

BILL ANALYSIS

H.B. 3338
By: Cole
Higher Education
Committee Report (Unamended)

BACKGROUND AND PURPOSE

A constituent in House District 46 and students at The University of Texas at Austin have raised concerns that state law does not require resident advisors in campus residence halls to be provided with naloxone or other opioid antagonists to prevent fentanyl overdoses in institutions of higher education. This safety concern is elevated due to the ongoing fentanyl crisis in Texas and the country. H.B. 3338 seeks to address this concern by providing for the availability of opioid antagonists at each residence hall at a public institution of higher education campus, including provisions for the training of resident advisors in the proper use of those devices.

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 commissioner of the Texas Higher Education Coordinating Board and the commissioner of higher education in SECTION 1 of this bill.

ANALYSIS

H.B. 3338 amends the Education Code to require each public institution of higher education to adopt and implement a policy providing for the availability of opioid antagonists at each residence hall on the institution's campus, including provisions for the acquisition, maintenance, storage, administration, and disposal of those devices and the training of resident advisors in the proper use of those devices. The bill requires the policy to provide that resident advisors who are authorized and trained may administer an opioid antagonist to a person who is reasonably believed to be experiencing an opioid-related drug overdose in a residence hall on the institution's campus.

H.B. 3338 defines "opioid antagonist" by reference as any drug that binds to opioid receptors and blocks or otherwise inhibits the effects of opioids acting on those receptors.

H.B. 3338 requires the following with respect to a policy regarding opioid antagonists in residence halls:

- the commissioner of the Texas Higher Education Coordinating Board (THECB), with advice from the commissioner of state health services, must adopt rules regarding the maintenance, storage, administration, and disposal of an opioid antagonist to be used in residence halls on an applicable institution campus;
- the THECB rules must establish the amount of training required for resident advisors to administer an opioid antagonist and the process for each institution of higher education

to check the inventory of opioid antagonists at regular intervals for expiration and replacement;

- each institution must require that all resident advisors be authorized and trained to administer an opioid antagonist and must include the policy in the institution's student handbook or similar publication and must publish the policy on the institution's website; and
- the supply of opioid antagonists at a campus must be stored in a secure location at each residence hall and be easily accessible to resident advisors and other employees or volunteers trained to administer an opioid antagonist.

H.B. 3338 provides for the responsibility of each institution of higher education to train all resident advisors in the administration of an opioid antagonist and requires the training to, as follows:

- include information on recognizing the signs and symptoms of an opioid-related drug overdose; administering an opioid antagonist; implementing emergency procedures, if necessary, after administering an opioid antagonist; the required alerting of emergency medical services during or immediately after the administration of the opioid antagonist; and properly disposing of used or expired opioid antagonists;
- be provided to resident advisors along with any other mandatory training the institution imposes, in a formal training session or through online education;
- be completed annually; and
- provide an opportunity to address frequently asked questions.

The bill requires each institution of higher education to maintain records on the required training.

H.B. 3338 authorizes a physician to prescribe opioid antagonists in the name of an institution of higher education and requires the physician to provide the institution with a standing order for the administration of an opioid antagonist to a person reasonably believed to be experiencing an opioid-related drug overdose. The bill establishes the following with respect to such a standing order:

- the order is not required to be patient-specific, and the opioid may be administered to a person without an established physician-patient relationship;
- supervision or delegation by a physician is considered adequate if the physician periodically reviews the order and is available through direct telecommunication as needed for consultation, assistance, and direction; and
- the order must contain the name and signature of the prescribing physician; the name of the institution of higher education to which the order is issued; the quantity of opioid antagonists to be obtained and maintained under the order; and the date of issue.

The bill authorizes a pharmacist to dispense an opioid antagonist to an institution of higher education for purposes of the bill's provisions without requiring identifying information relating to the user.

H.B. 3338 requires an institution of higher education, not later than the 10th business day after the date a resident advisor, employee, or volunteer administers an opioid antagonist in accordance with the institution's adopted policy, to report the following information regarding the administration to the physician who prescribed the opioid antagonist:

- the age of the person who received the administration of the opioid antagonist;
- whether the person who received the administration of the opioid antagonist was a student, employee, or visitor;
- the physical location where the opioid antagonist was administered;
- the number of doses of opioid antagonist administered;
- the title of the person who administered the opioid antagonist; and
- any other information required by the commissioner of education.

H.B. 3338 grants a person who in good faith takes, or fails to take, any action under the bill's provisions immunity from civil or criminal liability resulting from that action or failure to act, including the following acts:

- issuing an order for opioid antagonists;
- supervising or delegating the administration of an opioid antagonist;
- possessing an opioid antagonist;
- maintaining an opioid antagonist;
- storing an opioid antagonist;
- disposing of an opioid antagonist;
- prescribing an opioid antagonist;
- dispensing an opioid antagonist;
- administering, or assisting in administering, an opioid antagonist;
- providing, or assisting in providing, training, consultation, or advice in the development, adoption, or implementation of policies, guidelines, rules, or plans regarding the availability and use of an opioid antagonist; or
- undertaking any other act permitted or required under the bill's provisions.

This immunity is in addition to other immunity or limitations of liability provided by law. The bill's provisions do not create a civil, criminal, or administrative cause of action or liability or create a standard of care, obligation, or duty that provides the basis for a cause of action for an act or omission under the bill's provisions. The bill grants an institution of higher education immunity from suit resulting from an applicable act, or failure to act, of any person under the bill's provisions. The bill establishes that a cause of action does not arise from an applicable act or omission described by the bill.

H.B. 3338 grants a person acting in good faith who reports or requests emergency medical assistance for a person who is reasonably believed to be experiencing an opioid-related drug overdose in a residence hall on campus immunity from civil liability and from criminal liability for specified offenses involving controlled substances, dangerous drugs, or abusable volatile chemicals that might otherwise be incurred or imposed as a result of those actions. Such a person may not be subjected to any disciplinary action by the institution of higher education at which the person is enrolled or employed for any violation by the person of the institution's code of conduct reasonably related to the incident unless suspension or expulsion from the institution is a possible punishment.

H.B. 3338 authorizes an institution of higher education to accept gifts, grants, donations, and federal funds to implement the bill's provisions and requires the commissioner of higher education to adopt rules necessary to implement the bill's provisions. The bill requires each applicable institution of higher education to implement the bill's provisions as soon as practicable, but not later than the 2024 fall semester.

EFFECTIVE DATE

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