

## **BILL ANALYSIS**

Senate Research Center  
85R16105 KKR-D

C.S.S.B. 404  
By: Kolkhorst  
Business & Commerce  
3/14/2017  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

A variety of medical providers, especially dentists, have begun offering free alcoholic beverages at their practices. These beverages are offered to patients both before and after their procedures, which often involve sedation or other pharmaceuticals. These beverages are also offered to the parents of patients before they are told their child needs additional, expensive procedures.

There have been several incidents where alcoholic beverages have been offered by medical providers who later go on to inflict severe and permanent damage, often during the course of procedures later found to be unnecessary.

C.S.S.B. 404 prohibits a medical practitioner from offering alcoholic beverages to a patient in their office. It levies an administrative penalty, to be imposed by the relevant licensing entity, should a practitioner offer alcohol to their patients. It contains an exception for alcohol that is provided for a medical purpose.

C.S.S.B. 404 is limited in applicability to medical practitioners who administer anesthesia or prescribe medication.

C.S.S.B. 404 amends current law relating to prohibiting certain health care practitioners from providing alcoholic beverages to certain persons and imposes an administrative penalty.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to a licensing entity in SECTION 1 (Section 116.003, Occupations Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle A, Title 3, Occupations Code, by adding Chapter 116, as follows:

#### **CHAPTER 116. PROVIDING ALCOHOLIC BEVERAGES PROHIBITED**

Sec. 116.001. DEFINITIONS. Defines "health care practitioner" and "licensing entity."

Sec. 116.002. APPLICABILITY. Provides that this chapter applies only to a health care practitioner who is authorized to:

- (1) administer anesthesia or provide anesthesia services in an outpatient setting, including the health care practitioner's office; or
- (2) prescribe or administer a prescription drug, as defined by Section 551.003 (Definitions).

Sec. 116.003. PROVIDING ALCOHOLIC BEVERAGE PROHIBITED. (a) Prohibits a health care practitioner or an employee or agent of a health care practitioner, except as otherwise provided by Subsection (b), from providing or otherwise making available to a patient or to certain individuals accompanying the patient, an alcoholic beverage subject to regulation under the Alcoholic Beverage Code.

(b) Provides that this section does not apply to alcohol when used as, or contained in, a drug for the diagnosis, cure, mitigation, treatment, or prevention of illness, injury, or disease.

(c) Authorizes a licensing entity to adopt rules necessary to implement this chapter.

Sec. 116.004. IMPOSITION OF ADMINISTRATIVE PENALTY. Authorizes the appropriate licensing entity to impose an administrative penalty against a health care practitioner who violates Section 116.003 or a rule or order adopted under that section.

SECTION 2. Effective date: September 1, 2017.