BILL ANALYSIS

Senate Research Center
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C.S.S.B. 992
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Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Prescription drug abuse is a major problem in Texas and the United States. Physicians must be very diligent to ensure that their patients who have been prescribed pain medications are taking appropriate doses and not "doctor shopping" to obtain multiple prescriptions for sale or use.

Many pain physicians utilize urine drug screening tests (UDT) to ensure that patients who have been prescribed controlled substances are taking their medications. A UDT that shows a patient does not have prescribed drugs in his or her system may indicate that the patient is diverting drugs for sale. Physicians also test to determine whether inappropriate levels of drugs and/or illicit drugs are in a patient's system.

A UDT administered in a physician's office is commonly called a point of care test or cup test and can be used to produce qualitative test results. This means that these tests can produce a "yes/no" response to determine the presence of certain drug classes. These tests produce a statistically significant number of false negatives and false positives.

Physicians may also utilize bench top analyzers to produce semi-quantitative results, which are much like qualitative tests, lacking drug specificity and having poor sensitivity.

In order to identify and quantify each specific drug in a specimen, physicians send specimens for confirmatory testing to laboratories that utilize mass spectrometry/gas chromatography tests to produce quantitative results.

Some manufacturers or sellers of bench top analyzers market the devices to physicians in a deceptive manner by indicating that the device will produce a quantitative result. In some cases, misrepresentation of a device may lead to inaccurate billing procedures by providers and result in erroneous reimbursement costs associated with testing.

C.S.S.B. 992 amends current law relating to misrepresentations in connection with certain drug testing devices or equipment and provides penalties.

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 32.42, Penal Code, by amending Subsection (b) and adding Subsection (e), as follows:

> (b) Provides that a person commits an offense if in the course of business he intentionally, knowingly, recklessly, or with criminal negligence commits one or more of the following deceptive business practices:
>
> (1)-(12) Makes no changes to these subdivisions; or

(13) manufacturing, selling, or attempting to sell a drug testing device or equipment and representing that the device or equipment is capable of or certified for returning quantitative drug test results if the device or equipment has not been approved by the United States Food and Drug Administration to perform quantitative drug tests.

(e) Provides that an offense under Subsection (b)(13) is a Class C misdemeanor. Provides that each violation of Subsection (b)(13) constitutes a separate offense.

SECTION 2. Effective date: September 1, 2013.