

SENATE BILL REPORT

ESB 6095

As Passed Senate, February 9, 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 & Long Term Care: 1/18/24, 1/26/24 [DP, DNP].

Floor Activity: Passed Senate: 2/9/24, 30-19.

Brief Summary of Engrossed Bill

- Provides authority for the Secretary of Health or the secretary's designee to issue a prescription or standing order for a drug or device for the purpose of controlling a threat to public health.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: Do pass.

Signed by Senators Cleveland, Chair; Robinson, Vice Chair; Conway, Dhingra, Randall and Van De Wege.

Minority Report: Do not pass.

Signed by Senators Muzzall, Assistant Ranking Member; Padden.

Staff: Greg Attanasio (786-7410)

Background: Standing orders are instructions from a prescriber or qualified health care professional for patients to receive tests, vaccines, clinical services, or procedures without

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an individual prescription. In 2019, the Legislature granted authority for the Secretary of Health (secretary) to issue standing orders for individuals at risk of opioid overdose to receive opioid reversal medication. During the COVID-19 pandemic the secretary issued standing orders for vaccines, testing, and epinephrine autoinjectors, under now expired federal authority.

Summary of Engrossed Bill: The secretary or the secretary's designee, who must be a department employee, may issue a prescription or standing order for any biological product, device, or drug for purposes of controlling and preventing the spread of, mitigating, or treating any infectious or noninfectious disease or threat to the public health. The secretary or the secretary's designee may place limitations on the use of a prescription or standing order and should include appropriate recommendations for follow-up care.

To issue a prescription or standing order, the secretary or the secretary's designee, must hold a valid license in the state that authorizes the issuance of the prescription or standing order and comply with applicable licensing requirements not in conflict with this act.

The secretary or the secretary's designee has sole discretion and owes no duty to any person to issue a prescription or standing order. Neither the state nor the secretary nor the secretary's designee shall be liable for any civil or criminal damages or any professional disciplinary action related to the issuance of prescriptions or standing orders, other than for acts or omissions constituting gross negligence or willful or wanton misconduct.

Before issuing a standing order, the secretary or the secretary's designee shall solicit and consider the recommendations of the local health officers for the geographic areas to which the standing order will apply, unless doing so would result in a delay that would endanger public health.

The secretary, the secretary's designee, and Department of Health employees may acquire, possess, deliver, dispense, and administer a biological product, device, or drug pursuant to a prescription or standing order provided that the individual holds a valid license in this state that authorizes such activity, as applicable. Other persons may acquire, possess, deliver, dispense, and administer a biological product, device, or drug pursuant to a prescription or standing order as otherwise provided by law.

This act does not limit or modify the authority of a local health officer to issue a prescription or standing order under any other provision of law.

Nothing in this section shall be construed to allow the secretary or the secretary's designee to issue a standing order to require a person to take a drug or biological product or withhold a drug or biological product from a person.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill would increase the options to address urgent public health crises. This can be used for patients to receive services, to administer vaccines or medications or when resources are limited. Local health officers would maintain their authority, but this would be an additional tool. When time is limited or there are gaps in the system that standing orders can fill in those gaps.

CON: This bill grants emergency like powers during non emergencies. It will lead to bypassing informed consent of citizens.

Persons Testifying: PRO: Senator June Robinson, Prime Sponsor; Jenny Arnold, Washington State Pharmacy Association; Umair Shah, Washington State Department of Health; Scott Lindquist, Available for Questions; Washington State Department of Health.

CON: Maya Ojalehto; Bob Runnells, Informed Choice Washington.

Persons Signed In To Testify But Not Testifying: No one.