

SUBJECT: Requiring discussions between providers and patients with acute pain

COMMITTEE: Public Health — committee substitute recommended

VOTE: 8 ayes — S. Thompson, Wray, Allison, Frank, Guerra, Ortega, Price,
Zedler

1 nay — Sheffield

2 absent — Coleman, Lucio

WITNESSES: For — Cynthia Humphrey, Association of Substance Abuse Programs;
*(Registered, but did not testify: Jamaal Smith, City of Houston Mayor's
Office; Leticia Van de Putte, Texas Academy of Physician Assistants;
Jamie Dudensing, Texas Association of Health Plans; Craig Benton,
Texas Chiropractic Association; Cynthia Tays, Texas Chiropractic
Association; Michael Wright, Texas Pharmacy Business Council)*

Against — *(Registered, but did not testify: Adam Cahn, Cahnman's
Musings)*

On — Carl Nunziato, Texas Orthopaedic Association; Kristin McGarity;
*(Registered, but did not testify: W. Boyd Bush, Texas State Board of
Dental Examiners)*

DIGEST: CSHB 2811 would define certain terms and require practitioners to
discuss with patients who have acute pain the risks and benefits of
controlled substances and document certain medical information in a
patient's record.

Definitions. Under the bill, "substance abuse" would mean the
maladaptive pattern of substance use manifested by recurrent and
significant adverse consequences regarding the repeated use of controlled
substances or other drugs. "Addiction" would mean a primary, chronic, or
neurobiological disease characterized by craving and compulsive use of
drugs despite harm to oneself or others.

"Acute pain" would mean the normal, predicted, physiological response to a stimulus such as trauma, disease, and operative procedures. The term would not include chronic pain or pain being treated as part of cancer care, hospice, end-of-life care, or palliative care. "Chronic pain" would mean pain that persists beyond the usual course of an acute disease or healing of an injury.

"Physical dependence" would mean a state of adaptation that was manifested by drug class-specific signs and symptoms that could be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, or administration of an antagonist. "Tolerance" would mean a physiological state resulting from regular use of a drug in which an increased dosage was needed to produce a specific effect or in which a reduced effect was observed with a constant dose over time. Tolerance would not necessarily occur during opioid treatment and would not, alone, indicate addiction.

Discussion with patient. By March 1, 2020, the bill would require each regulatory agency that issued a license, certification, or registration to a practitioner to create specific written guidelines for a discussion between the practitioner and patient with acute pain, or the patient's surrogate or guardian, about the risks and benefits of using controlled substances or dangerous drugs to treat acute pain. The guidelines would have to require the discussion to be verbal, except the practitioner also could provide to the patient written information about the risks and benefits, and maintain a signed document in the patient's medical record. Under the bill, the discussion would have to include, among other criteria, explanations of:

- the risk of addiction associated with the prescribed drug, including any risk of developing an addiction or a physical or psychological dependence;
- the risk of taking the drug in a higher dosage than prescribed;
- the danger of combining the drug's consumption with benzodiazepines, alcohol, or other central nervous system depressants;

- the patient's responsibility of storing all drugs in a secure location;
- methods for safely disposing of unused controlled substances or dangerous drugs;
- potential side and adverse effects; and
- available therapies in addition to or instead of drug therapy, including non-pharmacological therapeutic modalities or psychological techniques.

Review of treatment. The bill would require the practitioner to review the patient's compliance with the prescribed treatment plan and reevaluate the potential for substance abuse or diversion. Patients who were at risk for substance abuse or addiction and patients with acute pain and histories of substance abuse or addiction or with comorbid psychiatric disorders would require the consideration of a consultation with or referral to an expert in managing those patients.

Patient evaluation. The bill would require the Texas Medical Board (TMB) by March 1, 2020, to adopt rules governing information a practitioner who was prescribing a controlled substance or dangerous drug for acute pain or creating a treatment plan for acute pain would have to place in the patient's medical record. Patients' medical records would have to document their medical history and physical examination that included a problem-focused examination specific to a patient's primary complaint.

Under the bill, TMB's adopted rules could create different standards for practitioners treating patients with acute pain in an emergency department.

Before prescribing a controlled substance or dangerous drug for treating acute pain, a practitioner would have to review a patient's prescription data and history. If practitioners determined that reviewing this prescription data and history were unnecessary, they would have to document their rationale in the patient's medical record.

The bill would take effect September 1, 2019, and would apply to a prescription issued on or after March 1, 2020.

**SUPPORTERS
SAY:**

CSHB 2811 would address the growing rate of prescription drug abuse in Texas by requiring practitioners to verbally discuss the risks and benefits of using controlled substances and the safe storage and disposal of prescriptions. Many youth access these drugs through parents' medicine cabinets, which are unsecure, and often contain leftover medication, which could lead to youth becoming addicted, overdosing, or even dying. Educating patients about safe storage and disposal of medication would help reduce access to controlled substances prescriptions, curbing the potential of addiction.

**OPPONENTS
SAY:**

CSHB 2811 would create administrative burdens for practitioners by requiring additional documentation in a patient's medical record. The bill also would unnecessarily interfere in the doctor-patient relationship by requiring practitioners to discuss with a patient several aspects of using controlled substances.