

BILL ANALYSIS

C.S.H.B. 2028
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The number of spas throughout Texas that administrate certain treatments requiring injections has increased dramatically in the last 10 years. Many treatments marketed as simple cosmetic treatments are actually complex medical procedures and should be regulated as such.

Because botulinum toxin injections, such as Botox, were first marketed as a cosmetic and not as a prescription medication, consumers did not always take the necessary precautions to avoid dangerous side effects, such as botulism or even paralysis. Another dangerous trend is commonly known as a "Botox party." At such parties, guests are encouraged to try the product, further reinforcing the idea that the product is a cosmetic and not a drug. Because of the perceived safety of Botox, it has been assumed that these drugs are safe and easy to use, though the FDA has issued warnings to consumers reiterating that Botox is a drug and not a cosmetic, that a physician should administer the drug, and that the drug should be injected only in a doctor's office or clinic.

Since the release of Botox, many other similar injections have come out on the market. These medications are classified as prescription drugs and cannot legally be obtained by non-physicians. It is clear, however, that non-physicians can be trained to use these drugs safely. Currently, there are no uniform standards regarding training, licensure, and supervision for the administration of these drugs, resulting in too many cases of nurses and laypersons being trained by other non-physicians to use these medications in locations, such as hotel meeting rooms, with demonstration patients sitting on bar stools. These persons are then hired by spas, beauty shops, and even mall outlets to administer these medications to patients who have not been evaluated by a physician.

C.S.H.B. 2028 authorizes a physician to delegate the administration of certain cosmetic injections, fillers, and medical treatments to a qualified and properly trained physician assistant, advanced practice nurse, or other properly trained individual in accordance with rules adopted by the Texas Medical Board.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Medical Board in SECTIONS 1 and 2 of this bill.

ANALYSIS

C.S.H.B. 2028 amends the Occupations Code to authorize a physician to delegate the administration of botulinum toxin injections, the administration of dermal fillers, or cosmetic or aesthetic medical treatments to a qualified and properly trained physician assistant, advanced practice nurse, or other properly trained individual, in accordance with rules adopted by the Texas Medical Board.

C.S.H.B. 2028 requires the administration of a medical treatment to be in compliance with laws relating to the practice of medicine and state and federal laws relating to the administration of a medical treatment. The bill requires the board to adopt the rules necessary to implement these provisions not later than January 1, 2010.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2028 differs from the original by authorizing a physician to delegate the administration of certain injections, fillers, and medical treatments to a physician assistant, an advanced practice nurse, or other properly trained individual, whereas the original authorizes a delegation only to a physician assistant. The substitute omits provisions in the original authorizing a physician to delegate the use of a laser or intense pulsed light device that is a prescription device used for dermatological treatment to certain persons and establishing that the administration of the medical treatments and use of such devices is considered a practice of medicine to be performed only under a physician's order, standing medical order, standing delegation order, or protocol.