

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

By: Nelson

S.R. No. 852

SENATE RESOLUTION

BE IT RESOLVED by the Senate of the State of Texas, 86th Legislature, Regular Session, 2019, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on House Bill 3284 (the prescribing and dispensing of controlled substances under the Texas Controlled Substances Act; authorizing a fee; providing for administrative penalties; creating criminal offenses) to consider and take action on the following matters:

(1) Senate Rule 12.03(2) is suspended to permit the committee to omit text not in disagreement by omitting SECTION 1 of the house engrossment of House Bill 3284 and the corresponding SECTION of the bill as the bill was amended by the senate adding Section 481.0755, Health and Safety Code, which reads as follows:

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

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

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

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

(1) by a veterinarian;

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

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

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

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

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

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

(8) for a drug under a research protocol;

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

2015;

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

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

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

(1) economic hardship;

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

(3) other exceptional circumstances demonstrated by the practitioner.

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

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

(f) The board shall enforce this section.

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

(2) Senate Rules 12.03 (1) and (2) are suspended to permit the committee to change and omit text not in disagreement in SECTIONS 6 and 9 of the house engrossment of House Bill 3284 and the corresponding SECTIONS of the bill as the bill was amended by the senate, to strike references to Section 481.0755, Health and Safety Code.

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

(3) Senate Rule 12.03(2) is suspended to permit the committee to omit text not in disagreement by omitting SECTION 13 of the house engrossment of House Bill 3284 and the corresponding SECTION of the bill as the bill was amended by the senate, which reads as follows:

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

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