

BILL ANALYSIS

Senate Research Center

C.S.H.B. 2729
By: Gray (Moncrief)
Health & Human Services
5/10/2001
Committee Report (Substituted)

DIGEST AND PURPOSE

C.S.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,” “seller,” “manufacturer,” “charitable drug donor,” and “patient assistance program.”

Sec. 431.322. DONATION OF UNUSED DRUGS TO CHARITABLE MEDICAL CLINIC. (a) Authorizes a charitable drug donor (donor) to donate certain unused prescription drugs to a charitable medical clinic, and a charitable medical clinic to accept, dispense, or administer the donated drugs, in accordance with this subchapter.

(b) Prohibits a seller or manufacturer of a drug from donating drugs to a charitable medical clinic except pursuant to a qualified patient assistance program. Requires a seller or manufacturer of a drug that donates drugs through a qualified patient assistance program to be considered a donor.

(c) 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.

(d) 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) Sets forth certain requirements for the drugs donated under this subchapter.

(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. Provides that donors, charitable medical clinics, and their employees are not liable for harm caused by the accepting, dispensing, or administering of drugs donated in strict compliance with this subchapter unless the harm is caused by certain actions. Provides that this section does not limit, or in any way diminish, the liability of a drug seller or manufacturer pursuant to Chapter 82, Civil Practices and Remedies Code. Requires this section to not apply where harm results from the failure to fully and completely comply with the requirements of this subchapter or to a charitable medical clinic that fails to comply with the insurance provisions of Chapter 84, Civil Practice and Remedies Code.

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.

SUMMARY OF COMMITTEE CHANGES

Amends Engrossed H.B. 2729 as follows:

SECTION 1. Sec. 431.321. Defines “seller,” “manufacturer,” “charitable drug donor,” and “patient assistance program,” and amends the definition of “charitable medical clinic.”

Sec. 431.322. Adds proposed text relating to the donation of drugs by certain entities to charitable medical clinics.

Sec. 431.323. Adds proposed text relating to the requirements of drugs donated under this subchapter.

Sec. 431.325. Removes original proposed text and replaces with new proposed text relating to the liability of certain individuals and entities.