

AN ACT

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.

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

SECTION 1. 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.

SECTION 2. 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.

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

(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.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1633 passed the Senate on April 27, 2017, by the following vote: Yeas 31, Nays 0; May 25, 2017, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 2017, House granted request of the Senate; May 28, 2017, Senate adopted Conference Committee Report by the following vote: Yeas 29, Nays 1.

Secretary of the Senate

I hereby certify that S.B. No. 1633 passed the House, with amendments, on May 24, 2017, by the following vote: Yeas 132, Nays 13, three present not voting; May 26, 2017, House granted request of the Senate for appointment of Conference Committee; May 28, 2017, House adopted Conference Committee Report by the following vote: Yeas 138, Nays 6, three present not voting.

Chief Clerk of the House

Approved:

Date

Governor