

BILL ANALYSIS

Senate Research Center
77R8849 JMM-D

C.S.S.B. 768
By: Madla
Health & Human Services
3/23/2001
Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, state law regulating the practice of pharmacy is not consistent with certain federal requirements and the actual practice of pharmacy in this state. The federal Food and Drug Administration (FDA) has frequently changed the labeling requirements for prescription drugs and Texas law has not changed with the same frequency to comply. The State Board of Pharmacy (board) has either changed its rules or suggested changes to current law to deal with outmoded restrictions or limitations. C.S.S.B. 768, among other things, allows the board to comply, by rule, with certain federal labeling requirements; allows pharmacy students to work as interns outside of their college-assigned programs; allows academic pharmacists to serve on the board, increases continuing education requirements for pharmacists; and strengthens the board's jurisdiction and penalty ability relating to certain actions.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 551.003, Occupations Code to redefine "dangerous drug," "pharmacist-intern," and "prescription drug."

SECTION 2. Amends Section 559.003(d), Occupations Code, to provide that a person's license, if it has been expired for one year or more, is considered to have been canceled and prohibits the license from being renewed unless the license is the subject of a pending investigation or disciplinary action.

SECTION 3. Amends Section 559.053, Occupations Code, to increase the continuing education requirement for a license holder from 24 hours during the preceding 24 months of the person's license period to 30 hours.

SECTION 4. Amends Section 560.002(a), Occupations Code, to prohibit the word "apothecary" from being displayed in certain manners in or on a place of business unless the facility is a pharmacy licensed under this chapter.

SECTION 5. Amends Section 561.005, Occupations Code, to provide an exception to the applicability of this section.

SECTION 6. Amends Section 564.002, Occupations Code, to provide an exception to the applicability of this section.

SECTION 7. Amends Section 481.074(a), Health and Safety Code, to prohibit a pharmacist from dispensing a controlled substance if the pharmacist knows or should have known that the prescription was issued without a valid patient-practitioner relationship.

SECTION 8. Amends Section 483.001(2), Health and Safety Code, to redefine “dangerous drug.”

SECTION 9. Amends Section 483.021(a), Health and Safety Code, to delete wording relating to a practitioner that issues a prescription for a dangerous drug. Requires a pharmacist who is requested to dispense a dangerous drug under a prescription issued by a practitioner to determine, in the exercise of the pharmacist’s professional judgment, that the prescription is a valid prescription. Prohibits a pharmacist from dispensing a dangerous drug if the pharmacist knows or should have known that the prescription was issued without a valid patient-practitioner relationship. Deletes wording relating to requirements of a pharmacist requested to dispense a dangerous drug.

SECTION 10. Provides that the text of Sections 559.053 and 561.005, Occupations Code, as set out in Sections 3 and 5 of this Act, give effect to changes made by Chapter 1518, Acts of the 76th Legislature, Regular Session, 1999, in accordance with Section 311.031(c), Government Code, which gives effect to a substantive amendment enacted by the same legislature that codifies the amended statute. Provides that to the extent of any conflict, this Act prevails over another Act of the 77th Legislature, Regular Session, 2001, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 11. Effective date: September 1, 2001.

Makes application of Section 559.053, Occupations Code, of this Act prospective.

SUMMARY OF COMMITTEE CHANGES

SECTION 1. Amends As Filed S.B. 768 by redefining “dangerous drug” and “prescription drug.”

SECTION 2. Amends As Filed S.B. 768 by deleting proposed SECTION 2 and redesignating SECTION 3 as SECTION 2.

SECTION 3. Amends As Filed S.B. 768 by redesignating SECTION 4 as SECTION 3.

SECTION 4. Amends As Filed S.B. 768 by redesignating SECTION 5 as SECTION 4.

SECTION 5. Amends As Filed S.B. 768 by redesignating SECTION 6 as SECTION 5. Authorizes the State Board of Pharmacy (board), after review, to determine that Subsection (a) does not apply under certain circumstances.

SECTION 6. Amends As Filed S.B. 768 by redesignating SECTION 7 as SECTION 6. Authorizes the board, after review, that Subsection (a) does not apply under certain circumstances.

SECTION 7. Amends As Filed S.B. 768 by redesignating SECTION 8 as SECTION 7. Removes wording relating to actions prohibited of a pharmacist under certain circumstances.

SECTION 8. Amends As Filed S.B. 768 by redesignating SECTION 9 as SECTION 8. Redefines “dangerous drug.”

SECTION 9. Amends As Filed S.B. 768 by redesignating SECTION 10 as SECTION 9. Deletes wording related to requirements of a pharmacist requested to dispense a dangerous drug. Requires a pharmacist who is requested to dispense a dangerous drug under a prescription issued by a practitioner to determine, in the exercise of the pharmacist’s professional judgment, that the prescription is a valid prescription. Prohibits a pharmacist from dispensing a dangerous drug if the pharmacist knows or should have known that the prescription was issued without a valid patient-practitioner relationship.

SECTION 10. Amends As Filed S.B. 768 by redesignating SECTION 11 as SECTION 10. Makes conforming changes.

SECTION 11. Amends As Filed S.B. 768 by redesignating SECTION 12 as SECTION 11. Makes application of Section 559.053, Occupations Code, prospective.