

BILL ANALYSIS

Senate Research Center

S.B. 1560
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Health & Human Services
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The purpose of this legislation is to align current practice regarding obtaining consent in substance abuse facilities with statute. During the Department of State Health Services (DSHS) rulemaking process for H.B. 3146, 82nd Legislature, Regular Session, 2011, it became apparent that the bill inadvertently would impose an unworkable burden on detox facilities by requiring physicians to be physically present to receive a patient's consent for medication treatment. Current practice allows for consent to be obtained from facility staff without a physician being physically present, and H.B. 3146 did not intend to prohibit this process. While these agency rules have not yet been adopted, failure to address this issue through legislation could result in DSHS being required to enforce this new rule, which could have serious effects on detox facilities.

S.B. 1560 would allow physicians to delegate to an employee of the facility the ability to obtain consent for medication treatment. The bill also would allow non-medication consent to be explained in writing, and would clarify language related to a patient being admitted after a screening but prior to an assessment. This bill would not allow or establish new consent obtaining practices.

As proposed, S.B. 1560 amends current law relating to chemical dependency treatment facilities.

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 462.009(e), Health and Safety Code, as follows:

(e) Provides that consent given by a patient or by a person authorized by law to consent to treatment on the patient's behalf for the administration of a medication, therapy, or treatment is valid only if:

(1) for consent to therapy or treatment:

(A) the consent is given voluntarily and without coercive or undue influence; and

(B) before administration of the therapy or treatment, the treating physician or the psychologist, social worker, professional counselor, or chemical dependency counselor explains to the patient and to the person giving consent, in simple, nontechnical language or in writing information as set forth relating to the specific condition to be treated and the proposed therapy or treatment;

(2) for consent to the administration of medication:

(A) the consent is given voluntarily and without coercive or undue influence; and

(B) the treating physician or person delegated by the treating physician or medical director provides each explanation required by Subdivision (1)(B) to the patient and to the person giving consent in simple, nontechnical language; and

(3) Makes no change to this subdivision.

SECTION 2. Amends Section 462.025(h), Health and Safety Code, to redefine “assessment” and “screening.”

SECTION 3. Effective date: upon passage or September 1, 2015.