

By: Oliverson

H.B. No. 1622

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a physician to provide and dispense and to delegate authority to provide and dispense certain drugs.

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

SECTION 1. Section 151.002, Occupations Code, is amended by adding Subdivisions (3-a) and (13-a) to read as follows:

(3-a) "Dispense" has the meaning assigned by Section 551.003.

(13-a) "Provision" means the supply of one or more unit doses of a drug, medicine, or dangerous drug.

SECTION 2. The heading to Section 157.002, Occupations Code, is amended to read as follows:

Sec. 157.002. GENERAL DELEGATION OF ADMINISTRATION, ~~[AND]~~ PROVISION, AND DISPENSING OF DANGEROUS DRUGS.

SECTION 3. Sections 157.002(a), (b), (e), and (g), Occupations Code, are amended to read as follows:

(a) In this section, "administering" [~~+~~

~~(1) "Administering"~~] means the direct application of a drug to the body of a patient by injection, inhalation, ingestion, or any other means.

~~(2) "Provision" means the supply of one or more unit doses of a drug, medicine, or dangerous drug.]~~

(b) A physician may delegate to any qualified and properly trained person acting under the physician's supervision the act of

1 administering [~~or providing~~] dangerous drugs in the physician's  
2 office, as ordered by the physician, that are used or required to  
3 meet the immediate needs of the physician's patients or the act of  
4 providing or dispensing dangerous drugs in the physician's office,  
5 as ordered by the physician, to the physician's patients. The  
6 administration, [~~or~~] provision, or dispensing of the dangerous  
7 drugs must be performed in compliance with laws relating to the  
8 practice of medicine and state and federal laws relating to those  
9 dangerous drugs.

10 (e) The administration, [~~or~~] provision, or dispensing of  
11 the drugs may be delegated through a physician's order, a standing  
12 medical order, a standing delegation order, or another order  
13 defined by the board.

14 (g) A drug or medicine provided or dispensed under  
15 Subsection (b) or (c) must be supplied in a suitable container  
16 labeled in compliance with applicable drug laws. A qualified and  
17 trained person, acting under the supervision of a physician, may  
18 specify at the time of the provision or dispensing of the drug the  
19 inclusion on the container of the date of the provision or  
20 dispensing and the patient's name and address.

21 SECTION 4. The heading to Chapter 158, Occupations Code, is  
22 amended to read as follows:

23 CHAPTER 158. AUTHORITY OF PHYSICIAN TO PROVIDE OR DISPENSE CERTAIN  
24 DRUGS AND SUPPLIES

25 SECTION 5. Sections 158.001(a) and (c), Occupations Code,  
26 are amended to read as follows:

27 (a) A physician licensed under this subtitle may provide

1 ~~[supply]~~ a patient with any drug, remedy, or clinical supply  
2 necessary to meet the patient's immediate needs.

3 (c) This chapter does not prohibit a physician from  
4 providing ~~[supplying]~~ to a patient, free of charge, a drug provided  
5 to the physician by a drug manufacturer for an indigent  
6 pharmaceutical program if, in the physician's opinion, it is  
7 advantageous to the patient, in adhering to a course of treatment  
8 prescribed by the physician, to receive the drug.

9 SECTION 6. Section 158.002(a), Occupations Code, is amended  
10 to read as follows:

11 (a) This chapter does not prohibit a physician from  
12 providing ~~[supplying]~~ a pharmaceutical sample to a patient free of  
13 charge if, in the physician's opinion, it is advantageous to the  
14 patient, in adhering to a course of treatment prescribed by the  
15 physician, to receive the sample.

16 SECTION 7. Section 158.003, Occupations Code, is amended to  
17 read as follows:

18 Sec. 158.003. PROVISION AND DISPENSING OF DANGEROUS DRUGS  
19 ~~[IN CERTAIN RURAL AREAS]~~. (a) In this section, "reimbursement for  
20 cost" means an additional charge, separate from that imposed for  
21 the physician's professional services, that includes the cost of  
22 the drug product and all other actual costs to the physician  
23 incidental to providing the dispensing service. The term does not  
24 include a separate fee imposed for the act of dispensing the drug  
25 itself.

26 (b) ~~[This section applies to an area located in a county~~  
27 ~~with a population of 5,000 or less, or in a municipality or an~~

1 ~~unincorporated town with a population of less than 2,500, that is~~  
2 ~~within a 15-mile radius of the physician's office and in which a~~  
3 ~~pharmacy is not located. This section does not apply to a~~  
4 ~~municipality or an unincorporated town that is adjacent to a~~  
5 ~~municipality with a population of 2,500 or more.~~

6 ~~[(c)]~~ A physician ~~[who practices medicine in an area~~  
7 ~~described by Subsection (b)]~~ may:

8 (1) provide or dispense ~~[maintain a supply of]~~  
9 dangerous drugs in the physician's office to ~~[be dispensed in the~~  
10 ~~course of treating]~~ the physician's patients; and

11 (2) be reimbursed for the cost of providing or  
12 dispensing ~~[supplying]~~ those drugs without obtaining a license  
13 under Chapter 558.

14 (c) A physician may not provide or dispense under this  
15 section a controlled substance listed in Schedules II through V as  
16 established under Subchapter B, Chapter 481, Health and Safety  
17 Code.

18 (d) A physician who provides or dispenses dangerous drugs  
19 under this section ~~[Subsection (c)]~~ shall [+

20 ~~[(1) comply with each labeling provision under~~  
21 ~~Subtitle J applicable to that class of drugs, and~~

22 ~~[(2)]~~ oversee compliance with the laws of this state  
23 and federal law relating to those dangerous ~~[packaging and~~  
24 ~~recordkeeping provisions applicable to that class of]~~ drugs.

25 (e) Before providing or dispensing dangerous drugs under  
26 this section, a physician must notify the patient that the  
27 prescription for the dangerous drug may be filled at a pharmacy.

1 The notification requirement of this subsection may be satisfied by  
2 a written notice placed conspicuously in the physician's office.

3 (f) Not later than the 30th day after the date a physician  
4 first provides or dispenses [~~(e) A physician who desires to~~  
5 ~~dispense] dangerous drugs under this section, the physician shall  
6 notify both the Texas State Board of Pharmacy and the board that the  
7 physician is providing or dispensing dangerous drugs under this  
8 section. The Texas State Board of Pharmacy and the board shall  
9 jointly adopt a form by which a physician may provide notification  
10 as required by this subsection [~~practices in an area described by~~  
11 ~~Subsection (b). The physician may continue to dispense dangerous~~  
12 ~~drugs in the area until the Texas State Board of Pharmacy~~  
13 ~~determines, after notice and hearing, that the physician no longer~~  
14 ~~practices in an area described by Subsection (b)].~~~~

15 (g) A physician who notifies the board under Subsection (f)  
16 that the physician is providing or dispensing dangerous drugs under  
17 this section and who intends to continue to provide or dispense  
18 dangerous drugs under this section shall include notice of that  
19 intent in any subsequent registration permit renewal application  
20 submitted to the board. The board by rule shall prescribe the form  
21 of a registration permit renewal application in accordance with  
22 this subsection.

23 SECTION 8. Section [551.003](#)(31), Occupations Code, is  
24 amended to read as follows:

25 (31) "Pharmacy" means a facility at which a  
26 prescription drug or medication order is received, processed, or  
27 dispensed under this subtitle, Chapter [481](#) or [483](#), Health and

1 Safety Code, or the Comprehensive Drug Abuse Prevention and Control  
2 Act of 1970 (21 U.S.C. Section 801 et seq.). The term does not  
3 include:

4 (A) a narcotic drug treatment program that is  
5 regulated under Chapter 466, Health and Safety Code; or

6 (B) a physician's office in which a dangerous  
7 drug is provided or dispensed under Section 158.003.

8 SECTION 9. Section 551.004, Occupations Code, is amended by  
9 adding Subsection (a-1) and amending Subsection (b) to read as  
10 follows:

11 (a-1) For purposes of Subsection (a)(1), "retailing of  
12 prescription drugs" does not include the collection of a  
13 reimbursement for cost as defined by Section 158.003(a).

14 (b) This subtitle does not prevent a practitioner from:

15 (1) administering a drug to a patient of the  
16 practitioner; or

17 (2) providing or dispensing dangerous drugs under  
18 Section 158.003.

19 SECTION 10. Section 558.001, Occupations Code, is amended  
20 by amending Subsection (c) and adding Subsection (d) to read as  
21 follows:

22 (c) Except as provided by Subsection (d), a [A] person may  
23 not dispense or distribute prescription drugs unless the person:

24 (1) is a pharmacist; or

25 (2) is otherwise authorized by this subtitle to  
26 dispense or distribute prescription drugs.

27 (d) A physician or person acting under the physician's

1 supervision may provide or dispense dangerous drugs in accordance  
2 with Section 157.002(b) or 158.003.

3 SECTION 11. The heading to Chapter 563, Occupations Code,  
4 is amended to read as follows:

5 CHAPTER 563. [~~PRESCRIPTION REQUIREMENTS,~~] DELEGATION OF  
6 ADMINISTRATION, [~~AND~~] PROVISION, AND DISPENSING OF DANGEROUS DRUGS

7 SECTION 12. Sections 563.051(a) and (c), Occupations Code,  
8 are amended to read as follows:

9 (a) A physician may delegate to any qualified and properly  
10 trained person acting under the physician's supervision the act of  
11 administering [~~or providing~~] dangerous drugs in the physician's  
12 office, as ordered by the physician, that are used or required to  
13 meet the immediate needs of the physician's patients or the act of  
14 providing or dispensing dangerous drugs in the physician's office,  
15 as ordered by the physician, to the physician's patients. The  
16 administration, [~~or~~] provision, or dispensing of the dangerous  
17 drugs must be performed in compliance with laws relating to the  
18 practice of medicine and state and federal laws relating to those  
19 dangerous drugs.

20 (c) The administration, [~~or~~] provision, or dispensing of  
21 the drugs may be delegated through a physician's order, a standing  
22 medical order, a standing delegation order, or another order  
23 defined by the Texas Medical [~~State~~] Board [~~of Medical Examiners~~].

24 SECTION 13. Section 563.052, Occupations Code, is amended  
25 to read as follows:

26 Sec. 563.052. SUITABLE CONTAINER REQUIRED. A drug or  
27 medicine provided or dispensed under this subchapter must be

1 provided or dispensed [~~supplied~~] in a suitable container labeled in  
2 compliance with applicable drug laws. A qualified and trained  
3 person, acting under the supervision of a physician, may specify at  
4 the time of the provision or dispensing of the drug the inclusion on  
5 the container of the date of the provision or dispensing and the  
6 patient's name and address.

7 SECTION 14. (a) The heading to Subchapter B, Chapter 563,  
8 Occupations Code, is repealed.

9 (b) Section 563.053, Occupations Code, is repealed.

10 SECTION 15. This Act takes effect September 1, 2019.