
Health Care & Wellness Committee

ESB 6095

Brief Description: Establishing clear authority for the secretary of health to issue standing orders.

Sponsors: Senators Robinson and Valdez; by request of Department of Health.

Brief Summary of Engrossed Bill

- Authorizes the Secretary of the Department of Health to issue a prescription or standing order to control and prevent the spread of, mitigate, or treat any disease or threat to public health.

Hearing Date: 2/16/24

Staff: Chris Blake (786-7392).

Background:

Standing orders authorize medical staff to provide services, order tests, procedures, or services without specific physician authorization regarding a particular patient.

During the COVID-19 pandemic, the Secretary of the Department of Health (Secretary) had been authorized to issue standing orders related to several public health activities under the federal Public Readiness and Emergency Preparedness Act. In May 2023 the public health emergency ended and the federal authority for the standing orders expired.

State law has granted specific authority to the Secretary to issue standing orders for opioid overdose reversal medications for persons at risk of experiencing an opioid-related overdose or to a person in a position to assist such an at-risk person. The standing order may be issued statewide or in certain geographic areas of the state. A standing order authorizes pharmacists to

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

dispense and, in some cases, administer opioid overdose reversal medications.

Summary of Bill:

The Secretary of the Department of Health (Secretary) or the Secretary's designee may issue a prescription or standing order for a drug, device, or biological product for the purpose of controlling and preventing the spread of, mitigating, or treating any infectious or noninfectious disease or threat to public health. It is stated that the issuance of such a prescription or standing order is for a legitimate public health purpose.

Before issuing a standing order, the Secretary or designee must request and give consideration to recommendations from the local health officers in the geographic area that will be covered by the standing order, as well as stakeholders and others with relevant knowledge. The consultation requirement does not apply if a delay is likely to endanger the public health. The Secretary's authority to issue a prescription or standing order does not change the authority of a local health officer to issue its own prescription or standing order.

The prescription or standing order may only be issued by the Secretary or the Secretary's designee who is a Department of Health employee. The issuer must hold a valid license that authorizes the issuance of a prescription or standing order and comply with licensing requirements. The issuer of the prescription or standing order may place limitations on the use of a prescription or standing order and should include recommendations for follow-up care. The issuer of the prescription or standing order may not require a person to take a drug or biological product or withhold a drug or biological product from a person.

The Secretary, the Secretary's designee, and the Department of Health employees may acquire, purchase, deliver, dispense, or administer a drug, device, or biological product pursuant to a prescription or standing order if they hold a valid license to conduct those activities. Others may also engage in these activities as provided by law.

The issuance of a prescription or standing order is at the discretion of the Secretary or the Secretary's designee. The Secretary and the Secretary's designee are not liable for civil or criminal damages or subject to professional discipline for activity related to issuing a prescription or standing order, except in cases of gross negligence or willful or wanton misconduct.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.