BILL ANALYSIS

C.S.H.B. 2811
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been observed that the rates of abuse of, and accidental poisoning deaths resulting from, controlled substances and other dangerous drugs are increasing as Texas and the nation as a whole suffer from an opioid epidemic. It has been suggested that instituting various reforms regarding the prescription of these drugs for acute pain and providing for the safe storage and disposal of leftover drugs would help to decrease those rates and save countless lives. C.S.H.B. 2811 endeavors to address the devastation wrought by the opioid crisis by setting out provisions intended to improve the process by which drugs are prescribed to treat acute pain and to make patients and their caregivers more aware of the dangers of opioids and other related drugs.

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 rulemaking authority is expressly granted to the Texas Medical Board in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 2811 amends the Occupations Code to set out provisions relating to the prescribing of controlled substances and dangerous drugs for acute pain by a practitioner, defined as a person, other than a veterinarian, who is authorized to prescribe a controlled substance. The bill assigns "dangerous drug" the meaning provided under the Texas Dangerous Drug Act and provides that acute pain does not include chronic pain or pain being treated as part of cancer care, end-of-life care, or palliative care.

C.S.H.B. 2811 establishes that an applicable practitioner's treatment of a patient's acute pain is evaluated by considering whether the treatment meets the generally accepted standard of care. The bill requires a practitioner to obtain a medical history and a physical examination that includes a problem-focused examination specific to the chief presenting complaint of the patient. The bill requires that the patient's medical record document the medical history and physical examination. The bill requires a practitioner, before prescribing a controlled substance or dangerous drug for the treatment of acute pain, to review prescription data and history related to the patient. If the practitioner determines that such a review is not necessary, the practitioner must document in the patient's medical record the practitioner's rationale for not reviewing the data and history. The bill requires the Texas Medical Board (TMB), not later than March 1, 2020, to adopt rules governing what information a practitioner who is prescribing a controlled substance or dangerous drug for acute pain or creating a treatment plan for the treatment of acute pain must place in the patient's medical record regarding the medical history and physical examination of the patient. The bill establishes that those rules may create different standards for

practitioners treating patients with acute pain in an emergency department.

C.S.H.B. 2811 requires each regulatory agency that issues a license, certification, or registration to a practitioner to create specific written guidelines for a discussion about the risks and benefits of the use of a controlled substance or dangerous drug for the treatment of acute pain between the practitioner and a patient with acute pain, or, if the patient is unable to give consent for the patient's medical treatment, the patient's surrogate or guardian. The bill sets out requirements for the content of those guidelines, including a requirement that the guidelines include an explanation of methods for safely disposing of an unused portion of a controlled substance or dangerous drug prescription. The bill requires each regulatory agency to create and make available to a practitioner the specific written discussion guidelines not later than March 1, 2020.

C.S.H.B. 2811 requires the practitioner, if necessary, to see the patient being treated for acute pain for periodic review at reasonable intervals to review the patient's compliance with the prescribed treatment plan and to reevaluate the potential for substance abuse or diversion or to refer the patient to another practitioner for further evaluation and treatment.

C.S.H.B. 2811 establishes that patients who are at risk for substance abuse or addiction and patients with acute pain and histories of substance abuse or addiction or with comorbid psychiatric disorders require the consideration of a consultation with or referral to an expert in the management of those patients. The bill's provisions apply only to a prescription issued on or after March 1, 2020.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2811 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a requirement for the TMB to adopt rules governing what information a practitioner prescribing a controlled substance or dangerous drug must place in a patient's medical record and a provision relating to those rules creating different standards for applicable practitioners. The substitute does not include specified contents required to be documented in a patient's medical record.

The substitute revises provisions relating to the discussion concerning the risks and benefits of the use of controlled substances and dangerous drugs for the treatment of acute pain and provisions relating to the periodic review of the treatment plan.

The substitute does not include a requirement for a practitioner to ensure that a written treatment plan is documented in the patient's medical record.

The substitute includes a requirement for regulatory agencies to create and make available the required written guidelines by a specified date.

The substitute changes the date on which the bill's provisions apply to a prescription from September 1, 2019, to March 1, 2020.