

SUBJECT: Chemical dependency treatment facilities and patient consent

COMMITTEE: Human Services — committee substitute recommended

VOTE: 9 ayes — Raymond, Rose, Keough, S. King, Klick, Naishtat, Peña, Price, Spitzer

0 nays

SENATE VOTE: On final passage, April 30 — 31-0, on local and uncontested calendar

WITNESSES: No public hearing

BACKGROUND: Health and Safety Code, ch. 462 contains provisions applying to the treatment of chemically dependent persons.

DIGEST: CSSB 1560 would make revisions concerning a patient’s consent to treatment at chemical dependency treatment facilities licensed by the Department of State Health Services (DSHS). The bill would not apply to hospitals and other facilities that are not required to be licensed by DSHS as substance abuse disorder treatment facilities.

Consent to the administration of prescription medicine given by a patient receiving treatment or by a person authorized by law to consent on behalf of the patient would be valid only if:

- consent was given voluntarily and without coercive or undue influence;
- the patient and, if appropriate, the patient’s representative were informed in writing that consent could be revoked; and
- the consent was evidenced in the patient’s clinical record by a signed form or by a statement of the treating physician or a person designated by the physician documenting that consent was given by the appropriate person and the circumstances under which consent was obtained.

A patient would have the right to refuse unnecessary or excessive medication. A facility would not be allowed to use medication as punishment or for the convenience of staff.

The DSHS commissioner would adopt rules to require a patient's treating physician to provide information in the patient's primary language, if possible, relating to prescription medications ordered by the physician. At a minimum, the required information would have to identify the major types of prescription medications and specify for each major type:

- conditions the medications were commonly used to treat;
- beneficial effects on those conditions;
- side effects and risks associated with the medications;
- commonly used examples of medications; and
- sources of detailed information concerning a particular medication.

If the treating physician designated another person to provide the medication information, the physician would be required to meet with the patient and, if appropriate, the patient's representative within two working days. The treating physician or person designated by the physician would be required to provide the information to the patient's family on request to the extent allowed by state or federal confidentiality laws.

On request by a patient, a person designated by the patient, or the patient's legal guardian or managing conservator, if any, a facility administrator would be required to provide a list of medications prescribed while the patient was in the facility. The list would include the medication, dosage and schedule prescribed, and the name of the prescribing physician. The list would have to be provided within four hours after the facility administrator received a written request. If there was insufficient time to prepare the list before a patient's discharge, the list could be mailed within 24 hours after discharge. A patient participating in a research project could waive the right of any person to receive the medication list if release would jeopardize the project results.

The bill would repeal the definition of "assessment" in Health and Safety

Code, sec. 462.025.

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, 2015.

**SUPPORTERS
SAY:**

CSSB 1560 would revise laws to reflect current practices on consent for medication for patients in substance abuse treatment facilities licensed by DSHS. The bill would allow a physician to designate a person to document that consent was given by the patient or appropriate person and the circumstances under which consent was obtained. Many detoxification facilities are open at all times and it would be prohibitively expensive for them to have a physician present 24 hours a day to obtain consent for medication.

The bill would standardize treatment for chemical dependency with existing statutory standards for treatment for mental health. These standards have proved workable.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

CSSB 1560 differs from the engrossed Senate version in that the House committee substitute:

- would not change the definition of a mental health professional;
- would not apply to hospitals and other facilities that are not required to be licensed as substance abuse treatment facilities by DSHS; and
- would not repeal certain provisions of Health and Safety Code, sec. 462.025 regarding intake, screening, assessment, and admission.