

BILL ANALYSIS

C.S.S.B. 888
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Pill splitting is a prescription drug cost-saving strategy that involves dispensing half of the amount of pills at twice the dose for a lower price and then splitting those pills. In 2006 and 2007, more than 350,000 Texas state employees used medications suitable for pill splitting.

C.S.S.B. 888 requires the Employees Retirement System of Texas, the Teacher Retirement System of Texas, The University of Texas System, and The Texas A&M University System to establish voluntary pill splitting programs with mandatory copayment reductions for participants. The bill requires the Texas Board of Pharmacy to create a committee of pharmacists and physicians to develop a list of medications that are safe and appropriate for pill splitting and to develop educational materials on safe pill splitting practices and the voluntary program for potential participants.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the board of trustees of the Employees Retirement System of Texas in SECTION 1 of this bill.

It is the committee's opinion that rulemaking authority is expressly granted to the Teacher Retirement System of Texas in SECTIONS 2 and 3 of this bill.

It is the committee's opinion that rulemaking authority is expressly granted to The University of Texas System and The Texas A&M University System in SECTION 4 of this bill.

ANALYSIS

C.S.S.B. 888 amends the Insurance Code to require the board of trustees of the Employees Retirement System of Texas (ERS), the Teacher Retirement System of Texas (TRS), and The University of Texas and Texas A&M University Systems by rule to design and establish a voluntary pill splitting program. The bill defines "pill splitting" as dividing an eligible prescription pill to obtain a prescribed dose. The bill defines "eligible prescription pill" as a prescription medication delivered in pill form that is appropriate for splitting as is listed on the applicable drug formulary, if any. The bill requires the pill splitting program to include a copayment reduction incentive for individuals covered by the ERS group benefits program, by a TRS health coverage or health benefit plan, or by a university system health benefit plan, who participate in the pill splitting program. The bill requires that the pill splitting program require a participating individual to obtain a prescription for an eligible prescription pill, authorizing pill splitting, from the prescribing physician before participating, and to personally split the eligible prescription pill. The bill requires the board of trustees of ERS, TRS, and each of the two university systems as directed by the pill splitting advisory committee to be established under the bill, to adopt the list of eligible prescription pills and to make the list of eligible prescription pills and educational materials available to all persons covered by a health benefit or health coverage plan.

C.S.S.B. 888 provides that a manufacturer is not subject to criminal prosecution or liable for damages in a civil action for an injury, death, or loss to a person or of property arising out of the program. The bill prohibits its pill splitting provisions from being construed to create or affect a cause of action against a manufacturer. The bill defines "manufacturer."

C.S.S.B. 888 requires the board of trustees of ERS, TRS, and each of the two university systems to report at least annually to the Legislative Budget Board and the governor on the design of the pill splitting program, the medications included on the list of eligible prescription pills, participation in the program, and cost savings resulting from the program. The bill requires initial reports not later than September 1, 2011.

C.S.S.B. 888 amends the Occupations Code to require the Texas State Board of Pharmacy to establish a committee to prepare and periodically update a list of prescription pills that are appropriate for splitting and would not be chemically destabilized or rendered therapeutically ineffective if split. The bill requires the committee to consist of a pharmacist member of the board who serves as presiding officer of the advisory committee, two community pharmacists, two health system pharmacists, and two physicians. The bill requires the committee to develop and make available for distribution to pill splitting program participants educational materials that must include plain-language instruction about safely and effectively splitting an eligible prescription pill, and information about pills that are eligible for splitting, characteristics of an individual suited to participate in a pill splitting program, and ways to enroll and participate in a pill splitting program.

C.S.S.B. 888 establishes that the changes in law made by the bill's provisions apply only to health benefits plans beginning with the 2009-2010 plan year.

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.S.B. 888 adds provisions not in the original to define "manufacturer," to establish that a manufacturer is not subject to criminal prosecution or liable for damages in a civil action with respect to the program, and to specify that provisions relating to the program may not be construed to create or affect a cause of action against a manufacturer.

C.S.S.B. 888 differs from the original by referring to a pill splitting committee, rather than a pill splitting advisory committee as in the original, and making conforming changes, and by assigning the committee to prepare and periodically update a list of prescription pills that are appropriate for splitting rather than, as in the original, assigning the advisory committee to recommend pills that are appropriate for splitting to the ERS, TRS, or university system governing body. The substitute differs from the original by requiring the ERS board of trustees, TRS, or university system, as directed by the committee, to adopt the list of eligible prescription pills as established and updated by the committee, rather than, as in the original, requiring the ERS board of trustees, TRS, or university system with the assistance of the advisory committee to themselves establish and periodically update the list of eligible prescription pills. The substitute adds provisions not in the original to require the ERS board of trustees, TRS, or university system to make available educational materials to persons covered by a health benefit or health coverage plan. The substitute removes a provision in the original establishing that provisions relating to the duration of a committee established by a state agency do not apply to the pill splitting advisory committee.