

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 27 2017  
Date

Honorable Dan Patrick  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SENATE BILL 1633 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Chad Perry  
SENATOR PERRY

John Duncan  
REPRESENTATIVE

D. Beutinger  
SENATOR BEUTINGER

Linda Burbee  
REPRESENTATIVE

Konni Burton  
SENATOR BURTON

Timothy Parker  
REPRESENTATIVE

Scott Schwab  
SENATOR SCHWAB

Ken Kilg  
REPRESENTATIVE

[Signature]

[Signature]

On the part of the Senate

On the part of the House

### Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.



# CONFERENCE COMMITTEE REPORT

3<sup>rd</sup> Printing

S.B. No. 1633

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the supervision of pharmacist-interns, pharmacy  
3 technicians, and pharmacy technician trainees by a pharmacist and  
4 the provision of pharmacy services through a telepharmacy system;  
5 establishing a remote dispensing site license.

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

7 SECTION 1. Section 551.003, Occupations Code, is amended by  
8 adding Subdivision (15-a) to read as follows:

9 (15-a) "Direct supervision" means supervision by a  
10 pharmacist who directs the activities of a pharmacist-intern,  
11 pharmacy technician, or pharmacy technician trainee to a sufficient  
12 degree to ensure the activities are performed accurately, safely,  
13 and without risk of harm to patients, as specified by board rule.

14 SECTION 2. Section 554.053(a), Occupations Code, is amended  
15 to read as follows:

16 (a) The board shall establish rules for the use and the  
17 duties of a pharmacy technician and pharmacy technician trainee  
18 employed by [~~in~~] a pharmacy licensed by the board. A pharmacy  
19 technician and pharmacy technician trainee shall be responsible to  
20 and must be directly supervised by a pharmacist.

21 SECTION 3. Section 562.110, Occupations Code, is amended by  
22 amending Subsections (a), (b), (d), (e), and (f) and adding  
23 Subsections (g), (h), (i), (j), and (k) to read as follows:

24 (a) In this section:

1           (1) "Provider pharmacy" means a Class A pharmacy that  
2 provides pharmacy services through a telepharmacy system at a  
3 remote dispensing site.

4           (2) "Remote dispensing site" means a location licensed  
5 as a telepharmacy that is authorized by a provider pharmacy through  
6 a telepharmacy system to store and dispense prescription drugs and  
7 devices, including dangerous drugs and controlled substances.

8           (3) "Telepharmacy[, "telepharmacy] system" means a  
9 system that monitors the dispensing of prescription drugs and  
10 provides for related drug use review and patient counseling  
11 services by an electronic method, including the use of the  
12 following types of technology:

- 13                   (A) [~~1~~] audio and video;  
14                   (B) [~~2~~] still image capture; and  
15                   (C) [~~3~~] store and forward.

16           (b) A Class A or Class C pharmacy located in this state may  
17 provide pharmacy services, including the dispensing of drugs,  
18 through a telepharmacy system at locations separate from [~~in a~~  
19 ~~facility that is not at the same location as~~] the Class A or Class C  
20 pharmacy.

21           (d) A telepharmacy system may be located only at:  
22                   (1) a health care facility in this state that is  
23 regulated by this state or the United States; or  
24                   (2) a remote dispensing site.

25           (e) The board shall adopt rules regarding the use of a  
26 telepharmacy system under this section, including:

27                   (1) the types of health care facilities at which a

1 telepharmacy system may be located under Subsection (d)(1), which  
2 must include the following facilities:

3 (A) a clinic designated as a rural health clinic  
4 regulated under 42 U.S.C. Section 1395x(aa) [~~as amended~~]; and

5 (B) a health center as defined by 42 U.S.C.  
6 Section 254b [~~as amended~~];

7 (2) the locations eligible to be licensed as remote  
8 dispensing sites, which must include locations in medically  
9 underserved areas, areas with a medically underserved population,  
10 and health professional shortage areas determined by the United  
11 States Department of Health and Human Services;

12 (3) licensing and operating requirements for remote  
13 dispensing sites, including:

14 (A) a requirement that a remote dispensing site  
15 license identify the provider pharmacy that will provide pharmacy  
16 services at the remote dispensing site;

17 (B) a requirement that a provider pharmacy be  
18 allowed to provide pharmacy services at not more than two remote  
19 dispensing sites;

20 (C) a requirement that a pharmacist employed by a  
21 provider pharmacy make at least monthly on-site visits to a remote  
22 dispensing site or more frequent visits if specified by board rule;

23 (D) a requirement that each month the perpetual  
24 inventory of controlled substances at the remote dispensing site be  
25 reconciled to the on-hand count of those controlled substances at  
26 the site by a pharmacist employed by the provider pharmacy;

27 (E) a requirement that a pharmacist employed by a

1 provider pharmacy be physically present at a remote dispensing site  
2 when the pharmacist is providing services requiring the physical  
3 presence of the pharmacist, including immunizations;

4 (F) a requirement that a remote dispensing site  
5 be staffed by an on-site pharmacy technician who is under the  
6 continuous supervision of a pharmacist employed by the provider  
7 pharmacy;

8 (G) a requirement that all pharmacy technicians  
9 at a remote dispensing site be counted for the purpose of  
10 establishing the pharmacist-pharmacy technician ratio of the  
11 provider pharmacy, which, notwithstanding Section 568.006, may not  
12 exceed three pharmacy technicians for each pharmacist providing  
13 supervision;

14 (H) a requirement that, before working at a  
15 remote dispensing site, a pharmacy technician must:

16 (i) have worked at least one year at a  
17 retail pharmacy during the three years preceding the date the  
18 pharmacy technician begins working at the remote dispensing site;  
19 and

20 (ii) have completed a board-approved  
21 training program on the proper use of a telepharmacy system;

22 (I) a requirement that pharmacy technicians at a  
23 remote dispensing site may not perform extemporaneous sterile or  
24 nonsterile compounding but may prepare commercially available  
25 medications for dispensing, including the reconstitution of orally  
26 administered powder antibiotics; and

27 (J) any additional training or practice

1 experience requirements for pharmacy technicians at a remote  
2 dispensing site;

3           (4) the areas that qualify under Subsection (f);

4           (5) [~~3~~] recordkeeping requirements; and

5           (6) [~~4~~] security requirements.

6           (f) A telepharmacy system located at a health care facility  
7 under Subsection (d)(1) may not be located in a community in which a  
8 Class A or Class C pharmacy is located as determined by board rule.  
9 If a Class A or Class C pharmacy is established in a community in  
10 which a telepharmacy system has been located under this section,  
11 the telepharmacy system may continue to operate in that community.

12           (g) A telepharmacy system located at a remote dispensing  
13 site under Subsection (d)(2) may not dispense a controlled  
14 substance listed in Schedule II as established by the commissioner  
15 of state health services under Chapter 481, Health and Safety Code.

16           (h) Except as provided by Subsection (j), a telepharmacy  
17 system located at a remote dispensing site under Subsection (d)(2)  
18 may not be located within 25 miles by road of a Class A pharmacy.

19           (i) Except as provided by Subsection (j), if a Class A  
20 pharmacy is established within 25 miles by road of a remote  
21 dispensing site that is currently operating, the remote dispensing  
22 site may continue to operate at that location.

23           (j) A telepharmacy system located at a remote dispensing  
24 site under Subsection (d)(2) in a county with a population of at  
25 least 13,000 but not more than 14,000 may not be located within 22  
26 miles by road of a Class A pharmacy. If a Class A pharmacy is  
27 established within 22 miles by road of a remote dispensing site

1 described by this subsection that is currently operating, the  
2 remote dispensing site may continue to operate at that location.

3 (k) The board by rule shall require and develop a process  
4 for a remote dispensing site to apply for classification as a Class  
5 A pharmacy if the average number of prescriptions dispensed each  
6 day the remote dispensing site is open for business is more than  
7 125, as calculated each calendar year.

8 SECTION 4. The Texas State Board of Pharmacy shall adopt  
9 rules under Section 562.110, Occupations Code, as amended by this  
10 Act, not later than January 1, 2018.

11 SECTION 5. This Act takes effect September 1, 2017.



**Senate Bill 1633**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION (IE)

CONFERENCE

*No equivalent provision.*

SECTION \_\_. Section 551.003, Occupations Code, is amended by adding Subdivision (15-a) to read as follows:  
(15-a) "Direct supervision" means supervision by a pharmacist who directs the activities of a pharmacist-intern, pharmacy technician, or pharmacy technician trainee to a sufficient degree to ensure the activities are performed accurately, safely, and without risk of harm to patients, as specified by board rule. [FA1]

SECTION 1. Same as House version.

*No equivalent provision.*

SECTION \_\_. Section 554.053(a), Occupations Code, is amended to read as follows:  
(a) The board shall establish rules for the use and the duties of a pharmacy technician and pharmacy technician trainee employed by ~~[in]~~ a pharmacy licensed by the board. A pharmacy technician and pharmacy technician trainee shall be responsible to and must be directly supervised by a pharmacist. [FA1]

SECTION 2. Same as House version.

SECTION 1. Section 562.110, Occupations Code, is amended as follows:

SECTION 1. Same as Senate version except as follows:  
[FA5(1)]

SECTION 3. Same as Senate version except as follows:

(a)-(d).

(a)-(d). Same as Senate version.

(a)-(d). Same as Senate version.

(e).

(e). Same as Senate version except adds new Subsection (e)(3)(I) to read as follows:  
(e) The board shall adopt rules regarding the use of a telepharmacy system under this section, including:  
...  
(3) licensing and operating requirements for remote dispensing sites, including:  
...  
(I) a requirement that pharmacy technicians at a remote

(e). Same as House version.

**Senate Bill 1633**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION (IE)

CONFERENCE

dispensing site may not perform extemporaneous sterile or nonsterile compounding but may prepare commercially available medications for dispensing, including the reconstitution of orally administered powder antibiotics; and

...  
[FA4]

(f)

(g) A telepharmacy system located at a remote dispensing site under Subsection (d)(2) may not dispense a controlled substance listed in Schedule II as established by the commissioner of state health services under Chapter 481, Health and Safety Code, and may not be located within 25 miles by road of a Class A pharmacy.

(h) If a Class A pharmacy is established within 25 miles by road of a remote dispensing site that is currently operating, the remote dispensing site may continue to operate at that location.

*No equivalent provision.*

(f) Same as Senate version.

(g) *Except as provided by Subsection (i)*, a telepharmacy system located at a remote dispensing site under Subsection (d)(2) may not dispense a controlled substance listed in Schedule II as established by the commissioner of state health services under Chapter 481, Health and Safety Code, and may not be located within 25 miles by road of a Class A pharmacy.  
[FA5(2)]

(h) *Except as provided by Subsection (i)*, if a Class A pharmacy is established within 25 miles by road of a remote dispensing site that is currently operating, the remote dispensing site may continue to operate at that location.  
[FA5(3)]

(i) A telepharmacy system located at a remote dispensing site under Subsection (d)(2) in a county with a population of at least 13,000 but not more than 14,000 may not be located within 22 miles by road of a Class A pharmacy. If a Class A pharmacy is established within 22 miles by road of a remote dispensing site described by this subsection that is currently operating, the remote dispensing site may continue to operate

(f). Same as Senate version.

(g) A telepharmacy system located at a remote dispensing site under Subsection (d)(2) may not dispense a controlled substance listed in Schedule II as established by the commissioner of state health services under Chapter 481, Health and Safety Code.

(h) *Except as provided by Subsection (j)*, a telepharmacy system located at a remote dispensing site under Subsection (d)(2) may not be located within 25 miles by road of a Class A pharmacy.

(i). Substantially the same as House version.

(j). Same as House version.

**Senate Bill 1633**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION (IE)

CONFERENCE

(i).

SECTION 2. Procedural provision.

SECTION 3. Effective date.

at that location. [FA5(4)]

(j). Same as Senate version. [FA5(5)]

SECTION 2. Same as Senate version.

SECTION 3. Same as Senate version.

(k). Same as Senate version.

SECTION 4. Same as Senate version.

SECTION 5. Same as Senate version.

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 27, 2017

**TO:** Honorable Dan Patrick, Lieutenant Governor, Senate  
Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** SB1633 by Perry (Relating to the supervision of pharmacist-interns, pharmacy technicians, and pharmacy technician trainees by a pharmacist and the provision of pharmacy services through a telepharmacy system; establishing a remote dispensing site license. ), **Conference Committee Report**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Occupations Code relating to the provision of pharmacy services through a telepharmacy system; establishing a remote dispensing site license. The bill would require the Texas State Board of Pharmacy (TSBP) to develop a process for a remote dispensing site to apply for classification as a Class A pharmacy. The bill would amend certain requirements of TSBP to establish rules for the use and the duties of a pharmacy technician and pharmacy technician trainees.

The TSBP anticipates any additional work resulting from the passage of the bill could be reasonably absorbed within current resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

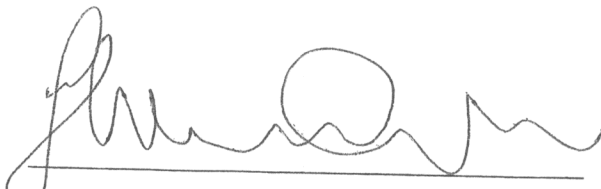
**Source Agencies:** 515 Board of Pharmacy

**LBB Staff:** UP, EK, KCA, EH

**Certification of Compliance with  
Rule 13, Section 6(b), House Rules of Procedure**

Rule 13, Section 6(b), House Rules of Procedure, requires a copy of a conference committee report signed by a majority of each committee of the conference to be furnished to each member of the committee in person or, if unable to deliver in person, by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Rule 13, Section 10(a). The paper copies of the report submitted to the chief clerk under Rule 13, Section 10(b), must contain a certificate that the requirement of Rule 13, Section 6(b), has been satisfied, and that certificate must be attached to the copy of the report furnished to each member under Rule 13, Section 10(d). Failure to comply with this requirement is not a sustainable point of order under Rule 13.

I certify that a copy of the conference committee report on SB1633 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Rule 13, Section 10(b), House Rules of Procedure.

  
\_\_\_\_\_  
(name)

5/27/17  
\_\_\_\_\_  
(date)

17R337(3)