

BILL ANALYSIS

C.S.H.B. 1866
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been suggested that occupational therapy, physical therapy, chiropractic therapy, and other related therapies can provide more effective treatment for individuals with acute pain than treatment with the prescription of opioids. C.S.H.B. 1866 seeks to prohibit a prescriber from issuing a prescription for an opioid in an amount that exceeds a seven-day supply for the initial treatment of acute pain and to allow the referral of patients to such alternative therapies.

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 SECTIONS 2 and 3 of this bill.

ANALYSIS

C.S.H.B. 1866 amends the Health and Safety Code to prohibit a prescriber from issuing a prescription for an opioid in an amount that exceeds a seven-day supply for the initial treatment of acute pain. The bill requires a prescriber, before issuing a prescription for an opioid for the initial treatment of pain, to:

- take and document the results of a thorough medical history, including the patient's experience with medication other than opioids and specified pain management approaches and any history of substance abuse;
- conduct and document the results of a physical examination, as appropriate;
- develop a treatment plan focused on determining the cause of the patient's pain; and
- comply with the statutory requirements relating to the duties of prescribers, pharmacists, and related health care practitioners and the regulation of controlled substances, chemical precursors, and chemical laboratory apparatus.

C.S.H.B. 1866 defines "acute pain" as the time-limited normal, predicted, physiological response to a stimulus such as trauma, disease, and operative procedures. The term does not include chronic pain, pain being treated as part of cancer care, pain being treated as part of hospice or other end-of-life care, or pain being treated as part of palliative care.

C.S.H.B. 1866 authorizes a prescriber to refer or prescribe any of the following pain management services to a patient, based on the prescriber's clinical judgment and the availability of the treatment, when issuing an opioid prescription for acute pain: physical therapies, occupational therapies, chiropractic treatment, physical medicine and rehabilitation, or

osteopathic manipulation. The bill expressly does not require that all of those pain management treatments be exhausted before the patient may receive a prescription for an opioid.

C.S.H.B. 1866 makes its provisions inapplicable to a prescriber who is a veterinarian and to patients with pain related to progressive functional neurological deficit, fracture, tumor, infection, or immediate postsurgical recovery; to patients with chronic pain that, based on the prescriber's clinical judgment, is caused by a disease, illness, or injury that would not improve under such pain management therapies and treatments; or to patients receiving treatment for cancer, emergency or trauma care, hospice care, palliative care, long-term care, or treatment for substance abuse or opioid dependence. The bill establishes that a dispenser is not subject to disciplinary action, civil liability, or criminal, civil, or administrative penalties for dispensing or refusing to dispense a controlled substance under an otherwise valid prescription in an amount that exceeds a seven-day supply.

C.S.H.B. 1866 amends the Occupations Code to expand the grounds on which the Texas State Board of Pharmacy (TSBP) may discipline an applicant or the holder of a nonresident pharmacy license if the TSBP finds that the applicant or license holder has failed to comply with the bill's provisions relating to prescriptions of opioids for acute pain or provisions under the Texas Controlled Substances Act relating to communication of prescriptions by a practitioner's agent; official prescription information; certain rules relating to the official prescription program; monitoring of prescribers by the applicable regulatory agency; registration of a prescriber or dispenser by the applicable regulatory agency; duties of prescribers, pharmacists, and related health care practitioners; exceptions to those duties; and reports of wholesale distributors.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1866 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute revises the definition of "acute pain" for purposes of prescribing opioids and specifies certain types of pain not included in the definition.

The substitute includes a provision making the bill's provisions inapplicable to a prescriber who is a veterinarian and a provision establishing that a dispenser is not subject to disciplinary action, civil liability, or certain penalties for dispensing or refusing to dispense a controlled substance under a valid prescription that exceeds a seven-day supply.