

# Publications

July 10, 2025 • Updates

## Needle Little Regulation: What Texas's New IV Therapy Law Really Says

### Key Takeaways

- House Bill 3749, also known as Jenifer's Law, goes into effect on September 1, 2025, and applies only to elective IV therapy provided outside physician offices or licensed health facilities.
- Only physicians, PAs, APRNs or RNs may administer elective IV therapy under physician supervision. Delegation to unlicensed personnel is no longer permitted.
- The law limits prescriptive and delegation authority for IV therapy and introduces operational gray areas that may require further clarification from the Texas Medical Board.

Capping a frenetic legislative session with an intense focus on medical spa (MedSpa) services, Texas Governor Greg Abbott signed House Bill 3749, also known as Jenifer's Law, on June 20, 2025. The final version of Jenifer's Law attempts to address shortcomings in Texas's oversight of elective IV therapy, but leaves out several other key MedSpa reforms that were originally proposed as part of HB 3749 and other bills introduced this session.

Jenifer's Law was introduced in response to the tragic death of Jenifer Cleveland, who passed away following an IV infusion administered under troubling circumstances. The original form of HB 3749 and other similar bills introduced a number of MedSpa reforms, including patient notices, medical direction qualifications and other requirements, and even state licensure for personnel performing cosmetic medical procedures. Through the legislative process, these requirements were meaningfully narrowed to focus specifically on the provision of elective intravenous therapy, the root cause of the Jenifer Cleveland tragedy.

The final version of Jenifer's Law, effective September 1, 2025, reforms Texas practices for elective IV therapy, but also leaves open significant ambiguity for providers evaluating their current practices.

### Key Issues

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### Related Capabilities

- Health Care
- Health Care Compliance
- Licensure, Enrollment & Certification

## *What is Elective IV Therapy?*

Jenifer's Law applies only to "elective intravenous therapy," which the law defines as a procedure: "(a) to administer fluids, nutrients, medications, or blood directly into a patient's bloodstream through a vein, (b) that is sought by the patient to alleviate symptoms of temporary discomfort or improve temporary wellness; and (c) that is not administered in (i) a physician's office, (ii) a health facility licensed under Subtitle B, Title 4 Health and Safety Code; (iii) a mental hospital . . .; or (iv) a hospital maintained or operated by [the state]."<sup>1</sup> This definition contains several key features that providers must navigate to evaluate their current operations under these new provisions:

1. Elective IV therapy is "sought by the patient to alleviate symptoms of temporary discomfort or improve temporary wellness." Under this definition, it is not difficult to imagine the legislature's intent to regulate patient-driven access to hangover cures or vitamin infusions they might have learned about from their Instagram influencer *du jour*. But, in the sense that almost all care is sought by a patient, and the hope is that all symptoms are temporary with the correct management, this definition introduces unfortunate ambiguity to provider operations, including those of some traditional health care providers.
2. Elective IV therapy, by definition, takes place outside a physician's office – but this term is not defined. A physician office could naturally be assumed to be the four walls of a physical office, but what if a physician practice entity has locations where no physician is physically present? Or what about a physician practice that offers house calls to patients, rather than offering a brick-and-mortar location? Jenifer's Law does not readily answer these questions.
3. The "health facility" exception also only applies to facilities licensed under a specific section of the Health and Safety Code. This exception incorporates hospitals, nursing facilities, ASCs, birthing centers, and assisted living facilities, among others.<sup>2</sup> But Home and Community Support Services Agencies, the key licensure for home health agencies, are licensed under Title 2 of the Health and Safety Code, and would not be expressly excluded from this definition.<sup>3</sup> This means HCSSAs are not automatically exempt from the definition of elective IV therapy, and will need to consider whether their current IV protocols and procedures align with Jenifer's Law.

## *Limitation on Physician Delegation*

Jenifer's Law limits the ordering and prescribing authority for elective IV therapy to physicians, and then to physician assistants or nurse practitioners who are delegated that authority by their supervising physician. This isn't really a change from an ordinary understanding of Texas requirements pre-Jenifer's Law, because only those providers have prescriptive authority. The bigger change is the limitation on who may *administer* elective IV therapy to include only physicians, physician assistants, nurse practitioners or *registered nurses*. Historically, the Texas Medical Board has granted physicians wide latitude to delegate procedures to any personnel they deemed qualified. Jenifer's Law claws back some of that authority, at least for elective IV therapy, and limits this flexibility. That said, because elective IV therapy happens outside a physician office *by definition*, it is unclear where a physician would be delegating these procedures that would not also qualify as their office.

## *More to Come for MedSpas*

Although the final reach of Jenifer's Law is significantly narrower than the original proposal, MedSpa regulation was a very hot topic of conversation across the Texas Legislature this session. MedSpa providers should be prepared for new legislation during the next legislative session, with many of the original topics (such as individual provider

licensure) to be revisited in the coming months. It is also possible, even likely, that the Legislature and one or more regulatory agencies will study MedSpa regulation between sessions in preparation for potential changes.

## What Now?

In advance of the September 1 effective date, Texas providers should carefully consider the following key issues:

1. Do we furnish elective IV therapy, or are we exempt?
2. If we are not exempt, do our current prescribing and administration protocols align with the new requirements in Jenifer's Law?

Providers should also be on the lookout for additional updates from the Texas Medical Board, as it is possible they will publish regulations or guidance designed to help clarify some of the areas of ambiguity that Jenifer's Law leaves behind. The MedSpa community, in particular, should also spend time between legislative sessions thinking through opportunities for advocacy and engagement with key legislative and administrative stakeholders regarding future changes to Texas law. As MedSpas continue to surge in popularity, so will regulatory scrutiny, and providers with a proactive approach to these issues will help ensure they can stay ahead of the regulatory curve.

[1] Tex. Occ. Code § 172.001(2).

[2] See Title 4, Subtitle B, Tex. Health & Safety Code.

[3] See Tex. Health & Safety Code § 142.001 *et seq.*