

By: Roberts

H.B. No. 2444

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the authority of pharmacists to furnish certain  
3 medications and receive compensation for certain services and  
4 procedures.

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

6 SECTION 1. Section 483.001(11), Health and Safety Code, is  
7 amended to read as follows:

8 (11) "Practice of pharmacy" has the meaning assigned  
9 by Section 551.003, Occupations Code ~~[means:~~

10 ~~[(A) provision of those acts or services~~  
11 ~~necessary to provide pharmaceutical care,~~

12 ~~[(B) interpretation and evaluation of~~  
13 ~~prescription drug orders or medication orders,~~

14 ~~[(C) participation in drug and device selection~~  
15 ~~as authorized by law, drug administration, drug regimen review, or~~  
16 ~~drug or drug-related research,~~

17 ~~[(D) provision of patient counseling,~~

18 ~~[(E) responsibility for:~~

19 ~~[(i) dispensing of prescription drug orders~~  
20 ~~or distribution of medication orders in the patient's best~~  
21 ~~interest,~~

22 ~~[(ii) compounding and labeling of drugs and~~  
23 ~~devices, except labeling by a manufacturer, repackager, or~~  
24 ~~distributor of nonprescription drugs and commercially packaged~~

1 ~~prescription drugs and devices,~~  
2 ~~[(iii) proper and safe storage of drugs and~~  
3 ~~devices; or~~  
4 ~~[(iv) maintenance of proper records for~~  
5 ~~drugs and devices. In this subdivision, "device" has the meaning~~  
6 ~~assigned by Subtitle J, Title 3, Occupations Code; or~~  
7 ~~[(F) performance of a specific act of drug~~  
8 ~~therapy management for a patient delegated to a pharmacist by a~~  
9 ~~written protocol from a physician licensed by the state under~~  
10 ~~Subtitle B, Title 3, Occupations Code].~~

11 SECTION 2. Section 1451.001, Insurance Code, is amended by  
12 adding Subdivision (13-a) to read as follows:

13 (13-a) "Pharmacist" means an individual licensed to  
14 practice pharmacy by the Texas State Board of Pharmacy.

15 SECTION 3. Subchapter C, Chapter 1451, Insurance Code, is  
16 amended by adding Section 1451.1261 to read as follows:

17 Sec. 1451.1261. REIMBURSEMENT FOR CERTAIN SERVICES AND  
18 PROCEDURES PERFORMED BY PHARMACISTS. (a) Notwithstanding any  
19 other law except Subsection (c), in addition to applying to a  
20 policy, agreement, or contract described by Section 1451.102, this  
21 section applies to any other individual or group health benefit  
22 plan that provides benefits described by Section 1451.102,  
23 including:

- 24 (1) a health benefit plan issued by:  
25 (A) a group hospital service corporation  
26 operating under Chapter 842;  
27 (B) a health maintenance organization operating

1 under Chapter 843; or

2 (C) a multiple employer welfare arrangement that  
3 holds a certificate of authority under Chapter 846;

4 (2) a small employer health benefit plan subject to  
5 Chapter 1501;

6 (3) a standard health benefit plan issued under  
7 Chapter 1507;

8 (4) health benefits provided by or through a church  
9 benefits board under Subchapter I, Chapter 22, Business  
10 Organizations Code;

11 (5) a regional or local health care program operated  
12 under Section 75.104, Health and Safety Code;

13 (6) a self-funded health benefit plan sponsored by a  
14 professional employer organization under Chapter 91, Labor Code;

15 (7) a county employee health benefit plan established  
16 under Chapter 157, Local Government Code; and

17 (8) health and accident coverage provided by a risk  
18 pool created under Chapter 172, Local Government Code.

19 (b) Notwithstanding Section 1451.102, except as provided by  
20 Subsection (c), this section applies to coverage under a group  
21 health benefit plan provided to a resident of this state regardless  
22 of whether the group policy, agreement, or contract is delivered,  
23 issued for delivery, or renewed in this state.

24 (c) This section does not apply to:

25 (1) a group health benefit plan that is offered or  
26 administered by:

27 (A) the Teacher Retirement System of Texas under

1 Chapter 1575 or 1579; or  
2 (B) the Employees Retirement System of Texas  
3 under Chapter 1551; or  
4 (2) a Medicaid managed care program operated under  
5 Chapter 533, Government Code, or a Medicaid program operated under  
6 Chapter 32, Human Resources Code.

7 (d) An insurer or other health benefit plan issuer to which  
8 this section applies or a third-party administrator or pharmacy  
9 benefit manager of a health benefit plan to which this section  
10 applies may not deny reimbursement to a pharmacist for the  
11 provision of a service or procedure within the scope of the  
12 pharmacist's license that:

13 (1) would be covered by the insurance policy or other  
14 coverage agreement or an evidence of coverage if the service or  
15 procedure were provided by:

- 16 (A) a physician;  
17 (B) an advanced practice nurse; or  
18 (C) a physician assistant; and

19 (2) is performed by the pharmacist in strict  
20 compliance with laws and rules related to the pharmacist's license.

21 SECTION 4. Subchapter C, Chapter 157, Occupations Code, is  
22 amended by adding Section 157.102 to read as follows:

23 Sec. 157.102. DELEGATION TO PHARMACIST TO FURNISH CERTAIN  
24 DRUGS. (a) In this section:

25 (1) "Acute condition" means a condition or disease  
26 that begins abruptly, intensifies rapidly, and is generally not  
27 long-lasting.

1           (2) "Pharmacist" has the meaning assigned by Section  
2 551.003.

3           (3) "Smoking cessation drug" means a prescription drug  
4 approved by the United States Food and Drug Administration for use  
5 in the treatment of nicotine or smoking addiction.

6           (4) "Travel drug" means a prescription drug  
7 recommended by the federal Centers for Disease Control and  
8 Prevention for individuals traveling outside of the United States  
9 for the prevention and management of a disease before a diagnosis of  
10 the disease.

11           (5) "Waived clinical laboratory test" means a clinical  
12 laboratory test that is classified as waived under federal  
13 regulations issued under the Clinical Laboratory Improvement  
14 Amendments of 1988 (42 U.S.C. Section 263a).

15           (6) "Written protocol" means a physician's written  
16 order, standing medical order, standing delegation order, or other  
17 order or protocol as defined by rule of the board.

18           (b) Notwithstanding any other law, a physician may delegate  
19 to a pharmacist the authority, as provided by the physician's  
20 written protocol, to initiate a prescription drug order for and to  
21 furnish to a patient a prescription drug that is:

22           (1) a drug to treat an acute condition that is  
23 identified through performance of one of the following tests, if  
24 the test is a waived clinical laboratory test:

25           (A) a rapid strep test or rapid antigen detection  
26 test used in the identification of group A streptococcus (GAS); or

27           (B) a rapid influenza diagnostic test used in the

1 identification of influenza types A and B;  
2 (2) a hormonal contraceptive;  
3 (3) a travel drug;  
4 (4) a prenatal vitamin supplement;  
5 (5) a smoking cessation drug;  
6 (6) a vitamin D supplement; or  
7 (7) a drug identified by the executive commissioner of  
8 the Health and Human Services Commission by rule as necessary for  
9 pharmacists to furnish to patients for public health purposes.

10 (c) The board shall adopt rules jointly with the Texas State  
11 Board of Pharmacy to establish the minimum content of the written  
12 protocol required under Subsection (b). The written protocol may  
13 permit a pharmacist to initiate a prescription drug order and  
14 furnish a prescription drug.

15 (d) A written protocol under this section must require  
16 notice to the patient's primary care physician, as identified by  
17 the patient if the patient has a primary care physician, and  
18 prescribe the period for providing the notice and the form of the  
19 notice, in accordance with prevailing practices for the provision  
20 of notice to a patient's primary care physician. The period for  
21 providing the notice for furnishing a drug under Subsection (b)(1)  
22 may not be later than the 14th day after the date the drug is  
23 furnished by the pharmacist.

24 SECTION 5. Section 551.003(33), Occupations Code, is  
25 amended to read as follows:

26 (33) "Practice of pharmacy" means:

27 (A) providing an act or service necessary to

1 provide pharmaceutical care;

2 (B) interpreting or evaluating a prescription  
3 drug order or medication order;

4 (C) participating in drug or device selection as  
5 authorized by law, and participating in drug administration, drug  
6 regimen review, or drug or drug-related research;

7 (D) providing patient counseling;

8 (E) being responsible for:

9 (i) dispensing a prescription drug order or  
10 distributing a medication order;

11 (ii) compounding or labeling a drug or  
12 device, other than labeling by a manufacturer, repackager, or  
13 distributor of a nonprescription drug or commercially packaged  
14 prescription drug or device;

15 (iii) properly and safely storing a drug or  
16 device; or

17 (iv) maintaining proper records for a drug  
18 or device;

19 (F) performing for a patient a specific act of  
20 drug therapy management delegated to a pharmacist by a written  
21 protocol from a physician licensed in this state in compliance with  
22 Subtitle B; ~~or~~

23 (G) administering an immunization or vaccination  
24 under a physician's written protocol; or

25 (H) initiating a prescription drug order for and  
26 furnishing a prescription drug to a patient under a physician's  
27 written protocol under Section 157.102.

1 SECTION 6. Subchapter B, Chapter 562, Occupations Code, is  
2 amended by adding Sections 562.058 and 562.059 to read as follows:

3 Sec. 562.058. TRAINING REQUIRED TO INITIATE DRUG ORDER OR  
4 FURNISH CERTAIN DRUGS. (a) A pharmacist may not initiate a  
5 prescription drug order or furnish a prescription drug under  
6 Section 157.102 unless the pharmacist has completed a training  
7 program that is approved by the board and is relevant to the  
8 condition treated by the drug.

9 (b) The training program required by Subsection (a) may  
10 include:

11 (1) a training program approved by the Accreditation  
12 Council for Pharmacy Education;

13 (2) a curriculum-based program offered by a college of  
14 pharmacy that is accredited by the Accreditation Council for  
15 Pharmacy Education; or

16 (3) any other training program recognized by the  
17 board.

18 Sec. 562.059. FEES FOR CERTAIN PROFESSIONAL SERVICES. A  
19 pharmacist may charge a fee for providing a professional service  
20 under Section 157.102 that is within the pharmacist's scope of  
21 practice in addition to a fee charged for dispensing a drug.

22 SECTION 7. Section 1451.1261, Insurance Code, as added by  
23 this Act, applies only to a health benefit plan that is delivered,  
24 issued for delivery, or renewed on or after January 1, 2018. A plan  
25 delivered, issued for delivery, or renewed before January 1, 2018,  
26 is governed by the law as it existed immediately before the  
27 effective date of this Act, and that law is continued in effect for



1 that purpose.

2 SECTION 8. Not later than January 1, 2018, the Texas State  
3 Board of Pharmacy and the Texas Medical Board shall adopt the rules  
4 required under Section 157.102, Occupations Code, as added by this  
5 Act.

6 SECTION 9. (a) Except as provided by Subsection (b) of this  
7 section, this Act takes effect January 1, 2018.

8 (b) Section 8 of this Act takes effect September 1, 2017.