

BILL ANALYSIS

S.B. 1857
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Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, a client living in certain health care facilities or receiving certain home and community-based services is authorized to self-administer medication under the supervision of an unlicensed person if the client has the physical, rather than cognitive, ability to take the medication. Observers note that, while the determination of whether to delegate medication administration had not historically been based on a client's cognitive ability to administer the client's medications safely, the Texas Board of Nursing and the Department of Aging and Disability Services are on the verge of formalizing a new interpretation of what constitutes self-administration in certain community-based programs that serve clients with intellectual and developmental disabilities that would require a registered nurse to delegate self-administration of medications under all circumstances. Interested parties note that such delegation requires more paperwork and training, and that registered nurses required to delegate those tasks may become overburdened.

S.B. 1857 seeks to address these issues by amending current law relating to the administration of medication for clients with intellectual and developmental disabilities.

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. 1857 amends the Human Resources Code to authorize an unlicensed person to provide administration of medication to a client who is a person with intellectual and developmental disabilities who is served in a small licensed or certified intermediate care facility for the mentally retarded (ICF-MR) with not less than one and not more than eight beds; in a medium licensed or certified ICF-MR with not less than nine and not more than 13 beds; or by certain specified Section 1915(c) waiver programs administered by the Department of Aging and Disability Services (DADS) without the requirement that a registered nurse delegate or oversee each administration. The bill authorizes such administration of medication if the medication is an oral medication, a topical medication, or a metered dose inhaler; the medication is administered to the client for a stable or predictable condition; the client has been personally assessed by a registered nurse initially and in response to significant changes in the client's health status, and the registered nurse has determined that the client's health status permits the administration of medication by an unlicensed person; and the unlicensed person has been trained or determined to be competent, including through a demonstration of proper technique by the unlicensed person, by a registered nurse or licensed vocational nurse under the direction of a registered nurse regarding proper administration of medication. The bill clarifies that the administration of medication other than medication described in the bill is subject to the rules of the Texas Board of Nursing regarding the delegation of nursing tasks to unlicensed persons in independent living environments.

S.B. 1857 requires DADS to ensure that the administration of medication by an unlicensed person is reviewed at least annually and after any significant change in a client's condition by a registered nurse or licensed vocational nurse under the supervision of a registered nurse and that an applicable facility or program has policies to ensure that the determination of whether an unlicensed person may provide administration of medication to a client may be made only by a registered nurse. The bill requires DADS to verify that each client is assessed to identify the client's needs and abilities regarding the client's medications; that the administration of medication by an unlicensed person to a client is performed only by an unlicensed person who is authorized to perform that administration; and that the administration of medication to each client is performed in such a manner as to ensure the greatest degree of independence, including the use of an adaptive or assistive aid, device, or strategy as allowed under program rules. The bill requires DADS to enforce the bill's provisions relating to the administration of medication for clients with intellectual and developmental disabilities.

S.B. 1857 authorizes a registered nurse performing a required client assessment under the bill's provisions or a registered nurse or licensed vocational nurse training an unlicensed person or determining whether an unlicensed person is competent to perform administration of medication under the bill's provisions to be held accountable or civilly liable only in relation to whether the nurse properly performed the assessment, conducted the training, and determined whether the unlicensed person is competent to provide administration of medication to clients. The bill authorizes the Texas Board of Nursing to take disciplinary action against a registered nurse or licensed vocational nurse under the bill's provisions only in relation to whether the registered nurse properly performed the required client assessment, the registered nurse or licensed vocational nurse properly trained the unlicensed person in the administration of medication, and the registered nurse or licensed vocational nurse properly determined whether an unlicensed person is competent to provide administration of medication to clients. The bill prohibits a registered nurse or licensed vocational nurse from being held accountable or civilly liable for the acts or omissions of an unlicensed person performing administration of medication. The bill provides that its provisions relating to the administration of medication for clients with intellectual and developmental disabilities control to the extent of a conflict with other law.

S.B. 1857 requires the Texas Board of Nursing and DADS to conduct a pilot program beginning not later than September 1, 2011, to evaluate licensed vocational nurses providing on-call services by telephone to clients who are under the care of the licensed vocational nurses. The bill requires the licensed vocational nurses to use standardized and validated protocols or decision trees in performing telephone on-call services in the pilot program and requires DADS to collect data to evaluate the efficacy of such nurses performing those services. The bill requires the board and DADS, in consultation with affected stakeholders, including public and private providers, registered and licensed vocational nurses employed by applicable facilities or providers of applicable services, and other persons or entities the executive director of the board and the commissioner of DADS consider appropriate, to develop the goals and measurable outcomes of the pilot program, review the outcomes of the pilot program and make recommendations regarding potential regulatory or statutory changes, and, on notice of unsafe or ineffective nursing care discovered in the pilot program, review the data or the outcomes and make recommendations for corrective action. The bill requires the board and DADS, not later than December 1, 2012, to submit a report detailing the findings of the pilot program and any jointly developed recommendations to the Senate Committee on Health and Human Services and the House Committee on Public Health. The bill establishes that its provisions relating to the pilot program expire September 1, 2015.

S.B. 1857 requires DADS, in developing any policies, processes, or training curriculum required by the bill, to convene an advisory committee of affected stakeholders, including public and private providers and registered and licensed vocational nurses employed by the applicable facilities or providers of applicable services and other persons or entities DADS considers appropriate. The bill defines "administration of medication," "client," and "unlicensed person."

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.