

SUBJECT: Nursing home pharmaceutical regulations

COMMITTEE: Public Health — favorable, with amendment

VOTE: 6 ayes — Berlanga, Hirschi, Coleman, Davila, Glaze, Maxey
0 nays
2 absent — Delisi, Janek

SENATE VOTE: On final passage, May 13 — 14-13 (Armbrister, Barrientos, Bivins, Cain, Carona, Duncan, Ellis, Haywood, Moncrief, Nixon, Shapleigh, Truan, Wentworth)

WITNESSES: None

BACKGROUND : Chapter 242 of the Health and Safety Code authorizes licensed nursing homes to maintain a supply of controlled substances in an emergency medication kit for residents' emergency needs, subject to Department of Human Services regulations regarding amount, type and use of the controlled substances. Storage of the controlled substances must be supervised by a consultant pharmacist.

Prescription drugs include controlled substances and dangerous drugs. Controlled substances include heroin, cocaine, morphine, tranquilizers and pain killers; dangerous drugs are drugs considered unsafe for self-medication and that cannot be dispensed without a prescription.

Class A pharmacy licenses are issued to qualified community pharmacies that dispense prescription drugs to the general public. Class C pharmacy licenses are issued to qualified pharmacies in hospitals and other institutions.

DIGEST: SB 1774 would amend Chapter 242 of the Health and Safety Code to replace nursing home authorization with pharmacy authorization to maintain an emergency supply of controlled substances. The bill also would authorize pharmacies to maintain a supply of dangerous drugs for residents' immediate therapeutic needs. The administration of controlled and dangerous drugs would have to comply with all applicable laws.

SB 1774 also would amend the Texas Pharmacy Act to create a Class L pharmacy license for pharmacies that dispensed prescription drugs or devices to residents of long-term care facilities and a Class S pharmacy license for holders of Class A, C or L licenses that maintained an emergency medication kit of controlled substances and dangerous drugs at a long-term care facility. The pharmacy board would have to adopt rules to specify the quantities and types of controlled substances and dangerous drugs.

A Class L pharmacy would have to be under the continuous on-site supervision of a pharmacist during the time it was open. A Class S pharmacy would have to be under the continuous supervision of a pharmacist whose services would be required according to the pharmacy needs.

The bill would take effect September 1, 1997.

**SUPPORTERS
SAY:**

SB 1774 would more closely regulate the inventory and administration of controlled substances and dangerous drugs in nursing homes by attaching to pharmacy licensing requirements the inventory and dispensing of drugs and supervision of emergency medication kits. Currently, nursing home drug supplies are provided by physicians and administered by nurses, nurse aides, and medication aides. However, due to the vulnerable condition and limited physician oversight of most nursing home residents, more protections are needed. Requiring a pharmacy license specific to nursing home care would connect drug dispensing activities to drug administration activities.

This bill would protect residents from inappropriate medications and inhibit the illegal diversion and abuse of these drugs, yet allow nursing homes to take advantage of new, cost-saving trends in pharmaceutical management, such as the use of automated pharmacy machines and electronic communications. Legislation is needed to give the pharmacy board clear direction and authority to specially identify and license pharmacies that do business with nursing homes and to allow for satellite emergency medication operations in nursing homes.

A Class L pharmacy license would recognize that a specialized pharmacy practice has developed to meet the specific needs of residents in long-term care facilities. Nursing homes would still be able to keep kits on the

premises for residents' emergency uses by using a Class S satellite pharmacy license, but the supply of drugs in these kits would be limited to those deemed appropriate by the board for emergency services. The bill would not establish mini-pharmacies in nursing homes.

SB 1774 would not generate competition between small and large pharmacies because both would be able to apply and qualify for Class L and Class S licenses. The Class S license would permit any pharmacy that served a long-term care facility to place and own the emergency box in a nursing home. Also, the bill would not eliminate or change federal- and state-required freedom of choice protections for residents to choose their own pharmacist.

OPPONENTS
SAY:

SB 1774 would hurt the business of small, local pharmacies that have been the primary providers of most rural and small community nursing home medication needs and supervision. Chain pharmacies, some of which are associated with nursing home corporations, are able to better compete for nursing home business due to their ability to buy pharmaceuticals at bulk rates and by their access to capital to obtain the latest technology in drug dispensing and monitoring and electronic communications. This bill would not recognize a long-term care specialty in pharmacies as much as it would bestow to non-local pharmacies greater access to nursing home business.

OTHER
OPPONENTS
SAY:

This bill is unnecessary; the board of pharmacy already has sufficient authority to enact rules regarding drug dispensing to nursing homes that reflect current business and pharmaceutical trends in health care.

NOTES:

The committee amendment would require the pharmacy board to adopt rules to specify the quantities and types of controlled substances and dangerous drugs included in the emergency kits.