

SUBJECT: Establishes a program for redistribution of certain unused prescriptions

COMMITTEE: Public Health — committee substitute recommended

VOTE: 9 ayes — Crossover, Naishtat, Coleman, S. Davis, Guerra, R. Miller, Sheffield, Zedler, Zerwas

0 nays

2 absent — Blanco, Collier

WITNESSES: For — Sherry L. Hill, Cross Timbers Health Clinics, Inc., TACHC; Bradford Holland, Texas Medical Association, McLennan County Medical Society; (*Registered, but did not testify*: Chris Frandsen, League of Women Voters of Texas; Dan Finch, Texas Medical Association; John Davidson, Texas Public Policy Foundation)

Against — John (Lin) McCraw, Texas Trial Lawyers Association; (*Registered, but did not testify*: Rene Garza, Texas Pharmacy Association; Bryan Blevins, Texas Trial Lawyers Association)

On — Tracey Bronnenberg, Department of State Health Services; Gay Dodson, Texas State Board of Pharmacy; (*Registered, but did not testify*: Karen Tannert, Department of State Health Services; Andy Vasquez, Health and Human Services Commission)

BACKGROUND: Under current law, nursing homes are not allowed to transfer unused medication to a person other than the person to whom the medication was prescribed.

In the event of a nursing home resident's transfer, change of prescription, or death, unused medication must be thrown away. Other states have set up programs to recycle unused, sealed medication.

DIGEST: CSHB 2271 would require the Department of State Health Services (DSHS) to establish a pilot program for the donation and redistribution of

prescription drugs. The program would be conducted in one or more municipalities with a population of more than 500,000 but less than 1 million.

Donations. Under the program, a charitable drug donor could donate certain unused prescription drugs to DSHS. The department would not accept the drugs unless the drugs were properly stored while in the donor's possession, the department was provided with a verifiable address and phone number of the donor, and the person transferring the drugs presented photo identification.

Donated drugs would be required to be prescription drugs that had been approved by the U.S. Food and Drug Administration and were sealed in unopened tamper-evident unit dose packaging. Drugs packaged in single-unit doses would be acceptable if the outside packaging was opened but the single unit dose packaging was unopened.

The drugs could not be subject to a mandatory or voluntary recall, adulterated or misbranded, a controlled substance, a parenteral or injectable medication, require refrigeration, or expire less than 60 days after the date of donation.

DSHS would not be permitted to distribute the drugs without inspection by a licensed pharmacist. It also would not be permitted to charge a fee for the drugs other than a nominal handling fee, or resell the drugs.

DSHS would be required to establish a location to centrally store drugs for distribution to qualifying patients. The department also would be required to establish and maintain an electronic database in which the name and quantity of each drug was listed and a charitable medical clinic, physician, or other licensed health care professional could search for and request drugs donated under the pilot program.

Administration of donated drugs. Drugs would be administered to patients only by a charitable medical clinic, a licensed health care professional in a Texas penal institution, or a physician's office using the

drugs for indigent health care or for patients who receive Medicaid assistance.

A drug would be required to be prescribed for the patient. The clinic or physician administering the drug could not charge a fee for the drugs, other than a nominal handling fee, or resell the drugs.

Qualified individuals acting in good faith in administering drugs under the pilot program would not be civilly or criminally liable or subject to professional disciplinary action for harm caused by administering drugs unless the harm was caused by negligence, recklessness or indifference, or intentional conduct.

Reports. On or before January 1 of each odd-numbered year, DSHS would be required to report to the Legislature on the results of the pilot program. The report would be required to include:

- the program's efficacy in expanding access to prescription medications;
- any cost savings to the state or local government;
- an evaluation of the program's database and system of distribution;
- any health and safety issues;
- recommended improvements; and
- an evaluation of potential expansion of the program.

DHSH would be required to establish rules governing the program. The department would be required to establish the central repository and database for the donated drugs by December 1, 2015.

The bill would take effect September 1, 2015, and would apply only to a drug donated, accepted, provided or administered after January 1, 2016.

NOTES:

The Legislative Budget Board estimates that the bill would have a negative impact of \$8.6 million through fiscal 2016-17.