

By: Bucy, Talarico, Plesa

H.B. No. 2088

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the practice of pharmacy.

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

SECTION 1. Section 562.0541(d), Occupations Code, is amended to read as follows:

(d) The quantity of an emergency refill of insulin may not exceed a 30-day supply unless the smallest commercially available package exceeds a 30-day supply. A pharmacist may dispense multiple packages of insulin for an emergency refill if the total quantity dispensed does not exceed a 30-day supply. The ~~[quantity of an]~~ emergency refill of insulin-related equipment or supplies may not exceed ~~[the lesser of a 30-day supply or]~~ the smallest commercially available package necessary for a 30-day supply.

SECTION 2. Section 565.003, Occupations Code, as amended by Chapters 1105 (H.B. 2174) and 1166 (H.B. 3284), Acts of the 86th Legislature, Regular Session, 2019, is reenacted to read as follows:

Sec. 565.003. ADDITIONAL GROUNDS FOR DISCIPLINE REGARDING APPLICANT FOR OR HOLDER OF NONRESIDENT PHARMACY LICENSE. Unless compliance would violate the pharmacy or drug statutes or rules in the state in which the pharmacy is located, the board may discipline an applicant for or the holder of a nonresident pharmacy license if the board finds that the applicant or license holder has failed to comply with:

(1) Section 481.074, 481.075, 481.0755, 481.0756, 481.076, 481.0761, 481.0762, 481.0763, 481.07635, 481.07636, 481.0764, 481.0765, or 481.0766, Health and Safety Code;

(2) Texas substitution requirements regarding:

(A) the practitioner's directions concerning generic substitution;

(B) the patient's right to refuse generic substitution; or

(C) notification to the patient of the patient's right to refuse substitution;

(3) any board rule relating to providing drug information to the patient or the patient's agent in written form or by telephone; or

(4) any board rule adopted under Section 554.051(a) and determined by the board to be applicable under Section 554.051(b).

SECTION 3. Section 568.003(a), Occupations Code, is amended to read as follows:

(a) The board may take disciplinary action under Section 568.0035 against an applicant for or the holder of a current or expired pharmacy technician or pharmacy technician trainee registration if the board determines that the applicant or registrant has:

(1) violated this subtitle or a rule adopted under this subtitle;

(2) engaged in gross immorality, as that term is defined by the rules of the board;

1 (3) engaged in any fraud, deceit, or
2 misrepresentation, as those terms are defined by the rules of the
3 board, in practicing as a pharmacy technician or pharmacy
4 technician trainee or in seeking a registration to act as a pharmacy
5 technician or pharmacy technician trainee;

6 (4) been convicted of or placed on deferred
7 adjudication community supervision or deferred disposition or the
8 applicable federal equivalent for:

9 (A) a misdemeanor:

10 (i) involving moral turpitude; or

11 (ii) under Chapter 481 or 483, Health and
12 Safety Code, or the Comprehensive Drug Abuse Prevention and Control
13 Act of 1970 (21 U.S.C. Section 801 et seq.); or

14 (B) a felony;

15 (5) developed an incapacity that prevents the
16 applicant or registrant from practicing as a pharmacy technician or
17 pharmacy technician trainee with reasonable skill, competence, and
18 safety to the public;

19 (6) violated:

20 (A) Chapter 481 or 483, Health and Safety Code,
21 or rules relating to those chapters;

22 (B) Sections 485.031-485.034 [~~485.031-485.035~~],
23 Health and Safety Code; or

24 (C) a rule adopted under Section 485.002
25 [~~485.011~~], Health and Safety Code;

26 (7) violated the pharmacy or drug laws or rules of this
27 state, another state, or the United States;

1 (8) performed duties in a pharmacy that only a
2 pharmacist may perform, as defined by the rules of the board;

3 (9) used alcohol or drugs in an intemperate manner
4 that, in the board's opinion, could endanger a patient's life;

5 (10) engaged in negligent, unreasonable, or
6 inappropriate conduct when working in a pharmacy;

7 (11) violated a disciplinary order;

8 (12) been convicted or adjudicated of a criminal
9 offense that requires registration as a sex offender under Chapter
10 62, Code of Criminal Procedure; or

11 (13) been disciplined by a pharmacy or other health
12 regulatory board of this state or another state for conduct
13 substantially equivalent to conduct described by this subsection.

14 SECTION 4. To the extent of any conflict, this Act prevails
15 over another Act of the 88th Legislature, Regular Session, 2023,
16 relating to nonsubstantive additions to and corrections in enacted
17 codes.

18 SECTION 5. Section 568.003(a), Occupations Code, as amended
19 by this Act, applies only to disciplinary action regarding conduct
20 that occurs on or after the effective date of this Act. Conduct
21 that occurs before the effective date of this Act is governed by the
22 law in effect on the date the conduct occurred, and the former law
23 is continued in effect for that purpose.

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