

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

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 as ordered by the physician  
5 to the physician's patients. The administration, [~~or~~] provision,  
6 or dispensing of the dangerous drugs must be performed in  
7 compliance with laws relating to the practice of medicine and state  
8 and federal laws relating to those dangerous drugs.

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

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

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

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

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

26 (a) A physician licensed under this subtitle may provide  
27 [~~supply~~] a patient with any drug, remedy, or clinical supply

1 necessary to meet the patient's immediate needs.

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

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

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

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

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

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

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

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

26 Sec. 158.004. PROVISION AND DISPENSING OF DANGEROUS DRUGS.

27 (a) In this section, "reimbursement for cost" means an additional

1 charge, separate from that imposed for the physician's professional  
2 services, that includes the cost of a drug product and all other  
3 actual costs to the physician incidental to providing dispensing  
4 service. The term does not include a separate fee imposed for the  
5 act of dispensing a drug itself.

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

9 (c) A physician may:

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

12 (2) be reimbursed for the cost of providing or  
13 dispensing those drugs without obtaining a license under Chapter  
14 558.

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

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

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

1 conspicuously in the office.

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

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

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

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

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

27 (B) a location where:

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

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

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

9           (a-1) For purposes of Subsection (a)(1), "retailing of  
10 prescription drugs" does not include the collection of a  
11 reimbursement for cost, as defined by Section 158.003(a) or  
12 158.004(a).

13           (b) This subtitle does not prevent:

14                   (1) a practitioner from:

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

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

19                   (2) a person from providing or dispensing a dangerous  
20 drug under a physician's supervision in accordance with Section  
21 157.002(b).

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

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

27                   (1) is a pharmacist; or

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

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

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

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

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

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

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

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

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

9           SECTION 16. The heading to Section [563.053](#), Occupations  
10 Code, is amended to read as follows:

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

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

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

18           SECTION 18. The heading to Subchapter [B](#), Chapter [563](#),  
19 Occupations Code, is repealed.

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