 another state for conduct substantially equivalent to conduct
13 described under this subsection; or

14 (14) waived, discounted, or reduced, or offered to
15 waive, discount, or reduce, a patient copayment or deductible for a
16 compounded drug in the absence of:

17 (A) a legitimate, documented financial hardship
18 of the patient; or

19 (B) evidence of a good faith effort to collect
20 the copayment or deductible from the patient.

21 SECTION 5. Section 568.001(a), Occupations Code, is amended
22 to read as follows:

23 (a) In establishing rules under Section 554.053(c), the
24 board shall require that:

25 (1) a pharmacy technician:

26 (A) have a high school diploma or a high school
27 equivalency certificate or be working to achieve an equivalent

1 diploma or certificate; ~~and~~

2 (B) have passed a board-approved pharmacy
3 technician certification examination; and

4 (C) have completed a training program that meets
5 criteria established by board rule; and

6 (2) a pharmacy technician trainee have a high school
7 diploma or a high school equivalency certificate or be working to
8 achieve an equivalent diploma or certificate.

9 SECTION 6. Subchapter C, Chapter 481, Health and Safety
10 Code, is amended by adding Section 481.0751 to read as follows:

11 Sec. 481.0751. SUBMISSION OF CERTAIN INFORMATION TO BOARD.

12 (a) If any pharmacist who is an owner or employee of a pharmacy is
13 not required to submit information to the board under Section
14 481.074(q) or 481.075 for a seven-day period, the pharmacy shall
15 notify the board that the pharmacy did not fill a prescription that
16 required the submission of information under those sections during
17 that period. The pharmacy shall send the notice not later than the
18 seventh day after the last day of the period.

19 (b) The board by rule shall establish a standardized process
20 for a pharmacy to transmit electronically the notification required
21 by this section.

22 SECTION 7. Section 481.353(a), Health and Safety Code, is
23 amended to read as follows:

24 (a) The work group shall meet as necessary at the call of the
25 chair ~~[at least quarterly]~~.

26 SECTION 8. (a) Sections 554.016, 556.0555, 560.001(c),
27 560.0525, and 562.111, Occupations Code, are repealed.

1 (b) Subchapter E, Chapter 562, Occupations Code, is
2 repealed.

3 SECTION 9. Section 565.002(a), Occupations Code, as amended
4 by this Act, applies only to conduct that occurs on or after the
5 effective date of this Act. Conduct that occurred before the
6 effective date of this Act is governed by the law in effect on the
7 date the conduct occurred, and the former law is continued in effect
8 for that purpose. For purposes of this section, conduct occurred
9 before the effective date of this Act if any part of the conduct
10 occurred before that date.

11 SECTION 10. This Act takes effect September 1, 2017.