

BILL ANALYSIS

C.S.H.B. 2088
By: Bucy
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Legislation was enacted by the 87th Texas Legislature expanding access to lifesaving medication by giving pharmacists the authority to dispense a 30-day emergency supply of insulin and insulin-related equipment and supplies, which was an increase from the previous cap of a three day supply. Today, many insulin doses are prepackaged into insulin pens or insulin pen cartridges. But unlike some other medications used to treat chronic conditions, insulin does not come with a standard dose for everyone and one size does not fit all. As a result, some prepackaged dose packs of insulin pens exceed a 30-day supply for some persons. C.S.H.B. 2088 seeks to allow a pharmacist to dispense the smallest commercially available prepackaged insulin dose even if it provides a few more days of insulin for the patient beyond the 30-day cap.

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. 2088 amends the Occupations Code to establish an exception to the 30-day cap on the quantity of an emergency refill of insulin for when the smallest commercially available package of insulin exceeds a 30-day supply. The bill sets the cap on the quantity of an emergency refill of insulin-related equipment or supplies at the smallest commercially available package necessary for a 30-day supply. The bill authorizes a pharmacist to dispense multiple packages of insulin for an emergency refill if the total quantity dispensed does not exceed a 30-day supply.

C.S.H.B. 2088 authorizes the Texas State Board of Pharmacy (TSBP) to take disciplinary action against an applicant for or the holder of a current or expired pharmacy technician or pharmacy technician trainee registration if the TSBP determines that the applicant or registrant has engaged in any fraud, deceit, or misrepresentation, as those terms are defined by TSBP rule, in practicing as a pharmacy technician or pharmacy technician trainee. The bill removes the TSBP's authority to take disciplinary action against an applicant, license holder, or registrant for the commission of the Class B misdemeanor offense of selling an abusable volatile chemical without a permit. These provisions apply only to disciplinary action regarding conduct that occurs on or after the bill's effective date.

C.S.H.B. 2088 reenacts Section 565.003, Occupations Code, as amended by Chapters 1105 (H.B. 2174) and 1166 (H.B. 3284), Acts of the 86th Legislature, Regular Session, 2019, to

conform to changes made by Chapter 1105 (H.B. 2174), Acts of the 86th Legislature, Regular Session, 2019, which provides a narrower set of provisions of the Texas Controlled Substances Act regulating the manufacture, distribution, and dispensation of controlled substances, chemical precursors, and chemical laboratory apparatus, noncompliance with which by an applicant for or holder of a nonresident pharmacy license is grounds for discipline by the TSBP unless compliance would violate the pharmacy or drug statutes or rules in the state in which the pharmacy is located.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2088 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.

The substitute includes language not in the introduced specifying that the available packages of insulin to which the bill applies when determining the applicability of caps on the amount of insulin that may be dispensed are commercially available packages.

The substitute includes a provision not in the introduced authorizing a pharmacist to dispense multiple packages of insulin for an emergency refill as long as the total quantity dispensed does not exceed a 30-day supply.

The substitute includes a provision absent from the introduced removing the TSBP's authority to take disciplinary action against an applicant, license holder, or registrant for the commission of the Class B misdemeanor offense of selling an abusable volatile chemical without a permit.