

By: Roberts

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. The heading to Section 554.004, Occupations
Code, is amended to read as follows:

Sec. 554.004. ADMINISTRATION OF IMMUNIZATIONS AND

1 VACCINATIONS [~~MEDICATION~~].

2 SECTION 3. Section 554.004(a), Occupations Code, is amended
3 to read as follows:

4 (a) The board shall specify conditions under which a
5 pharmacist may administer immunizations and vaccinations
6 [~~medication, including an immunization and vaccination~~]. The
7 conditions must ensure that:

8 (1) [~~a licensed health care provider authorized to~~
9 ~~administer the medication is not reasonably available to administer~~
10 ~~the medication,~~

11 [~~(2) failure to administer the medication, other than~~
12 ~~an immunization or vaccination, might result in a significant delay~~
13 ~~or interruption of a critical phase of drug therapy,~~

14 [~~(3)~~] the pharmacist possesses the necessary skill,
15 education, and certification as specified by the board to
16 administer the immunization or vaccination [~~medication~~];

17 (2) [~~(4)~~] within a reasonable time after
18 administering an immunization or vaccination [~~medication~~], the
19 pharmacist notifies the licensed health care provider responsible
20 for the patient's care that the immunization or vaccination
21 [~~medication~~] was administered;

22 (3) [~~(5) the pharmacist may not administer medication~~
23 ~~to a patient at the patient's residence, except at a licensed~~
24 ~~nursing home or hospital,~~

25 [~~(6)~~] the pharmacist administers an immunization or
26 vaccination under a physician's written protocol and meets the
27 standards established by the board; and

1 (4) [~~(7)~~] the authority of a pharmacist to administer
2 immunizations or vaccinations [~~medication~~] may not be delegated.

3 SECTION 4. Subchapter C, Chapter 560, Occupations Code, is
4 amended by adding Section 560.1025 to read as follows:

5 Sec. 560.1025. PHARMACY OPERATIONS REQUIRED. The board
6 shall revoke a pharmacy license issued under this chapter if the
7 pharmacy has not begun operations as a pharmacy within six months
8 after the date the pharmacy license is issued.

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

11 Sec. 561.006. PROHIBITED ISSUANCE OF CERTAIN RENEWAL
12 CERTIFICATES. The board may not issue a license renewal
13 certificate for a pharmacy that the board determines, on inspection
14 of the address of the pharmacy on file with the board, is not
15 operating at that location.

16 SECTION 6. Section 565.002(a), Occupations Code, is amended
17 to read as follows:

18 (a) The board may discipline an applicant for or the holder
19 of a pharmacy license, including a Class E pharmacy license subject
20 to Section 565.003, if the board finds that the applicant or license
21 holder has:

22 (1) been convicted of or placed on deferred
23 adjudication community supervision or deferred disposition or the
24 applicable federal equivalent for:

25 (A) a misdemeanor:

26 (i) involving moral turpitude; or

27 (ii) under Chapter 481, 482, [~~or~~] 483, or

1 [486](#), Health and Safety Code, or the Comprehensive Drug Abuse
2 Prevention and Control Act of 1970 (21 U.S.C. Section 801 et seq.);
3 or

4 (B) a felony;

5 (2) advertised a prescription drug or device in a
6 deceitful, misleading, or fraudulent manner;

7 (3) violated any provision of this subtitle or any
8 rule adopted under this subtitle or that an owner or employee of a
9 pharmacy has violated any provision of this subtitle or any rule
10 adopted under this subtitle;

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

13 (A) a pharmacy licensed by the board;

14 (B) a practitioner;

15 (C) a person who procures a prescription drug or
16 device for lawful research, teaching, or testing, and not for
17 resale;

18 (D) a manufacturer or wholesaler licensed by the
19 commissioner of public health as required by Chapter [431](#), Health
20 and Safety Code; or

21 (E) a carrier or warehouseman;

22 (5) allowed an employee who is not a pharmacist to
23 practice pharmacy;

24 (6) sold an adulterated or misbranded prescription or
25 nonprescription drug;

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

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

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

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

14 (11) violated a disciplinary order;

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

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

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

22 (A) a legitimate, documented financial hardship
23 of the patient; or

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

26 SECTION 7. Section 568.001(a), Occupations Code, is amended
27 to read as follows:

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

3 (1) a pharmacy technician:

4 (A) have a high school diploma or a high school
5 equivalency certificate or be working to achieve an equivalent
6 diploma or certificate; ~~and~~

7 (B) have passed a board-approved pharmacy
8 technician certification examination; and

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

11 (2) a pharmacy technician trainee have a high school
12 diploma or a high school equivalency certificate or be working to
13 achieve an equivalent diploma or certificate.

14 SECTION 8. Subchapter C, Chapter 481, Health and Safety
15 Code, is amended by adding Section 481.0751 to read as follows:

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

17 (a) If any pharmacist who is an owner or employee of a pharmacy is
18 not required to submit information to the board under Section
19 481.074(q) or 481.075 for a seven-day period, the pharmacy shall
20 notify the board that the pharmacy did not fill a prescription that
21 required the submission of information under those sections during
22 that period. The pharmacy shall send the notice not later than the
23 seventh day after the last day of the period.

24 (b) The board by rule shall establish a standardized process
25 for a pharmacy to transmit electronically the notification required
26 by this section.

27 SECTION 9. Section 481.353(a), Health and Safety Code, is

1 amended to read as follows:

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

4 SECTION 10. (a) Sections 554.016, 556.0555, 560.001(c),
5 560.0525, and 562.111, Occupations Code, are repealed.

6 (b) Subchapter E, Chapter 562, Occupations Code, is
7 repealed.

8 SECTION 11. Section 565.002(a), Occupations Code, as
9 amended by this Act, applies only to conduct that occurs on or after
10 the effective date of this Act. Conduct that occurred before the
11 effective date of this Act is governed by the law in effect on the
12 date the conduct occurred, and the former law is continued in effect
13 for that purpose. For purposes of this section, conduct occurred
14 before the effective date of this Act if any part of the conduct
15 occurred before that date.

16 SECTION 12. This Act takes effect September 1, 2017.