

Suspending limitations on conference committee jurisdiction, H.B. No. 3284 (Sheffield/Nelson)

By: Sheffield

H.R. No. 2195

R E S O L U T I O N

1 BE IT RESOLVED by the House of Representatives of the State of
2 Texas, 86th Legislature, Regular Session, 2019, That House Rule 13,
3 Section 9(a), be suspended in part as provided by House Rule 13,
4 Section 9(f), to enable the conference committee appointed to
5 resolve the differences on House Bill 3284 (the prescribing and
6 dispensing of controlled substances under the Texas Controlled
7 Substances Act; authorizing a fee; providing for administrative
8 penalties; creating criminal offenses) to consider and take action
9 on the following matters:

10 (1) House Rule 13, Section 9(a)(2), is suspended to permit
11 the committee to omit text not in disagreement by omitting SECTION 1
12 of the house engrossment of House Bill 3284 and the corresponding
13 SECTION of the bill as the bill was amended by the senate adding
14 Section 481.0755, Health and Safety Code, which reads as follows:

15 SECTION 1. Subchapter C, Chapter 481, Health and Safety
16 Code, is amended by adding Section 481.0755 to read as follows:

17 Sec. 481.0755. WRITTEN, ORAL, AND TELEPHONICALLY
18 COMMUNICATED PRESCRIPTIONS. (a) Notwithstanding Sections
19 481.073, 481.074, and 481.075, a person prescribing or dispensing a
20 controlled substance must use the electronic prescription record
21 and may not use a written, oral, or telephonically communicated
22 prescription.

23 (b) A prescriber may issue a written, oral, or
24 telephonically communicated prescription for a controlled

1 substance as authorized under this subchapter only if the
2 prescription is issued:

3 (1) by a veterinarian;

4 (2) in circumstances in which electronic prescribing
5 is not available due to temporary technological or electronic
6 failure, as prescribed by board rule;

7 (3) by a practitioner to be dispensed by a pharmacy
8 located outside this state, as prescribed by board rule;

9 (4) when the prescriber and dispenser are the same
10 entity;

11 (5) in circumstances in which necessary elements are
12 not supported by the most recent electronic prescription drug
13 software;

14 (6) for a drug for which the United States Food and
15 Drug Administration requires additional information in the
16 prescription that is not possible with electronic prescribing;

17 (7) for a non-patient-specific prescription pursuant
18 to a standing order, approved protocol for drug therapy,
19 collaborative drug management, or comprehensive medication
20 management, in response to a public health emergency or in other
21 circumstances in which the practitioner may issue a
22 non-patient-specific prescription;

23 (8) for a drug under a research protocol;

24 (9) by a prescriber who is employed by or is practicing
25 a health care profession at a health-related institution, as
26 defined by Section 62.161, Education Code, as added by Chapter 448
27 (H.B. 7), Acts of the 84th Legislature, 2015;

1 (10) by a practitioner who has received a waiver under
2 Subsection (c) from the requirement to use electronic prescribing;
3 or

4 (11) under circumstances in which the practitioner has
5 the present ability to submit an electronic prescription but
6 reasonably determines that it would be impractical for the patient
7 to obtain the drugs prescribed under the electronic prescription in
8 a timely manner and that a delay would adversely impact the
9 patient's medical condition.

10 (c) The board shall adopt rules establishing a process by
11 which a practitioner may request and receive a waiver under
12 Subsection (b)(10), not to exceed one year, from the requirement to
13 use electronic prescribing. The board shall adopt rules
14 establishing the eligibility for a waiver, including:

15 (1) economic hardship;

16 (2) technological limitations not reasonably within
17 the control of the practitioner; or

18 (3) other exceptional circumstances demonstrated by
19 the practitioner.

20 (d) A written, oral, or telephonically communicated
21 prescription must comply with the applicable requirements
22 prescribed by Sections 481.074 and 481.075.

23 (e) A dispensing pharmacist who receives a controlled
24 substance prescription in a manner other than electronically is not
25 required to verify that the prescription is exempt from the
26 requirement that it be submitted electronically.

27 (f) The board shall enforce this section.

1 Explanation: This change is necessary to avoid conflicting
2 with language in House Bill 2174 that also adds Section 481.0755,
3 Health and Safety Code. The house has concurred in the senate
4 amendments to House Bill 2174.

5 (2) House Rule 13, Sections 9(a)(1) and (2), are suspended
6 to permit the committee to change and omit text not in disagreement
7 in SECTIONS 6 and 9 of the house engrossment of House Bill 3284 and
8 the corresponding SECTIONS of the bill as the bill was amended by
9 the senate to strike references to Section 481.0755, Health and
10 Safety Code.

11 Explanation: This change is necessary to conform
12 cross-references to the omission of proposed Section 481.0755,
13 Health and Safety Code.

14 (3) House Rule 13, Section 9(a)(2), is suspended to permit
15 the committee to omit text not in disagreement by omitting SECTION
16 13 of the house engrossment of House Bill 3284 and the corresponding
17 SECTION of the bill as the bill was amended by the senate, which
18 reads as follows:

19 SECTION 13. Section 481.0755, Health and Safety Code, as
20 added by this Act, applies only to a prescription issued on or after
21 the effective date of this Act.

22 Explanation: This change is necessary to conform to the
23 omission of proposed Section 481.0755, Health and Safety Code.