

SUBJECT: Therapeutic contact lens dispensing by a doctor or therapeutic optometrist

COMMITTEE: Public Health — committee substitute recommended

VOTE: 9 ayes — Kolkhorst, Naishtat, J. Davis, Gonzales, Hopson, S. King, McReynolds, Truitt, Zerwas

0 nays

2 absent — Coleman, Laubenberg

WITNESSES: For — (*Registered, but did not testify:* Brenda (BJ) Avery, Texas Optometric Association; Frank Calhoun, Richard Ponder, Johnson & Johnson; Damian May, Vistakon)

Against — None

On — Chris Kloeris, Texas Optometry Board

BACKGROUND: Therapeutic contact lenses are a new medical technology pending approval by the U.S. Food and Drug Administration (FDA). The lenses would include topical drugs, such as over-the-counter allergy drops, in a contact lens. The FDA classifies standard contact lenses as medical devices. Once approved, therapeutic contact lenses would be classified as a drug.

The Texas Pharmacy Act prevents, with a few exceptions, a person who does not hold a license to practice pharmacy from dispensing a prescription drug or distributing a medication order.

Therapeutic optometrists — health care professionals who specialize in eye health problems and vision disorders — may prescribe and dispense contact lenses. They also may administer or prescribe specific topical or oral drugs to treat vision problems or certain diseases affecting vision, but they are not allowed to dispense drugs.

Ophthalmologists are licensed physicians who specialize in eye disease and the vision system and can perform eye surgery. They may dispense contact lenses and have the same prescription authority as other physicians, but cannot dispense medications in their offices.

DIGEST: CSHB 1740 would define a therapeutic contact lens as a contact lens that contains one or more drugs and delivers the drugs into the wearer's eye.

CSHB 1740 would state that the Texas Pharmacy Act did not prevent a physician or therapeutic optometrist from dispensing and charging for therapeutic contact lenses. The bill would not authorize therapeutic optometrists to prescribe, administer, or dispense a drug that was outside their scope of practice.

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, 2009.

**SUPPORTERS
SAY:**

CSHB 1740 would permit ophthalmologists and therapeutic optometrists to dispense therapeutic contact lenses, which would provide convenient access to this beneficial new medical technology directly through Texans' eye care providers. A therapeutic contact lens that contains an over-the-counter eye allergy medication called ketotifen is likely to be approved by the FDA later this year, and therapeutic lenses containing a wide variety of medications could be approved in the future. Ketotifen has proven a safe over-the-counter medication, and therapeutic lenses only would afford a new way of delivering this and other approved medications to the wearer.

The bill would not change the scope of practice of therapeutic optometrists because these professionals already may prescribe pharmaceutical products for eye conditions and dispense contact lenses. CSHB 1740 simply would ensure that therapeutic optometrists could dispense this new combination product.

If ophthalmologists and therapeutic optometrists were not allowed to dispense therapeutic contact lenses, access to these products would be severely limited. Pharmacies are allowed to dispense contacts, yet few do because most people get their contacts from their eye care professional.

Waiting until FDA approval has been received to place in statute provisions that would permit ophthalmologists and therapeutic optometrists to dispense therapeutic contact lenses would provide no public health benefit and only would diminish public access to this new product. Drug therapies must undergo rigorous three-phase testing for the FDA to approve them, which would ensure each new therapeutic lens could be dispensed safely as soon as approval was received.

OPPONENTS
SAY:

CSHB 1740 should not allow ophthalmologists and therapeutic optometrists to dispense therapeutic contact lenses as soon as the lenses receive FDA approval. While therapeutic contact lenses appear to be a promising new medical technology, it would be preferable, as a final safeguard on public health, for Texans to have fewer means to obtain therapeutic contact lenses immediately following FDA approval.

Minimizing access to these products could reduce the number of Texans who had these lenses during a time when other members of the medical community are performing peer review that could reveal additional safety concerns about these products. While contact lenses and many topical medications have been tested thoroughly for the safety of their independent use, a therapeutic lens would place substances in prolonged, direct contact with the surface of the eye — substances that typically are dropped in the eye and naturally flushed out more quickly.

NOTES:

The committee substitute differs from the bill as filed by allowing physicians and therapeutic optometrists to charge for therapeutic contact lenses.