

BILL ANALYSIS

C.S.H.B. 1550
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerned parties note that a pharmacist's authority to administer an epinephrine auto-injector extends only to a patient who is having an allergic reaction as a result of a vaccination or immunization and not to an individual who enters the pharmacy experiencing anaphylactic shock or goes into anaphylactic shock while in the pharmacy. The parties contend that this limitation has created an unnecessary public safety issue, particularly when the pharmacist has a life-saving device readily available. C.S.H.B. 1550 seeks to remedy this situation.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas State Board of Pharmacy in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 1550 amends the Occupations Code to authorize a pharmacist to administer epinephrine through an auto-injector device. The bill requires the Texas State Board of Pharmacy to adopt rules designed to protect the public health and safety to implement the bill's provisions and requires the rules to provide that a pharmacist may administer epinephrine through an auto-injector device to a patient in an emergency situation. The bill authorizes a pharmacist to maintain, administer, and dispose of epinephrine auto-injector devices only in accordance with board rules.

C.S.H.B. 1550 requires a pharmacist who administers epinephrine through an auto-injector device to a patient to report the use to the patient's primary care physician, as identified by the patient, if the patient has a primary care physician. The bill establishes that a pharmacist who in good faith administers epinephrine through an auto-injector device in accordance with the bill's requirements is not liable for civil damages for an act performed in the administration unless the act is wilfully or wantonly negligent. The bill prohibits a pharmacist from receiving remuneration for the administration of epinephrine through an auto-injector device but authorizes a pharmacist to seek reimbursement for the cost of the epinephrine auto-injector device. The bill specifies that such administration of epinephrine does not constitute the unlawful practice of any health care profession.

C.S.H.B. 1550 makes its provisions effective January 1, 2016, except that its provisions take effect September 1, 2015, for the limited purpose of allowing the board to adopt rules that may take effect before January 1, 2016. The bill authorizes a pharmacist to administer epinephrine through an auto-injector device before January 1, 2016, to the extent allowed under the law that

exists before September 1, 2015.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1550 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter B, Chapter 562, Occupations Code, is amended by adding Section 562.057 to read as follows:

Sec. 562.057. ADMINISTRATION OF EPINEPHRINE. (a) A pharmacist may administer epinephrine through an auto-injector device in accordance with this section.

(b) The board shall adopt rules designed to protect the public health and safety to implement this section. The rules must provide that a pharmacist may administer epinephrine through an auto-injector device to a patient in an emergency situation.

(c) A pharmacist may carry, maintain, administer, and dispose of epinephrine auto-injector devices only in accordance with rules adopted by the board under this section.

(d) A pharmacist who administers epinephrine through an auto-injector device to a patient shall report the use to the patient's primary care physician, as identified by the patient, if the patient has a primary care physician.

(e) The administration of epinephrine through an auto-injector device to a patient under this section is considered to be the administration of emergency care for the purposes of any statute relating to liability for the provision of emergency care.

The administration of epinephrine through an auto-injector device to a patient in accordance with the requirements of this section does not constitute the unlawful practice of any health care profession.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter B, Chapter 562, Occupations Code, is amended by adding Section 562.057 to read as follows:

Sec. 562.057. ADMINISTRATION OF EPINEPHRINE. (a) A pharmacist may administer epinephrine through an auto-injector device in accordance with this section.

(b) The board shall adopt rules designed to protect the public health and safety to implement this section. The rules must provide that a pharmacist may administer epinephrine through an auto-injector device to a patient in an emergency situation.

(c) A pharmacist may maintain, administer, and dispose of epinephrine auto-injector devices only in accordance with rules adopted by the board under this section.

(d) A pharmacist who administers epinephrine through an auto-injector device to a patient shall report the use to the patient's primary care physician, as identified by the patient, if the patient has a primary care physician.

(e) A pharmacist who in good faith administers epinephrine through an auto-injector device in accordance with the requirements of this section is not liable for civil damages for an act performed in the administration unless the act is wilfully or wantonly negligent. A pharmacist may not receive remuneration for the administration of epinephrine through an auto-injector device but may seek reimbursement for the cost of the epinephrine auto-injector device.

(f) The administration of epinephrine through an auto-injector device to a patient in accordance with the requirements of this section does not constitute the unlawful practice of any health care profession.

(f) This section does not impose a standard of care not otherwise required by law.

SECTION 2. Before January 1, 2016, pharmacists may administer epinephrine through an auto-injector device to the extent allowed under the law that exists before September 1, 2015.

SECTION 3. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2015.

(b) Section 562.057, Occupations Code, as added by this Act, takes effect January 1, 2016, except that Section 562.057 takes effect September 1, 2015, for the limited purpose of allowing the Texas State Board of Pharmacy to adopt rules under that law that may take effect before January 1, 2016.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.