

BILL ANALYSIS

Senate Research Center

H.B. 2729
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Health & Human Services
5/9/2001
Engrossed

DIGEST AND PURPOSE

H.B. 2729 authorizes the donation and redistribution of unused prescription medication through charitable medical clinics to people in need.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Health in SECTION 1 (Section 431.324, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 431, Health and Safety Code, by adding Subchapter M, as follows:

SUBCHAPTER M. DRUG DONATION PROGRAM

Sec. 431.321. DEFINITION. Defines "charitable medical clinic."

Sec. 431.322. DONATION OF UNUSED DRUGS TO CHARITABLE MEDICAL CLINIC. (a) Authorizes a licensed convalescent or nursing home or related institution, licensed hospice, hospital, physician, pharmacy, or individual to donate certain unused prescription drugs to a charitable medical clinic, and a charitable medical clinic to accept and dispense or administer the donated drugs, in accordance with this subchapter.

(b) Requires the donor to use appropriate safeguards established by the board to ensure that the drugs are not compromised or illegally diverted while being stored or transported to the charitable medical clinic.

(c) Prohibits the charitable medical clinic from accepting the donated drugs unless certain conditions are met.

Sec. 431.323. CIRCUMSTANCES UNDER WHICH DONATED DRUGS MAY BE ACCEPTED AND DISPENSED. (a) Authorizes a charitable medical clinic to accept and dispense or administer donated drugs only in accordance with this section.

(b) Requires the donated drugs to be drugs that require a prescription. Prohibits a donated drug from being a controlled substance under Chapter 481.

(c) Requires the donated drugs to be sealed and packaged in a certain manner depending on what type of drug is donated.

(d) Authorizes the charitable medical clinic to dispense or administer the donated drugs only if the drugs meet certain conditions of integrity.

(e) Authorizes the donated drugs to be accepted and dispensed or administered by the

charitable medical clinic only in accordance with rules adopted by the Texas Department of Health (department).

Sec. 431.324. RULES. Requires the department to adopt rules to implement this subchapter that are designed to protect the public health and safety.

Sec. 431.325. LIMITATION ON LIABILITY. Authorizes a person to be held civilly liable in connection with the donation of drugs under this subchapter, and a charitable medical clinic and its physicians, nurses, pharmacists, or other personnel to be held civilly liable because of accepting and dispensing or administering drugs donated under this subchapter, only for an act or omission that is wilfully or wantonly negligent, done with conscious indifference or reckless disregard for the safety of others, or done with the intent to harm another.

SECTION 2. Amends Section 431.021, Health and Safety Code, to add an exception to provide that it is not a prohibited act to accept an unused prescription or drug for the purpose of resale under Subchapter M.

SECTION 3. Provides that Chapter 431M, Health and Safety Code, as added by this Act, and the change in law made by this Act to Section 431.021, Health and Safety Code, take effect January 1, 2002. Provides that this Act takes effect September 1, 2001, for the limited purpose of allowing the Texas Department of Health to adopt the rules required under Section 431.324, Health and Safety Code, as added by this Act, in time for the rules to take effect on January 1, 2002.