BILL ANALYSIS

Senate Research Center
88R1438 EAS-D

S.B. 301
By: Hall
Health & Human Services
3/17/2023
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In the beginning of the pandemic, the Centers for Disease Control and Prevention (CDC) had no early treatment or medical prevention recommendations. Physicians used their training and experience to adapt their practice to the symptoms they were seeing.

Unfortunately, doctors and other healthcare providers faced the fear of retaliation, license suspension, fines, and other disciplinary actions from licensing boards because they prescribed medications that were not in line with the CDC recommendations, even though the use of these FDA-approved drugs as early treatment and prophylactics were repeatedly shown to decrease the likelihood of the patient ending up in emergency or hospital care.

Often, licensing boards would cite that the specific medication was not labeled for use as treatment for COVID-19. However, off-label use of medications is not uncommon (for instance, taking aspirin as a heart attack preventative), nor is off-label use illegal, as doctors have a broad scope to prescribe FDA-approved medication as long as there is informed consent, and the patient is in agreement with the treatment plan.

This bill prohibits licensing boards from denying, revoking, or suspending a license or taking any other disciplinary against a licensed or certified healthcare provider or pharmacist due to the lawful dispensing, prescribing, or administering of ivermectin or hydroxychloroquine.

It also prohibits a pharmacist from contacting the prescribing physician to dispute the efficacy of ivermectin or hydroxychloroquine unless the physician or patient asks the pharmacist about the efficacy of these drugs, and creates civil immunity for pharmacists or health care providers for prescribing ivermectin or hydroxychloroquine except in cases of gross negligence or willful misconduct.

As proposed, S.B. 301 amends current law relating to prescribing, dispensing, administering, or otherwise providing ivermectin or hydroxychloroquine sulfate.

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 Chapter 439, Health and Safety Code, by adding Subchapter D, as follows:

SUBCHAPTER D. IVERMECTIN AND HYDROXYCHLOROQUINE SULFATE

Sec. 439.051. DEFINITIONS. Defines "health care provider" and "pharmacist."

Sec. 439.052. PROHIBITED GROUNDS FOR DISCIPLINARY ACTION. Prohibits the state agency with licensing or regulatory authority over a health care provider or pharmacist from revoking, failing to renew, suspending, or taking any action against the health care provider's or pharmacist's license, permit, registration, certificate, or other

authority based solely on the health care provider or pharmacist prescribing, dispensing, administering, or otherwise providing ivermectin or hydroxychloroquine sulfate to a patient.

Sec. 439.053. CERTAIN COMMUNICATIONS BY PHARMACIST PROHIBITED. Prohibits a pharmacist from contacting a health care provider or patient to dispute the efficacy or otherwise provide medical advice on the safety of ivermectin or hydroxychloroquine sulfate for human consumption unless the provider or patient asks the pharmacist about the efficacy or safety of those drugs.

Sec. 439.054. CIVIL LIABILITY. Provides that a health care provider or pharmacist who prescribes, dispenses, administers, or otherwise provides ivermectin or hydroxychloroquine sulfate in accordance with this subchapter is immune from civil liability based solely on that action unless the action constitutes gross negligence or wilful misconduct.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2023.