

## **BILL ANALYSIS**

Senate Research Center  
83R5962 SLB-D

C.S.S.B. 227  
By: Williams  
Health & Human Services  
2/27/2013  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Texas is one of only five states that prohibit a physician's ability to dispense aesthetic medications directly to patients.

C.S.S.B. 227 amends the Occupations Code to permit physicians and therapeutic optometrists to dispense aesthetic prescription drugs if it makes sense for their practices and their patients. The only aesthetic pharmaceuticals which will be allowed to be dispensed by the physician are bimatoprost, hydroquinone, tretinoin, metronidazole, and tazarotene.

C.S.S.B. 227 amends current law relating to the dispensing of aesthetic pharmaceuticals by physicians and therapeutic optometrists, and imposes fees.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Medical Board in SECTION 1 (Section 116.004, Occupations Code) and SECTION 4 of this bill.

Rulemaking authority is expressly granted to the Texas Optometry Board in SECTION 1 (Section 116.004, Occupations Code) and SECTION 4 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle A, Title 3, Occupations Code, by adding Chapter 116, as follows:

#### CHAPTER 116. DISPENSING OF AESTHETIC PHARMACEUTICALS

Sec. 116.001. DEFINITIONS. Defines "aesthetic pharmaceutical," "physician," and "therapeutic optometrist" in this chapter.

Sec. 116.002. DISPENSING PERMITTED; FEE AUTHORIZED. (a) Authorizes 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 under Chapter 558 (License to Practice Pharmacy). Authorizes the physician or therapeutic optometrist to charge a fee for dispensing the pharmaceutical.

(b) Prohibits a therapeutic optometrist from dispensing an aesthetic pharmaceutical if that prescription does not fall within the scope of the practice of therapeutic optometry, as defined by Section 351.002 (Definitions).

Sec. 116.003. NOTICE; LABELING; RECORDKEEPING. (a) 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.

(b) Requires that each state and federal labeling and recordkeeping requirement applicable to an aesthetic pharmaceutical be followed and documented. Requires

that a record maintained under this section be accessible as provided under state and federal law.

Sec. 116.004. RULES; FEES. Requires the Texas Medical Board (TMB) to adopt rules for physicians, and the Texas Optometry Board (TOB) to adopt rules for therapeutic optometrists, with the advice of the Texas State Board of Pharmacy (TSBP), to govern the packaging, labeling, and dispensing of aesthetic pharmaceuticals under this chapter. Requires TMB and TOB to adopt reasonable fees as necessary to implement this chapter. Prohibits a fee adopted under this section from exceeding a fee adopted under Section 554.006 (Fees) for authorizing a pharmacist to dispense pharmaceuticals.

Sec. 116.005. AESTHETIC PHARMACEUTICAL GROUP. Provides that the aesthetic pharmaceutical group consists of bimatoprost, hydroquinone, tretinoin, metronidazole, and tazarotene.

SECTION 2. Amends Section 157.002(f), Occupations Code, to provide that Subsections (b) (relating to a physician delegating the act of administering or providing dangerous drugs in the physician's office) and (c) (relating to a physician delegating the act of administering or providing dangerous drugs through a facility licensed by TSBP), other than as authorized under Chapter 116 and Section 158.003 (Dispensing of Dangerous Drugs in Certain Rural Areas), do not authorize a physician or a person acting under the supervision of a physician to keep a pharmacy, advertised or otherwise, for the retail sale of dangerous drugs, without complying with the applicable laws relating to the dangerous drugs.

SECTION 3. Amends Section 563.051(d), Occupations Code, to provide that this section (General Delegation of Administration and Provision of Dangerous Drugs), other than as authorized under Chapter 116 and Section 158.003, does not authorize a physician or a person acting under the supervision of a physician to keep a pharmacy, advertised or otherwise, for the retail sale of dangerous drugs, without complying with the applicable laws relating to the dangerous drugs.

SECTION 4. Requires TMB and TOB to adopt rules for the implementation of Chapter 116, Occupations Code, as added by this Act, not later than March 1, 2014.

SECTION 5. (a) Effective date, except as provided by Subsection (b) of this section: upon passage or September 1, 2013.

(b) Effective date, Sections 116.002 and 116.003, Occupations Code, as added by this Act: March 1, 2014.