

BILL ANALYSIS

S.B. 1120
By: Schwertner
Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

By law, estheticians and cosmetologists can only perform injections, including Botox, under the authority of a physician, and the Texas Medical Board (TMB) is responsible for enforcing this regulation, not the Texas Commission of Licensing and Regulation (TCLR). There are reports of estheticians and cosmetologists having "Botox parties" and administering unauthorized injections to friends and family. Ensuring that only qualified medical professionals are providing these treatments can help prevent potential harm or adverse effects from unauthorized injection administration. Although the TMB has disciplinary authority over the physicians who are required to authorize the injections, there is a lack of clarity regarding the authority of the TMB and TCLR to pursue disciplinary action against the licensed esthetician or cosmetologist who committed the violation.

S.B. 1120 seeks to correct this regulatory oversight and ensure that only the professionals responsible for violations are held accountable by prohibiting certain barbering and cosmetology license holders from administering injections and using specified prescription medical devices. The bill also clarifies that TCLR has disciplinary authority over the professionals in violation of the prohibition.

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

S.B. 1120 amends the Occupations Code to prohibit a person performing a barbering or cosmetology service within the scope of the applicable issued license or permit from making an incision into the dermis layer of a person's skin, including for purposes of injecting a medication or other substance, or using a prescription medical device approved by the FDA. The bill authorizes such a license or permit holder to perform those acts as part of a barbering or cosmetology service if the person is licensed to perform that act in Texas or is otherwise authorized by law to perform that act. The bill establishes that in a disciplinary action by the Texas Commission of Licensing and Regulation related to an act in violation of the bill's provisions, the license or permit holder has the burden of proving by a preponderance of the evidence that the person is licensed or otherwise authorized to perform the act. The bill's provisions expressly do not affect the authority of another state agency regulating a profession to enforce any law related to that profession. The bill applies only to conduct that occurs on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.