

By: Frank

H.B. No. 4051

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain healthcare providers to order and provide or dispense limited prescription drugs.

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. Section [151.002](#), Occupations Code, is amended by
11 adding Subdivisions (3-a) and (13-a) to read as follows:

12 (3-a) "Dispense" has the meaning assigned by Section
13 [551.003](#).

14 (13-a) "Provision" means the supply of one or more
15 unit doses of a drug, medicine, or dangerous drug.

16 SECTION 3. The heading to Section [157.002](#), Occupations
17 Code, is amended to read as follows:

18 Sec. 157.002. GENERAL DELEGATION OF ADMINISTRATION, ~~[AND]~~
19 PROVISION, AND DISPENSING OF DANGEROUS DRUGS.

20 SECTION 4. Sections [157.002](#)(a), (b), (e), and (g),
21 Occupations Code, are amended to read as follows:

22 (a) In this section, "administering" [~~+~~

23 ~~[(1) "Administering"]~~ means the direct application of
24 a drug to the body of a patient by injection, inhalation, ingestion,
25 or any other means.

26 ~~[(2) "Provision" means the supply of one or more unit~~
27 ~~doses of a drug, medicine, or dangerous drug.]~~

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

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

15 (g) A drug or medicine provided or dispensed under
16 Subsection (b) or (c) must be:

17 (1) supplied in a child-resistant container unless the
18 patient request it not be in a child-resistant container or the
19 product is exempt from requirements of the Poison Prevention
20 Packaging Act of 1970;

21 (2) dispensed in a container with a label on the container
22 that contains the name of the drug, the date the prescription is
23 dispensed, the name of the prescribing practitioner, the quantity
24 dispensed, dosage and route of administration, date after which the
25 prescription should not be used or beyond-use-date, and appropriate
26 ancillary instructions such as storage instructions or cautionary
27 statements printed in an easily readable font size;

1 (3) stored prior to dispensing in a location with a
2 temperature range compatible with the proper storage of each drug,
3 including refrigeration where required, and secured against theft
4 or diversion of prescription drugs and locked to prohibit
5 unauthorized access when the physician is not on-site; and

6 (4) dispensed with written consumer information or written
7 directions to obtain written information online that provides the
8 therapeutic use of the drug and the names of generically equivalent
9 drugs.

10 (h) A physician dispensing a drug under this subchapter
11 must:

12 (1) complete a drug utilization review prior to dispensing
13 for therapeutic duplication, drug-to-disease contraindications,
14 drug-to-drug interactions, correct dosage, and drug-to-allergy
15 interactions;

16 (2) maintain records of dispensed medications including
17 patient information, prescription details and dispensing
18 information including the dispensing physicians name and office
19 address where drugs were dispensed from;

20 (3) counsel the patient on proper use of a prescription drug
21 or device; and

22 (4) perform a final check on all prescriptions filled onsite
23 for the accuracy and completeness of the prescription.

24 ~~[supplied in a suitable container labeled in compliance with~~
25 ~~applicable drug laws. A qualified and trained person, acting under~~
26 ~~the supervision of a physician, may specify at the time of the~~
27 ~~provision or dispensing of the drug the inclusion on the container~~

1 ~~of the date of the provision or dispensing and the patient's name~~
2 ~~and address.]~~

3 SECTION 5. The heading to Chapter 158, Occupations Code, is
4 amended to read as follows:

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

7 SECTION 6. Sections 158.001(a) and (c), Occupations Code,
8 are amended to read as follows:

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

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

18 SECTION 7. Section 158.002(a), Occupations Code, is amended
19 to read as follows:

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

25 SECTION 8. The heading to Section 158.003, Occupations
26 Code, is amended to read as follows:

27 Sec. 158.003. DISPENSING OF DANGEROUS DRUGS TO CERTAIN

1 PATIENTS IN CERTAIN RURAL AREAS.

2 SECTION 9. Section 158.003, Occupations Code, is amended by
3 adding Subsection (a-1) to read as follows:

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

7 SECTION 10. Chapter 158, Occupations Code, is amended by
8 adding Section 158.004 to read as follows:

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

10 (a) In this section, "reimbursement for cost" means an additional
11 charge, separate from that imposed for the physician's professional
12 services, that includes the cost of a drug product and all other
13 actual costs to the physician incidental to providing dispensing
14 service. The term does not include a separate fee imposed for the
15 act of dispensing a drug itself.

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

19 (c) A physician may:

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

22 (2) be reimbursed for the cost of providing or
23 dispensing those drugs without obtaining a license under Chapter
24 558.

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

1 Code.

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

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

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

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

27 SECTION 11. Section [551.003](#)(31) and (33), Occupations Code,

1 is amended to read as follows:

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

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

10 (B) a location where:

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

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

16 (33) "Practice of pharmacy" means:

17 (A) providing an act or service necessary to
18 provide pharmaceutical care;

19 (B) interpreting or evaluating a prescription
20 drug order or medication order;

21 (C) participating in drug or device selection as
22 authorized by law, and participating in drug administration, drug
23 regimen review, or drug or drug-related research;

24 (D) providing patient counseling;

25 (E) being responsible for:

26 (i) dispensing a prescription drug order or
27 distributing a medication order;

1 (ii) compounding or labeling a drug or
2 device, other than labeling by a manufacturer, repackager, or
3 distributor of a nonprescription drug or commercially packaged
4 prescription drug or device;

5 (iii) properly and safely storing a drug or
6 device; or

7 (iv) maintaining proper records for a drug
8 or device;

9 (F) performing for a patient a specific act of
10 drug therapy management delegated to a pharmacist by a written
11 protocol from a physician licensed in this state in compliance with
12 Subtitle B; ~~[or]~~

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

15 (H) ordering or furnishing a prescription drug to
16 treat an acute condition in accordance with Section 562.058.

17 SECTION 12. Section 551.004, Occupations Code, is amended
18 by adding Subsection (a-1) and amending Subsection (b) to read as
19 follows:

20 (a-1) For purposes of Subsection (a)(1), "retailing of
21 prescription drugs" does not include the collection of a
22 reimbursement for cost, as defined by Section 158.003(a) or
23 158.004(a).

24 (b) This subtitle does not prevent:

25 (1) a practitioner from:

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

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

3 (2) a person from providing or dispensing a dangerous
4 drug under a physician's supervision in accordance with Section
5 157.002(b).

6 SECTION 13. Section 558.001, Occupations Code, is amended
7 by amending Subsection (c) and adding Subsection (d) to read as
8 follows:

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

11 (1) is a pharmacist; or

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

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

17 SECTION 14. Subchapter B, Chapter 562, Occupations Code, is
18 amended by adding Section 562.058 to read as follows:

19 Sec. 562.058. ORDERING AND FURNISHING CERTAIN PRESCRIPTION
20 DRUGS. (a) In this section:

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

24 (2) "Waived clinical laboratory test" means a clinical
25 laboratory test that is classified as waived under federal
26 regulations issued under the Clinical Laboratory Improvement
27 Amendments of 1988 (42 U.S.C. Section 263a).

1 (b) Notwithstanding any other law, a pharmacist may order
2 and furnish to a patient a prescription drug to treat an acute
3 condition that is:

4 (1) identified through performance of one of the following
5 tests, if the test is a waived clinical laboratory test:

6 (A) a rapid strep test or rapid antigen detection test
7 used in the identification of group A streptococcus (GAS);

8 (B) a rapid influenza diagnostic test used in the
9 identification of influenza types A and B; or

10 (C) a rapid diagnostic test for SARS-CoV-2 or a
11 related virus used in the identification of COVID-19 or a related
12 illness[-]; or

13 (2) for treatment of minor, uncomplicated infections,
14 including lice, skin conditions, such as ringworm and athlete's
15 foot, and urinary tract infections.

16 (c) The board shall adopt rules to permit a pharmacist to
17 order and furnish a prescription drug under this section to a
18 patient.

19 (d) A pharmacist who orders and furnishes a prescription
20 drug under this section must provide notice to the patient's
21 primary care physician, as identified by the patient if the patient
22 has a primary care physician, not later than the 14th day after the
23 date the drug is ordered and furnished by the pharmacist.

24 (e) The board by rule shall establish requirements to ensure
25 that a pharmacist possesses the necessary skill and training to
26 order and furnish prescription drugs under this section.

27 SECTION 15. The heading to Chapter 563, Occupations Code,

1 is amended to read as follows:

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

4 SECTION 16. Sections 563.051(a) and (c), Occupations Code,
5 are amended to read as follows:

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

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

20 SECTION 17. Section 563.052, Occupations Code, is amended
21 to read as follows:

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

1 the container of the date of the provision or dispensing and the
2 patient's name and address.

3 SECTION 18. The heading to Section 563.053, Occupations
4 Code, is amended to read as follows:

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

7 SECTION 19. Section 563.053, Occupations Code, is amended
8 by adding Subsection (a-1) to read as follows:

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

12 SECTION 20. The heading to Subchapter B, Chapter 563,
13 Occupations Code, is repealed.

14 SECTION 21. Not later than January 1, 2026, the Texas State
15 Board of Pharmacy shall adopt the rules required under Section
16 562.058, Occupations Code, as added by this Act.

17 SECTION 22. Not later than January 1, 2026, the Texas
18 Medical Board shall adopt the rules required under Section 558.001,
19 Occupations Code, as added by this Act.

20 SECTION 23. This Act takes effect September 1, 2025.