

BILL ANALYSIS

C.S.H.B. 1190
By: Klick
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, physicians may delegate the prescribing and ordering of Schedule II controlled substances to advanced practice registered nurses and physician assistants only with respect to certain hospital and hospice patients. This means that physician assistants and advanced practice registered nurses who treat patients with mental illness, cancer, and other painful chronic conditions in long-term care and outpatient settings cannot prescribe or order Schedule II controlled substances for their patients. It has been suggested that giving physicians broader authority to delegate the prescribing or ordering of Schedule II controlled substances would help improve the continuum of care for patients. C.S.H.B. 1190 seeks to address this issue by authorizing a physician to delegate the prescribing and ordering of these substances and authorizing a Class A pharmacy to dispense the substances.

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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1190 amends the Occupations Code to authorize a physician to delegate the prescribing or ordering of a controlled substance listed in Schedule II as established by the commissioner of the Department of State Health Services under the Texas Controlled Substances Act as part of a narcotic drug treatment program that has been issued a permit under applicable Health and Safety Code provisions. The bill authorizes a pharmacist practicing in a Class A pharmacy to dispense such a controlled substance that is prescribed by an advanced practice registered nurse or physician assistant to whom a physician has delegated prescribing and ordering authority. The bill requires the prescriber to clearly note in the prescription records that the controlled substance listed in Schedule II is prescribed as part of the following care provided:

- in a hospital facility-based practice in accordance with policies approved by the hospital's medical staff or a committee of the medical staff under the hospital bylaws to ensure patient safety, and as part of care provided to a patient who has been admitted to the hospital for an intended length of stay of 24 hours or greater or is receiving services in the hospital's emergency department;
- as part of a plan of care for the treatment of a person who has executed a written certification of a terminal illness, has elected to receive hospice care, and is receiving hospice treatment from a qualified hospice provider; or
- as part of a narcotic drug treatment program that has been issued an appropriate permit.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 1190 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced repealed a provision limiting the circumstances under which a physician may delegate the prescribing and ordering of a Schedule II controlled substance to an advanced practice registered nurse or physician assistant, the substitute expands those circumstances to include that delegation as part of a narcotic drug treatment program. The substitute omits a provision from the introduced that subjected that delegation to the limits regarding prescription quantity and physician consultation that apply with respect to Schedule III, IV, and V controlled substances.

The substitute includes provisions that were not in the introduced authorizing a pharmacist practicing in a Class A pharmacy to dispense a controlled substance listed in Schedule II that is prescribed by an advanced practice registered nurse or physician assistant to whom a physician has delegated prescribing and ordering authority as specified.

The substitute changes the bill's effective date from September 1, 2023, as in the introduced, to on passage, or, if the bill does not receive the necessary vote, September 1, 2023.