

OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE B. PHYSICIANS

CHAPTER 158. AUTHORITY OF PHYSICIAN TO PROVIDE CERTAIN DRUGS AND
SUPPLIES

Sec. 158.001. PROVISION OF DRUGS AND OTHER SUPPLIES. (a) A physician licensed under this subtitle may supply a patient with any drug, remedy, or clinical supply necessary to meet the patient's immediate needs.

(b) This section does not permit a physician to operate a retail pharmacy without complying with Chapter 558.

(c) This chapter does not prohibit a physician from supplying to a patient, free of charge, a drug provided to the physician by a drug manufacturer for an indigent pharmaceutical program if, in the physician's opinion, it is advantageous to the patient, in adhering to a course of treatment prescribed by the physician, to receive the drug.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 700, Sec. 1, eff. June 13, 2001.

Sec. 158.002. PROVISION OF FREE SAMPLES. (a) This chapter does not prohibit a physician from supplying a pharmaceutical sample to a patient free of charge if, in the physician's opinion, it is advantageous to the patient, in adhering to a course of treatment prescribed by the physician, to receive the sample.

(b) A pharmaceutical sample provided under this section must be:

(1) provided to the physician from the manufacturer free of charge and delivered to a patient free of any direct or indirect charge;

(2) prepackaged by the original manufacturer and not repackaged; and

(3) marked on the immediate container to indicate that it is a sample or recorded in records that indicate it is a sample.

(c) Each state and federal labeling and recordkeeping requirement must be followed and documented. A record maintained

under Subsection (b)(3) must be accessible as provided under state and federal law.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 158.003. DISPENSING OF DANGEROUS DRUGS IN CERTAIN RURAL AREAS. (a) In this section, "reimbursement for cost" means an additional charge, separate from that imposed for the physician's professional services, that includes the cost of the drug product and all other actual costs to the physician incidental to providing the dispensing service. The term does not include a separate fee imposed for the act of dispensing the drug itself.

(b) This section applies to an area located in a county with a population of 5,000 or less, or in a municipality or an unincorporated town with a population of less than 2,500, that is within a 15-mile radius of the physician's office and in which a pharmacy is not located. This section does not apply to a municipality or an unincorporated town that is adjacent to a municipality with a population of 2,500 or more.

(c) A physician who practices medicine in an area described by Subsection (b) may:

(1) maintain a supply of dangerous drugs in the physician's office to be dispensed in the course of treating the physician's patients; and

(2) be reimbursed for the cost of supplying those drugs without obtaining a license under Chapter 558.

(d) A physician who dispenses dangerous drugs under Subsection (c) shall:

(1) comply with each labeling provision under Subtitle J applicable to that class of drugs; and

(2) oversee compliance with packaging and recordkeeping provisions applicable to that class of drugs.

(e) A physician who desires to dispense dangerous drugs under this section shall notify both the Texas State Board of Pharmacy and the board that the physician practices in an area described by Subsection (b). The physician may continue to dispense dangerous drugs in the area until the Texas State Board of Pharmacy determines, after notice and hearing, that the physician

no longer practices in an area described by Subsection (b).
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.