

By: Howard

H.B. No. 235

A BILL TO BE ENTITLED

AN ACT

relating to the authority of pharmacists to furnish certain medications.

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

SECTION 1. Section 483.001(11), Health and Safety Code, is amended to read as follows:

(11) "Practice of pharmacy" has the meaning assigned by Section 551.003, Occupations Code ~~[means:~~

~~[(A) provision of those acts or services necessary to provide pharmaceutical care,~~

~~[(B) interpretation and evaluation of prescription drug orders or medication orders,~~

~~[(C) participation in drug and device selection as authorized by law, drug administration, drug regimen review, or drug or drug-related research,~~

~~[(D) provision of patient counseling,~~

~~[(E) responsibility for:~~

~~[(i) dispensing of prescription drug orders or distribution of medication orders in the patient's best interest,~~

~~[(ii) compounding and labeling of drugs and devices, except labeling by a manufacturer, repackager, or distributor of nonprescription drugs and commercially packaged prescription drugs and devices,~~

1                   ~~[(iii) proper and safe storage of drugs and~~  
2 ~~devices; or~~

3                   ~~[(iv) maintenance of proper records for~~  
4 ~~drugs and devices. In this subdivision, "device" has the meaning~~  
5 ~~assigned by Subtitle J, Title 3, Occupations Code; or~~

6                   ~~[(F) performance of a specific act of drug~~  
7 ~~therapy management for a patient delegated to a pharmacist by a~~  
8 ~~written protocol from a physician licensed by the state under~~  
9 ~~Subtitle B, Title 3, Occupations Code].~~

10           SECTION 2. Subchapter C, Chapter 157, Occupations Code, is  
11 amended by adding Section 157.102 to read as follows:

12           Sec. 157.102. DELEGATION TO PHARMACIST TO FURNISH CERTAIN  
13 DRUGS. (a) In this section:

14                   (1) "Acute condition" means a condition or disease  
15 that begins abruptly, intensifies rapidly, and is generally not  
16 long-lasting.

17                   (2) "Pharmacist" has the meaning assigned by Section  
18 551.003.

19                   (3) "Waived clinical laboratory test" means a clinical  
20 laboratory test that is classified as waived under federal  
21 regulations issued under the Clinical Laboratory Improvement  
22 Amendments of 1988 (42 U.S.C. Section 263a).

23                   (4) "Written protocol" means a physician's written  
24 order, standing medical order, standing delegation order, or other  
25 order or protocol as defined by rule of the board.

26                   (b) Notwithstanding any other law, a pharmacist may furnish  
27 to a patient, as provided by a physician's written protocol, a

1 prescription drug to treat an acute condition that is identified  
2 through performance of one of the following tests, if the test is a  
3 waived clinical laboratory test:

4 (1) a rapid strep test or rapid antigen detection test  
5 used in the identification of group A streptococcus (GAS); or

6 (2) a rapid influenza diagnostic test used in the  
7 identification of influenza types A and B.

8 (c) The board shall adopt rules jointly with the Texas State  
9 Board of Pharmacy to establish the minimum content of the written  
10 protocol required under Subsection (b). The written protocol may  
11 permit a pharmacist to furnish a prescription drug to a patient  
12 without an established physician-patient relationship.

13 (d) A written protocol under this section must require  
14 notice to the patient's primary care physician, as identified by  
15 the patient if the patient has a primary care physician, and  
16 prescribe the period for providing the notice and the form of the  
17 notice, in accordance with prevailing practices for the provision  
18 of notice to a patient's primary care physician. The period for  
19 providing the notice may not be later than the 14th day after the  
20 date the drug is furnished by the pharmacist.

21 SECTION 3. Section 551.003(33), Occupations Code, is  
22 amended to read as follows:

23 (33) "Practice of pharmacy" means:

24 (A) providing an act or service necessary to  
25 provide pharmaceutical care;

26 (B) interpreting or evaluating a prescription  
27 drug order or medication order;

1 (C) participating in drug or device selection as  
2 authorized by law, and participating in drug administration, drug  
3 regimen review, or drug or drug-related research;

4 (D) providing patient counseling;

5 (E) being responsible for:

6 (i) dispensing a prescription drug order or  
7 distributing a medication order;

8 (ii) compounding or labeling a drug or  
9 device, other than labeling by a manufacturer, repackager, or  
10 distributor of a nonprescription drug or commercially packaged  
11 prescription drug or device;

12 (iii) properly and safely storing a drug or  
13 device; or

14 (iv) maintaining proper records for a drug  
15 or device;

16 (F) performing for a patient a specific act of  
17 drug therapy management delegated to a pharmacist by a written  
18 protocol from a physician licensed in this state in compliance with  
19 Subtitle B; ~~or~~

20 (G) administering an immunization or vaccination  
21 under a physician's written protocol; or

22 (H) furnishing a prescription drug to a patient  
23 under a physician's written protocol under Section 157.102.

24 SECTION 4. Subchapter B, Chapter 562, Occupations Code, is  
25 amended by adding Section 562.058 to read as follows:

26 Sec. 562.058. TRAINING REQUIRED TO FURNISH CERTAIN DRUGS.

27 (a) A pharmacist may not furnish a prescription drug under Section

1 157.102 unless the pharmacist has completed a training program that  
2 is approved by the board and is relevant to the condition treated by  
3 the drug.

4 (b) The board shall adopt rules jointly with the Texas  
5 Medical Board to establish the minimum content of the training  
6 program required under Subsection (a).

7 SECTION 5. Not later than January 1, 2024, the Texas State  
8 Board of Pharmacy and the Texas Medical Board shall adopt the rules  
9 required under Sections 157.102 and 562.058, Occupations Code, as  
10 added by this Act.

11 SECTION 6. This Act takes effect September 1, 2023.