

## **BILL ANALYSIS**

Senate Research Center  
88R21134 EAS-D

C.S.S.B. 301  
By: Hall  
Health & Human Services  
4/6/2023  
Committee Report (Substituted)

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

At the beginning of the COVID-19 pandemic, the Centers for Disease Control and Prevention (CDC) had no early treatment or medical prevention recommendations. Physicians used their training and experience to adapt their practice to the symptoms they were seeing.

Unfortunately, doctors and other healthcare providers faced the fear of retaliation, license suspension, fines, and other disciplinary actions from licensing boards because they prescribed medications that were not in line with the CDC recommendations, even though the use of these FDA-approved drugs as early treatment and prophylactics were repeatedly shown to decrease the likelihood of the patient ending up in emergency or hospital care.

Often, licensing boards would cite that the specific medication was not labeled for use as treatment for COVID-19. However, off-label use of medications is not uncommon (for instance, taking aspirin as a heart attack preventative), nor is off-label use illegal, as doctors have a broad scope to prescribe FDA approved medication as long as there is informed consent, and the patient is in agreement with the treatment plan.

This bill:

- Prohibits licensing boards from denying, revoking, or suspending a license or taking any other disciplinary against a licensed or certified healthcare provider for prescribing or administering or a pharmacist due to the lawful dispensing of ivermectin or hydroxychloroquine.
- Creates civil immunity for pharmacists or health care providers for prescribing ivermectin or hydroxychloroquine except in cases of gross negligence or willful misconduct.

Additional information:

- Following feedback from stakeholders, the committee substitute removed the provision prohibiting a pharmacist from contacting the prescribing physician or discussing with the patient the efficacy of ivermectin or hydroxychloroquine and clarified language so as not to imply a physician can dispense medication.

C.S.S.B. 301 amends current law relating to prescribing, administering, or dispensing ivermectin or hydroxychloroquine sulfate.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 439, Health and Safety Code, by adding Subchapter D, as follows:

#### **SUBCHAPTER D. IVERMECTIN AND HYDROXYCHLOROQUINE SULFATE**

Sec. 439.051. DEFINITIONS. Defines "health care provider" and "pharmacist."

Sec. 439.052. PROHIBITED GROUNDS FOR DISCIPLINARY ACTION. Prohibits the state agency with licensing or regulatory authority over a health care provider or pharmacist from revoking, failing to renew, suspending, or taking any action against the health care provider's or pharmacist's license, permit, registration, certificate, or other authority based solely on the health care provider prescribing or administering or the pharmacist dispensing ivermectin or hydroxychloroquine sulfate to a patient.

Sec. 439.053. CIVIL LIABILITY. Provides that a health care provider or pharmacist who prescribes, administers, or dispenses, as applicable, ivermectin or hydroxychloroquine sulfate in accordance with this subchapter is immune from civil liability based solely on that action unless the action constitutes gross negligence or wilful misconduct.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2023.