

## **BILL ANALYSIS**

Senate Research Center  
84R1308 BEF-F

S.B. 588  
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Health & Human Services  
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As Filed

### **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.

S.B. 588 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 that will be allowed to be dispensed by the physician are bimatoprost, hydroquinone, and tretinoin.

As proposed, S.B. 588 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 and to the Texas Optometry Board in SECTION 1 (Section 116.004, Occupations Code) 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."

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 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 before dispensing an aesthetic pharmaceutical to a patient.

(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 requires the Texas Optometry Board (TOB) to adopt rules for therapeutic optometrists 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:

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

SECTION 2. Amends Section 157.002(f), Occupations Code, as follows:

(f) Provides that Subsections (b) and (c) 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, other than as authorized under Chapter 116 and Section 158.003 (Dispensing of Dangerous Drugs in Certain Rural Areas), without complying with the applicable laws relating to the dangerous drugs.

SECTION 3. Amends Section 563.051(d), Occupations Code, as follows:

(d) Provides that this section 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, other than as authorized under Chapter 116 and Section 158.003, 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, 2016.

SECTION 5. Effective date: upon passage or September 1, 2015.

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