

1-1 By: Williams S.B. No. 227
 1-2 (In the Senate - Filed January 22, 2013; January 29, 2013,
 1-3 read first time and referred to Committee on Health and Human
 1-4 Services; March 4, 2013, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 6, Nays 1;
 1-6 March 4, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Nelson	X			
1-9 Deuell	X			
1-10 Huffman	X			
1-11 Nichols	X			
1-12 Schwertner		X		
1-13 Taylor			X	
1-14 Uresti	X			
1-15 West			X	
1-16 Zaffirini	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 227 By: Deuell

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the dispensing of aesthetic pharmaceuticals by
 1-22 physicians and therapeutic optometrists; imposing fees.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subtitle A, Title 3, Occupations Code, is
 1-25 amended by adding Chapter 116 to read as follows:

1-26 CHAPTER 116. DISPENSING OF AESTHETIC PHARMACEUTICALS

1-27 Sec. 116.001. DEFINITIONS. In this chapter:

1-28 (1) "Aesthetic pharmaceutical" means:

1-29 (A) a drug listed in the aesthetic pharmaceutical
 1-30 group under Section 116.005; or

1-31 (B) a drug that:

1-32 (i) is not a controlled substance;

1-33 (ii) requires a prescription for
 1-34 dispensation;

1-35 (iii) has been listed with the federal Food
 1-36 and Drug Administration; and

1-37 (iv) is prescribed for the enhancement of
 1-38 an individual's appearance.

1-39 (2) "Physician" means a person licensed to practice
 1-40 medicine under Subtitle B.

1-41 (3) "Therapeutic optometrist" means a person licensed
 1-42 to practice therapeutic optometry under Chapter 351.

1-43 Sec. 116.002. DISPENSING PERMITTED; FEE AUTHORIZED. (a) A
 1-44 physician or therapeutic optometrist may dispense to the
 1-45 physician's or therapeutic optometrist's patients an aesthetic
 1-46 pharmaceutical in excess of the patient's immediate needs without
 1-47 obtaining a license under Chapter 558. The physician or
 1-48 therapeutic optometrist may charge a fee for dispensing the
 1-49 pharmaceutical.

1-50 (b) A therapeutic optometrist may not dispense an aesthetic
 1-51 pharmaceutical if that prescription does not fall within the scope
 1-52 of the practice of therapeutic optometry, as defined by Section
 1-53 351.002.

1-54 Sec. 116.003. NOTICE; LABELING; RECORDKEEPING.

1-55 (a) Before dispensing an aesthetic pharmaceutical to a patient, a
 1-56 physician or therapeutic optometrist must inform the patient that
 1-57 the prescription for the pharmaceutical may be filled at a
 1-58 pharmacy, if available at a pharmacy, or dispensed in the
 1-59 physician's or therapeutic optometrist's office.

1-60 (b) Each state and federal labeling and recordkeeping

2-1 requirement applicable to an aesthetic pharmaceutical must be
2-2 followed and documented. A record maintained under this section
2-3 must be accessible as provided under state and federal law.

2-4 Sec. 116.004. RULES; FEES. The Texas Medical Board shall
2-5 adopt rules for physicians, and the Texas Optometry Board shall
2-6 adopt rules for therapeutic optometrists, with the advice of the
2-7 Texas State Board of Pharmacy, to govern the packaging, labeling,
2-8 and dispensing of aesthetic pharmaceuticals under this chapter.
2-9 The Texas Medical Board and the Texas Optometry Board shall adopt
2-10 reasonable fees as necessary to implement this chapter. A fee
2-11 adopted under this section may not exceed a fee adopted under
2-12 Section 554.006 for authorizing a pharmacist to dispense
2-13 pharmaceuticals.

2-14 Sec. 116.005. AESTHETIC PHARMACEUTICAL GROUP. The
2-15 aesthetic pharmaceutical group consists of:

- 2-16 (1) bimatoprost;
- 2-17 (2) hydroquinone;
- 2-18 (3) tretinoin;
- 2-19 (4) metronidazole; and
- 2-20 (5) tazarotene.

2-21 SECTION 2. Subsection (f), Section 157.002, Occupations
2-22 Code, is amended to read as follows:

2-23 (f) Subsections (b) and (c) do not authorize a physician or
2-24 a person acting under the supervision of a physician to keep a
2-25 pharmacy, advertised or otherwise, for the retail sale of dangerous
2-26 drugs, other than as authorized under Chapter 116 and Section
2-27 158.003, without complying with the applicable laws relating to the
2-28 dangerous drugs.

2-29 SECTION 3. Subsection (d), Section 563.051, Occupations
2-30 Code, is amended to read as follows:

2-31 (d) This section does not authorize a physician or a person
2-32 acting under the supervision of a physician to keep a pharmacy,
2-33 advertised or otherwise, for the retail sale of dangerous drugs,
2-34 other than as authorized under Chapter 116 and Section 158.003,
2-35 without complying with the applicable laws relating to the
2-36 dangerous drugs.

2-37 SECTION 4. The Texas Medical Board and Texas Optometry
2-38 Board shall adopt rules for the implementation of Chapter 116,
2-39 Occupations Code, as added by this Act, not later than March 1,
2-40 2014.

2-41 SECTION 5. (a) Except as provided by Subsection (b) of
2-42 this section, this Act takes effect immediately if it receives a
2-43 vote of two-thirds of all the members elected to each house, as
2-44 provided by Section 39, Article III, Texas Constitution. If this
2-45 Act does not receive the vote necessary for immediate effect, this
2-46 Act takes effect September 1, 2013.

2-47 (b) Sections 116.002 and 116.003, Occupations Code, as
2-48 added by this Act, take effect March 1, 2014.

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