

SUBJECT: Allowing out-of-state pharmacy to maintain emergency medication kit

COMMITTEE: Human Services — committee substitute recommended

VOTE: 9 ayes — Uresti, Naishtat, Wohlgemuth, Christian, McCall, Miller, Olivo, Reyna, Villarreal

0 nays

WITNESSES: For — Jerry Adams, Farwell Convalescent Center; David Thomason, Texas Association of Homes and Services for the Aging

Against — David Gonzales, Texas Pharmacy Association

On — Gay Dodson, Texas State Board of Pharmacy

BACKGROUND: The Texas Administrative Code defines different categories of pharmacies, including Class A, community pharmacies; Class C, institutional pharmacies; and Class E, pharmacies in other states. Emergency medicine kits are medications that nursing homes and other institutions keep on hand in case of emergencies. These kits are dispensed by a pharmacist but held at the nursing home or facility until they are prescribed for a resident in an emergency.

Occupations Code, sec. 562.108 allows a Class A or Class C pharmacy to maintain controlled substances and dangerous drugs in an emergency medication kit used in a nursing home or an intermediate care facility for the mentally retarded (ICF-MR). The controlled substances and dangerous drugs may be used only for the emergency medication needs of a resident at that institution.

DIGEST: CSHB 1686 would allow a Class E pharmacy that is located within 20 miles of a Texas nursing home or ICF-MR to maintain controlled substances in an emergency medicine kit used at a licensed institution.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

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**SUPPORTERS
SAY:**

Facilities in some rural areas of Texas have a difficult time finding pharmacies that will maintain their emergency medicine kits because of the distance involved in delivering the medicines. For example, the nursing home in Farwell is more than 100 miles from the nearest Texas Class A or C pharmacy, yet is only eight miles away from one in New Mexico. It would be more cost-effective for the nursing home in Farwell to have its emergency medicine kit maintained by the pharmacy in New Mexico.

This bill would not allow any pharmacy or nursing home to avoid Texas state laws or to buy drugs from Mexico. A Class E pharmacy must be licensed and may be in another state but not in another country. Nor would the bill affect reimbursement for prescriptions under the Texas Medicaid program. Pharmacies in other states already can bill Texas Medicaid if they are Medicaid providers.

The bill would ensure that Texas' nursing home market was not open to any pharmacy near the state line. The author intends to offer a floor amendment that would specify that the out-of-state pharmacy must be located within 20 miles of the nursing home or ICF-MR that it actually serves rather than within 20 miles of any institution.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

As filed, HB 1686 would have allowed any Class E pharmacy located within 20 miles of the state line to maintain an emergency medicine kit. The committee substitute specified a Class E pharmacy not more than 20 miles from an institution in the state.