

- SUBJECT:** Lowering the ratio of pharmacists to technicians in small pharmacies
- COMMITTEE:** Public Health — favorable, without amendment
- VOTE:** 5 ayes — Laubenberg, Truitt, Dawson, Taylor, Zedler
0 nays
4 absent — Capelo, Coleman, McReynolds, Naishtat
- SENATE VOTE:** On final passage, March 27 — 31-0
- WITNESSES:** For — Steve Hotze; Monica Luedecke
Against — None
On — David Gonzales, Texas Pharmacy Association
- BACKGROUND:** Occupations Code, sec. 560.051 stipulates that a Class A pharmacy license authorizes a pharmacy to dispense a drug or device to the public under a prescription drug order. Under State Board of Pharmacy rules (T.A.C., Title 22, Part 15, sec. 291.32), the ratio of pharmacists to pharmacy technicians may not exceed one pharmacist for every two technicians. The ratio of pharmacists to pharmacy technicians may be one pharmacist for every three technicians if at least one of the three technicians is certified.

A pharmacy technician must have a high school diploma or a high school equivalency certificate or be working to achieve an equivalent diploma and have passed a board-approved pharmacy technician certification examination. A pharmacy technician may perform only nonjudgmental technical duties under the direct supervision of a pharmacist.
- DIGEST:** SB 939 would require a ratio of pharmacists to pharmacy technicians in a Class A pharmacy of at least one pharmacist for every five technicians if the pharmacy dispensed not more than 20 different prescription drugs and did not produce intravenous or intramuscular drugs on site. The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

Pharmacists able to customize drug compositions and willing to work in small pharmacies are in short supply across the nation. SB 939 would address this shortage in Texas by relaxing moderately the required pharmacist-technician ratio for a narrow category of Class A pharmacy.

In practice, the bill would affect small pharmacies that respond to consumer demand for hormones containing bioidentical properties — ingredients chemically identical to those of the human body — for use as part of a program of hormone replacement therapy. These pharmacies sometimes rely on pharmacists to perform routine hormone production work that does not require judgment. SB 939 would allow such a pharmacy to hire technicians, who are abundant in the labor market, to perform more of this prescribed and routine work, freeing pharmacists to safeguard the production process, manage other technicians, and consult with patients.

The bill also would safeguard public health by limiting its application to a niche category of pharmacy that dispensed only 20 or fewer drugs and did not produce intravenous or intramuscular drugs. Thus, it would not affect the number of pharmacists required at larger pharmacies such as Walgreens or Eckerd's or at pharmacies that mix or "compound" ingredients to make drugs.

**OPPONENTS
SAY:**

SB 939 is based on the false premise that Texas is experiencing a shortage of pharmacists. Like New York, Texas has one pharmacist for every 1,300 state residents. California has one pharmacist for every 1,600 residents. Neither the Texas Workforce Commission nor the U.S. Department of Labor has provided statistics supporting the asserted shortage of pharmacists. A small and busy pharmacy should comply with regulations governing the ratio of pharmacists to technicians by employing another pharmacist, rather than the Legislature setting a lower ratio for these pharmacies in statute.

The bill would establish a trend toward relaxing the ratio of pharmacists to technicians in the most common type of pharmacy, Class A pharmacies. These pharmacies are authorized to perform technical work in which a pharmacist may combine, mix, or alter drug ingredients to create customized medications for individual patients. To help protect public health, pharmacies that perform this specialty work especially merit a ratio of one pharmacist for every two or three technicians. SB 939 would loosen this standard by half, without requiring the presence of even one certified technician.

Many more pharmacies are likely to qualify in the future for the special treatment that SB 939 would create. The pharmacy service industry is changing, such that more customized pharmacies are beginning to produce and dispense fewer drugs, including nonintravenous or nonintramuscular drugs such as hormone “cocktails,” whose contents and effects remain largely unstudied. The standard proposed by SB 939 could cover a large number of pharmacies in coming years, thus undermining state’s effort to ensure a low ratio between pharmacists and technicians.