

BILL ANALYSIS

S.B. 1853
By: Van de Putte
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Pharmacy technicians are held to a lower standard of discipline than pharmacists with regard to drug abuse. The Texas State Board of Pharmacy must prove that the technician has a drug dependency problem before the board can take any disciplinary action, but currently, the Texas Pharmacy Act does not allow the board to mandate that a suspected technician be evaluated for drug use.

S.B. 1853 amends current law relating to disciplinary actions regarding a pharmacy technician or pharmacy technician trainee.

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

S.B. 1853 amends the Occupations Code to expand the conditions under which the Texas State Board of Pharmacy is authorized to take disciplinary action against an applicant or registrant for a pharmacy technician license to include a board determination that the applicant or registrant has developed an incapacity that prevents the applicant or registrant from practicing as a pharmacy technician or pharmacy technician trainee with reasonable skill, competence, and safety to the public; has performed duties in a pharmacy that only a pharmacist may perform, as defined by the rules of the board; has used alcohol or drugs in an intemperate manner that, in the board's opinion, could endanger a patient's life; has engaged in negligent, unreasonable, or inappropriate conduct when working in a pharmacy; has violated a disciplinary order; has been convicted or adjudicated of a criminal offense that requires registration as a sex offender; or has been disciplined by a pharmacy or other health regulatory board of Texas or another state. The bill deletes language relating to disciplinary action taken based on a determination by the board that an applicant or registrant has a drug or alcohol dependency or had a registration as a pharmacy technician issued by another state revoked, surrendered, or suspended for certain conduct.

S.B. 1853 establishes that a disciplinary action affecting the registration of a pharmacy technician trainee remains in effect if the trainee obtains registration as a pharmacy technician. The bill authorizes the board, in enforcing a disciplinary action based on a determination that an applicant or registrant has developed an incapacity that prevents the applicant from practicing with reasonable skill, to request a person, on probable cause, to submit to a mental or physical examination by a physician or other health care professional designated by the board.

S.B. 1853 requires the board, if the person refuses to submit to the examination, to issue an order requiring the person to show cause why the person will not submit to the examination and schedule a hearing on the order not later than the 30th day after the date notice of the order is served on the person. The bill requires the person to be notified by either personal service or

certified mail, return receipt requested. The bill authorizes the person or the person's counsel, at the hearing, to present testimony or other evidence to show why the person should not be required to submit to the examination. The bill requires the board, after the hearing, by order to require the person to submit to the examination or withdraw the request for examination. The bill makes its provisions relating to submission to a mental or physical examination applicable to a pharmacy technician, pharmacy technician applicant, pharmacy technician trainee, or pharmacy technician trainee applicant.

EFFECTIVE DATE

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