

HOUSE BILL REPORT

ESB 6095

As Passed House:
February 27, 2024

Title: An act relating to establishing clear authority for the secretary of health to issue standing orders.

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 History:

Committee Activity:

Health Care & Wellness: 2/16/24, 2/20/24 [DP].

Floor Activity:

Passed House: 2/27/24, 59-37.

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.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass. Signed by 9 members: Representatives Riccelli, Chair; Bateman, Vice Chair; Bronoske, Davis, Macri, Orwall, Simmons, Stonier and Tharinger.

Minority Report: Do not pass. Signed by 7 members: Representatives Schmick, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Caldier, Graham, Harris, Maycumber and Mosbrucker.

Staff: Chris Blake (786-7392).

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.

Background:

Standing orders authorize medical staff to provide services and 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 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.

Staff Summary of Public Testimony:

(In support) This will provide clear authority to the Secretary of Health to issue standing orders to address infectious and noninfectious public health threats. Standing orders are an optional tool that can increase efficiencies in the health care system, especially at times of high demand, workforce shortages, or limited access to health care. Standing orders are not a directive or a mandate, but they are a flexible tool to support the public health system. Providing this authority is critical to address current and future public health threats. Statewide orders facilitate continuity of care across health jurisdictions. This is a long overdue authority and should be given to the Secretary of Health.

Standing orders could include administering epinephrine autoinjectors at schools, giving immunizations to control an outbreak, or conducting point-of-care testing. Establishing clear authority for the Secretary of Health to issue standing orders is critical when a crisis arises, such as the current crisis related to overdoses. This bill will allow the Secretary of Health to issue standing orders to emergency medical personnel to employ different treatment measures. In rural areas of the state, there are willing emergency medical technicians who could give patients buprenorphine, but there is no doctor to prescribe it.

(Opposed) Standing orders issued by the Department of Health will interfere with the doctor-patient relationship and will violate informed consent as vaccines and drugs with significant risks will be prescribed as one-size-fits-all. This bill gives the Department of Health unlimited authority where they already have the authority to issue recommendations. This bill will not solve any problem and the Secretary of Health already has ample ability and funding to broadcast alerts and recommendations for any medications. This bill opens the door for issuing euthanasia to people who have a noninfectious disease.

The lack of trust in public health continues today and this bill will not restore trust in public health. This bill is an unnecessary power grab which will only serve to erode the public's

trust. If this bill survives, it should have an emergency use clause. People do not want the Secretary of Health to possess emergency powers permanently. Power should not be centralized in the executive branch, especially to someone who is not elected by the people.

Persons Testifying: (In support) Jenny Arnold, Washington State Pharmacy Association; Michael Sayre and Harold Scoggins, Washington Metro Fire Chiefs and Seattle Fire Department; and Tao Kwan-Gett, Department of Health.

(Opposed) Bob Runnells, Informed Choice Washington; Natalie Chavez; Mary Long, Conservative Ladies of Washington; and Kari Matadobra.

Persons Signed In To Testify But Not Testifying: None.