

BILL ANALYSIS

C.S.S.B. 1081
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Recently, pharmaceutical agents with an aesthetic purpose or use have begun to appear on the market. Interested parties observe that these agents may be purchased only through a pharmacy. Those parties assert that requiring that such agents be obtained only through a pharmacy compromises consumer safety, as many consumers will choose to purchase less safe and less effective nonprescription alternatives that are available on the Internet or in department stores. C.S.S.B. 1081 seeks to address this issue by amending current law relating to the dispensing of pharmaceuticals with an aesthetic purpose by physicians and therapeutic optometrists.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Medical Board and the Texas Optometry Board in SECTIONS 1 and 4 of this bill.

ANALYSIS

C.S.S.B. 1081 authorizes a physician or therapeutic optometrist to dispense to the physician's or therapeutic optometrist's patients a pharmaceutical with an aesthetic purpose in excess of the patient's immediate needs without obtaining a license to practice pharmacy and authorizes the physician or therapeutic optometrist to charge a fee for dispensing the pharmaceutical. The bill prohibits a physician or therapeutic optometrist from dispensing to that physician's or therapeutic optometrist's patients a pharmaceutical with an aesthetic purpose in excess of the patient's immediate needs if the pharmaceutical is prescribed for a use other than the enhancement of the patient's physical appearance. The bill prohibits a therapeutic optometrist from dispensing a pharmaceutical with an aesthetic purpose if that prescription does not fall within the scope of the practice of therapeutic optometry as defined by statutory provisions relating to optometrists and therapeutic optometrists. The bill requires a physician or therapeutic optometrist, before dispensing a pharmaceutical with an aesthetic purpose to a patient, to inform the patient that the prescription for the pharmaceutical may be filled at a pharmacy or dispensed in the physician's or therapeutic optometrist's office. The bill requires each state and federal labeling and recordkeeping requirement applicable to the pharmaceutical with an aesthetic purpose to be followed and documented. The bill requires a record maintained under the bill's provisions to be accessible as provided under state and federal law. The bill makes its provisions relating to the authority of a physician or a therapeutic optometrist to dispense certain pharmaceuticals and to the fees, notice and labeling requirements, and recordkeeping requirements relating to such authority effective March 1, 2012.

C.S.S.B. 1081 requires the Texas Medical Board to adopt rules for physicians and requires the Texas Optometry Board to adopt rules for therapeutic optometrists, with the advice of the Texas State Board of Pharmacy, to govern the packaging, labeling, and dispensing of pharmaceuticals with an aesthetic purpose under the bill's provisions. The bill requires such rules to be adopted not later than March 1, 2012. The bill requires the Texas Medical Board and the Texas Optometry Board to adopt reasonable fees as necessary to implement the bill's provisions. The bill prohibits such a fee from exceeding a fee adopted under state law for authorizing a

pharmacist to dispense pharmaceuticals. The bill establishes that the pharmaceutical with an aesthetic purpose group consists of bimatoprost and eflornithine. The bill defines "pharmaceutical with an aesthetic purpose," "physician," and "therapeutic optometrist."

EFFECTIVE DATE

Except as otherwise provided, on passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 1081 differs from the original by prohibiting a physician or therapeutic optometrist from dispensing to that physician's or therapeutic optometrist's patients a pharmaceutical with an aesthetic purpose in excess of the patient's immediate needs if the pharmaceutical is prescribed for a use other than the enhancement of the patient's physical appearance, whereas the original imposes that prohibition only on a physician.

C.S.S.B. 1081 contains a provision not included in the original prohibiting a therapeutic optometrist from dispensing a pharmaceutical with an aesthetic purpose if that prescription does not fall within the scope of the practice of therapeutic optometry as defined by statutory provisions relating to optometrists and therapeutic optometrists.