

BILL ANALYSIS

C.S.H.B. 1483
By: Zerwas
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to studies, Texas is one of just a few states that prohibit a physician from dispensing prescription medication to a patient in the physician's office. Interested parties contend that certain topical medications used to treat skin conditions may be more safely and effectively administered when a patient obtains the medication directly from a physician's office, as opposed to obtaining the medication from a pharmacy, because the patient can then learn correct application techniques, ask follow-up questions, and receive modified recommendations based on the patient's unique condition or skin type. In addition, certain brands of topical medications are not available in a traditional pharmacy because they are typically dispensed by physicians. As a result, the parties are concerned that Texas patients have fewer treatment options than patients in other states. C.S.H.B. 1483 seeks to address these concerns.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Medical Board and the Texas Optometry Board in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 1483 amends the Occupations Code, effective March 1, 2016, to authorize a physician or therapeutic optometrist to dispense to the physician's or therapeutic optometrist's patients an aesthetic pharmaceutical in excess of the patient's immediate needs without obtaining a license to practice pharmacy and authorizes the physician or therapeutic optometrist to charge a fee for dispensing the pharmaceutical. The bill prohibits a therapeutic optometrist from dispensing an aesthetic pharmaceutical if that prescription does not fall within the scope of the practice of therapeutic optometry.

C.S.H.B. 1483, effective March 1, 2016, requires a physician or therapeutic optometrist, before dispensing an aesthetic pharmaceutical to a patient, to inform the patient that the prescription for the pharmaceutical may be filled at a pharmacy, if available at a pharmacy, or dispensed in the physician's or therapeutic optometrist's office. The bill requires each state and federal labeling and recordkeeping requirement applicable to an aesthetic pharmaceutical to be followed and documented and requires such a record to be accessible as provided under state and federal law.

C.S.H.B. 1483 requires the Texas Medical Board to adopt rules for physicians and requires the Texas Optometry Board to adopt rules for therapeutic optometrists to govern the packaging, labeling, and dispensing of aesthetic pharmaceuticals not later than March 1, 2016. The bill requires the Texas Medical Board and the Texas Optometry Board to adopt reasonable fees as

necessary to implement the bill's provisions and prohibits such a fee from exceeding the fee adopted by the Texas State Board of Pharmacy for authorizing a pharmacist to dispense pharmaceuticals.

C.S.H.B. 1483 defines, among other terms, "aesthetic pharmaceutical" as a drug listed by the bill in the aesthetic pharmaceutical group or a drug that is not a controlled substance, requires a prescription for dispensation, is legally marketed under federal law if it is a new drug subject to that law, and is prescribed for the enhancement of an individual's appearance.

EFFECTIVE DATE

Except as otherwise provided, on passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1483 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subtitle A, Title 3, Occupations Code, is amended by adding Chapter 116 to read as follows:

CHAPTER 116. DISPENSING OF AESTHETIC PHARMACEUTICALS

Sec. 116.001. DEFINITIONS.

Sec. 116.002. DISPENSING PERMITTED; FEE AUTHORIZED.

Sec. 116.003. NOTICE; LABELING; RECORDKEEPING.

Sec. 116.004. RULES; FEES.

Sec. 116.005. AESTHETIC PHARMACEUTICAL GROUP. The aesthetic pharmaceutical group consists of:

- (1) bimatoprost;
- (2) hydroquinone;
- (3) tretinoin;
- (4) metronidazole;
- (5) tazarotene;
- (6) eflornithine;
- (7) dapsone;
- (8) salicylic acid;
- (9) urea topicals;
- (10) mequinol; and
- (11) resorcinol.

SECTION 2. Section 157.002(f),

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle A, Title 3, Occupations Code, is amended by adding Chapter 116 to read as follows:

CHAPTER 116. DISPENSING OF AESTHETIC PHARMACEUTICALS

Sec. 116.001. DEFINITIONS

Sec. 116.002. DISPENSING PERMITTED; FEE AUTHORIZED.

Sec. 116.003. NOTICE; LABELING; RECORDKEEPING.

Sec. 116.004. RULES; FEES

Sec. 116.005. AESTHETIC PHARMACEUTICAL GROUP. The aesthetic pharmaceutical group consists of:

- (1) bimatoprost;
- (2) hydroquinone; and
- (3) tretinoin.

SECTION 2. Same as introduced version.

Occupations Code, is amended.

SECTION 3. Section 563.051(d), Occupations Code, is amended.

SECTION 3. Same as introduced version.

SECTION 4. The Texas Medical Board and the Texas Optometry Board shall adopt rules for the implementation of Chapter 116, Occupations Code, as added by this Act, not later than March 1, 2016.

SECTION 4. Same as introduced version.

SECTION 5. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

SECTION 5. Same as introduced version.

(b) Sections 116.002 and 116.003, Occupations Code, as added by this Act, take effect March 1, 2016.