By:  Jetton H.B. No. 2078

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

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

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

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

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

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

(a)  A physician licensed under this subtitle may provide [~~supply~~] a patient with any drug, remedy, or clinical supply necessary to meet the patient's immediate needs.

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

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

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

SECTION 7.  The heading to Section 158.003, Occupations Code, is amended to read as follows:

Sec. 158.003.  DISPENSING OF DANGEROUS DRUGS TO CERTAIN PATIENTS IN CERTAIN RURAL AREAS.

SECTION 8.  Section 158.003, Occupations Code, is amended by adding Subsection (a-1) to read as follows:

(a-1)  This section applies only to a physician providing care under workers' compensation insurance coverage, as defined by Section 401.011, Labor Code.

SECTION 9.  Chapter 158, Occupations Code, is amended by adding Section 158.004 to read as follows:

Sec. 158.004.  PROVISION AND DISPENSING OF DANGEROUS DRUGS. (a) In this section, "reimbursement for cost" means an additional charge, separate from that imposed for the physician's professional services, that includes the cost of a drug product and all other actual costs to the physician incidental to providing dispensing service. The term does not include a separate fee imposed for the act of dispensing a drug itself.

(b)  This section does not apply to a physician providing care under workers' compensation insurance coverage, as defined by Section 401.011, Labor Code.

(c)  A physician may:

(1)  provide or dispense dangerous drugs to the physician's patients; and

(2)  be reimbursed for the cost of providing or dispensing those drugs without obtaining a license under Chapter 558.

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

(e)  A physician who provides or dispenses dangerous drugs under this section shall oversee compliance with the laws of this state and federal law relating to those dangerous drugs.

(f)  Before providing or dispensing dangerous drugs under this section, a physician must notify the patient that the prescription for the dangerous drug may be filled at a pharmacy. With respect to dangerous drugs provided or dispensed in a physician's office, the notification requirement of this subsection may be satisfied by a written notice placed conspicuously in the office.

(g)  Not later than the 30th day after the date a physician first provides or dispenses dangerous drugs under this section, the physician shall notify the Texas State Board of Pharmacy and the board that the physician is providing or dispensing dangerous drugs under this section. The Texas State Board of Pharmacy and the board shall jointly adopt a form by which a physician may provide notification as required by this subsection.

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

SECTION 10.  Section 551.003(31), Occupations Code, is amended to read as follows:

(31)  "Pharmacy" means a facility at which a prescription drug or medication order is received, processed, or dispensed under this subtitle, Chapter 481 or 483, Health and Safety Code, or the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Section 801 et seq.). The term does not include:

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

(B)  a location where:

(i)  a physician provides or dispenses a dangerous drug under Section 158.003 or 158.004; or

(ii)  a person provides or dispenses a dangerous drug under a physician's supervision in accordance with Section 157.002(b).

SECTION 11.  Section 551.004, Occupations Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1)  For purposes of Subsection (a)(1), "retailing of prescription drugs" does not include the collection of a reimbursement for cost, as defined by Section 158.003(a) or 158.004(a).

(b)  This subtitle does not prevent:

(1)  a practitioner from:

(A)  administering a drug to a patient of the practitioner; or

(B)  providing or dispensing dangerous drugs under Section 158.003 or 158.004; or

(2)  a person from providing or dispensing a dangerous drug under a physician's supervision in accordance with Section 157.002(b).

SECTION 12.  Section 558.001, Occupations Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

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

(1)  is a pharmacist; or

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

(d)  A physician or person acting under the physician's supervision may provide or dispense dangerous drugs in accordance with Section 157.002(b), 158.003, or 158.004.

SECTION 13.  The heading to Chapter 563, Occupations Code, is amended to read as follows:

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

SECTION 14.  Sections 563.051(a) and (c), Occupations Code, are amended to read as follows:

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

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

SECTION 15.  Section 563.052, Occupations Code, is amended to read as follows:

Sec. 563.052.  SUITABLE CONTAINER REQUIRED. A drug or medicine provided or dispensed under this subchapter must be provided or dispensed [~~supplied~~] in a suitable container labeled in compliance with applicable drug laws. A qualified and trained person, acting under the supervision of a physician, may specify at the time of the provision or dispensing of the drug the inclusion on the container of the date of the provision or dispensing and the patient's name and address.

SECTION 16.  The heading to Section 563.053, Occupations Code, is amended to read as follows:

Sec. 563.053.  DISPENSING OF DANGEROUS DRUGS TO CERTAIN PATIENTS IN CERTAIN RURAL AREAS.

SECTION 17.  Section 563.053, Occupations Code, is amended by adding Subsection (a-1) to read as follows:

(a-1)  This section applies only to a physician providing care under workers' compensation insurance coverage, as defined by Section 401.011, Labor Code.

SECTION 18.  The heading to Subchapter B, Chapter 563, Occupations Code, is repealed.

SECTION 19.  This Act takes effect September 1, 2023.