

## **BILL ANALYSIS**

C.S.H.B. 1740  
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Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The U.S. Food and Drug Administration (FDA) classifies a contact lens as a medical device. Recent technological advances have made it possible to combine pharmaceutical agents with medical devices, such as contact lenses, to create a new product called a "therapeutic contact lens." These lenses are described as a corrective contact lens drug delivery device because they deliver pharmaceutical agents directly into the eye to treat eye disorders.

Under current Texas law, ophthalmologists and optometrists have the authority to prescribe, dispense, and sell contact lenses in their practice as well as the authority to prescribe therapeutic pharmaceutical agents to their patients. However, they cannot currently dispense therapeutic pharmaceutical agents to their patients. A new rule currently under consideration by the FDA will classify a therapeutic contact lens as a drug and not a medical device, thereby prohibiting Texas ophthalmologists and optometrists from dispensing therapeutic contact lenses to their patients.

C.S.H.B. 1740 amends the Occupations Code to authorize optometrists and ophthalmologists to dispense and sell therapeutic contact lenses to their patients.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1740 amends the Occupations Code to clarify that a physician or therapeutic optometrist is not prevented by provisions of the Texas Pharmacy Act from dispensing and charging for therapeutic contact lenses. The bill establishes that its provisions are not an authorization for a therapeutic optometrist to prescribe, administer, or dispense a drug that is otherwise outside the therapeutic optometrist's scope of practice. The bill defines "therapeutic contact lens" as a contact lens containing one or more drugs that delivers the drugs into the wearer's eye.

### **EFFECTIVE DATE**

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 1740 differs from the original by adding language clarifying that provisions of the Texas Pharmacy Act do not prevent a physician or therapeutic optometrist from charging for therapeutic contact lenses.