

BILL ANALYSIS

S.B. 1175
By: Deuell
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Durable medical equipment is medical equipment that is expected to be used for a prolonged period of time. Interested parties assert that with the growing costs and enrollment in Medicaid, several states now have, or are considering implementing, programs allowing for the reuse of such equipment that is no longer meeting the needs of a patient or that has been given to a patient who passes away shortly after receiving it. The parties contend that there are numerous considerations involved in creating such a program, including cost-effectiveness, the condition of reused equipment, and the rights of the patients using the equipment, and suggest that stakeholders work with state Medicaid officials to design the right system. S.B. 1175 seeks to establish such a program, if it is determined that such a program would be cost-effective.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive director of the Health and Human Services Commission in SECTIONS 1 and 2 of this bill.

ANALYSIS

S.B. 1175 amends the Government Code to require the executive commissioner of the Health and Human Services Commission (HHSC), if HHSC determines that it is cost-effective, to establish by rule a program to facilitate the reuse of durable medical equipment provided to recipients under the Medicaid program. The bill defines "durable medical equipment" as equipment, including repair and replacement parts for the equipment, but excluding complex rehabilitation technology equipment, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is appropriate and safe for use in the home. The bill defines "complex rehabilitation technology equipment" as equipment that is classified as durable medical equipment under the Medicare program on January 1, 2013, configured specifically for an individual to meet the individual's unique medical, physical, and functional needs and capabilities for basic and instrumental daily living activities, and medically necessary to prevent the individual's hospitalization or institutionalization and specifies that the term includes a complex rehabilitation power wheelchair, highly configurable manual wheelchair, adaptive seating and positioning system, standing frame, and gait trainer.

S.B. 1175 requires the program to include provisions for ensuring that reused equipment meets applicable standards of functionality and sanitation and that a Medicaid recipient's participation in the reuse program is voluntary. The bill establishes that the program does not waive any immunity from liability of HHSC or a commission employee nor create a cause of action against HHSC or a commission employee arising from the provision of reused durable medical equipment under the program. The bill requires the executive commissioner, in accordance with open meetings law and the Administrative Procedure Act, as applicable, to provide notice of each proposed rule, adopted rule, and hearing that relates to establishing the program under the bill's provisions. The bill requires the executive commissioner, not later than September 1, 2014, to establish the program and adopt necessary rules to implement the program if HHSC

determines that establishing the program is cost-effective.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.