

SUBJECT: Allowing physicians and therapeutic optometrists to dispense some drugs

COMMITTEE: Public Health — committee substitute recommended

VOTE: 7 ayes — Naishtat, Collier, Cortez, S. Davis, Guerra, Laubenberg, Zedler

2 nays — S. King, J.D. Sheffield

1 present not voting — Kolkhorst

1 absent — Coleman

SENATE VOTE: On final passage, March 12 — 29- 2 (Campbell, Schwertner)

WITNESSES: For — Laura Hunter, Obagi; (*Registered, but did not testify*: Bj Avery, Texas Optometric Association; Dan Finch, Texas Medical Association; James Gray, American Cancer Society Action Network; Justin Henderson, Texas Optometric Association; Lisa Hughes, Texas Dermatological Society; Tom Kowalski, Texas Healthcare and Bioscience Institute; Tommy Lucas, Texas Optometric Association; Greg Nikolaidis; Rocco Piazza, Rocco C. Piazza, MD, PLLC)

Against — (*Registered, but did not testify*: Robert Culley, Generic Pharmaceutical Association; Joe DaSilva, Texas Pharmacy Association; John Heal, Texas TrueCare Pharmacies; Cheri Huddleston, Alliance of Independent Pharmacies)

On — Kerstin Arnold, Texas State Board of Pharmacy; Mari Robinson, Texas Medical Board and Texas Physician Assistant Board

BACKGROUND: Occupations Code, ch. 558, requires that a person obtain a license in order to practice pharmacy in Texas.

DIGEST: CSSB 227 would allow physicians and therapeutic optometrists to dispense to their patients prescription drugs designed to enhance the individual's appearance, also known as aesthetic pharmaceuticals. These drugs would consist of bimatoprost, hydroquinone, and tretinoin.

A physician or therapeutic optometrist could dispense to a patient an aesthetic pharmaceutical in an amount greater than the patient's immediate need, but a therapeutic optometrist could not dispense a drug that was not within the person's scope of practice. Physicians or therapeutic optometrists could charge a fee for the drug. They would also have to inform the patient that the prescription could be filled at a pharmacy (if available there) or dispensed at their office.

The pharmaceuticals would have to meet state and federal labeling and record-keeping standards. To the extent required by law, the records would have to be accessible. The Texas State Board of Pharmacy would have to work with the Texas Medical Board and the Texas Optometry Board to develop rules governing the packaging, labeling, and dispensing of aesthetic pharmaceuticals. The Texas Medical Board and the Texas Optometry Board would have to adopt reasonable fees necessary to implement the bill but could not exceed a similar fee paid by pharmacists. These boards would adopt rules to implement the bill by March 1, 2014.

The bill would define aesthetic pharmaceutical, physician, and therapeutic optometrist. It would make conforming amendments to laws regulating the dispensation of dangerous drugs.

This 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, 2013. The provisions authorizing dispensation and mandating compliance with recordkeeping and labeling laws would take effect March 1, 2014.

**SUPPORTERS
SAY:**

CSSB 227 would enhance patient choice and could lower the cost of certain medications. These types of medications are typically prescribed to treat skin pigmentation conditions or promote eyelash growth. By allowing doctors (and therapeutic optometrists) to dispense certain drugs from their offices, this bill could eliminate unnecessary travel and reduce treatment delays. It would also generate a healthy amount of competition, which could help lower prices.

This bill would improve patient safety because these medications are safer and more effective when administered and supervised by a doctor. CSSB 227 would allow patients to easily obtain their doctor's advice and enable the doctor to quickly make modifications to the patient's treatment

regimen. Moreover, the bill is limited to a very select list of innocuous, topical medications that carry little risk of adverse reactions. Although these medications do have some non-cosmetic uses, they are rarely prescribed for the treatment of more serious conditions. And even when they are prescribed for non-cosmetic conditions, they are still safe medications with few side effects.

**OPPONENTS
SAY:**

CSSB 227 could compromise patient safety and circumvent established dispensation procedures. Pharmacies are regulated to ensure they meet high standards for temperature and inventory quality, but there is no similar regulation of doctor's offices. Further, while pharmacists have many years of training to learn about medications and recognize potential adverse reactions, doctors only have one semester of pharmacology during medical school. There is also the possibility that doctors would use these medications for non-cosmetic purposes, such as glaucoma treatment. These uses increase the risk of an adverse reaction and should be closely monitored by a pharmacist.

This bill would set a bad precedent by allowing doctors to dispense certain types of drugs. Although the bill would be limited to three compounds, this could be a slippery slope toward the inclusion of many other medications.