

By: Watson

S.B. No. 363

A BILL TO BE ENTITLED

AN ACT

relating to access to certain controlled substance prescription information.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 481.076(a), (f), (g), and (h), Health and Safety Code, are amended to read as follows:

(a) The board may not permit any person to have access to information submitted to the board under Section 481.074(q) or 481.075 except:

(1) the board, the Texas Medical Board, the Texas Department of Licensing and Regulation, with respect to the regulation of podiatrists [~~State Board of Podiatric Medical Examiners~~], the State Board of Dental Examiners, the State Board of Veterinary Medical Examiners, the Texas Board of Nursing, or the Texas Optometry Board for the purpose of:

(A) investigating a specific license holder; or  
(B) monitoring for potentially harmful prescribing or dispensing patterns or practices under Section 481.0762;

(2) an [~~authorized officer or member of the department or~~] authorized employee of the board engaged in the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state;

(3) the department or other [~~on behalf of a~~] law

1 enforcement or prosecutorial official engaged in the  
2 administration, investigation, or enforcement of this chapter or  
3 another law governing illicit drugs in this state or another state,  
4 if the board is provided a warrant, subpoena, or other court order  
5 compelling the disclosure;

6 (4) a medical examiner conducting an investigation;

7 (5) provided that accessing the information is  
8 authorized under the Health Insurance Portability and  
9 Accountability Act of 1996 (Pub. L. No. 104-191) and regulations  
10 adopted under that Act:

11 (A) a pharmacist or a pharmacy technician, as  
12 defined by Section 551.003, Occupations Code, acting at the  
13 direction of a pharmacist; or

14 (B) a practitioner who:

15 (i) is a physician, dentist, veterinarian,  
16 podiatrist, optometrist, or advanced practice nurse or is a  
17 physician assistant described by Section 481.002(39)(D) or an  
18 employee or other agent of a practitioner acting at the direction of  
19 a practitioner; and

20 (ii) is inquiring about a recent Schedule  
21 II, III, IV, or V prescription history of a particular patient of  
22 the practitioner;

23 (6) a pharmacist or practitioner who is inquiring  
24 about the person's own dispensing or prescribing activity; or

25 (7) one or more states or an association of states with  
26 which the board has an interoperability agreement, as provided by  
27 Subsection (j).

1 (f) If the board accesses [~~director permits access to~~  
2 information under Subsection (a)(2) relating to a person licensed  
3 or regulated by an agency listed in Subsection (a)(1), the board  
4 [~~director~~] shall notify and cooperate with that agency regarding  
5 the disposition of the matter before taking action against the  
6 person, unless the board [~~director~~] determines that notification is  
7 reasonably likely to interfere with an administrative or criminal  
8 investigation or prosecution.

9 (g) If the board provides [~~director permits~~] access to  
10 information under Subsection (a)(3) relating to a person licensed  
11 or regulated by an agency listed in Subsection (a)(1), the board  
12 [~~director~~] shall notify that agency of the disclosure of the  
13 information not later than the 10th working day after the date the  
14 information is disclosed.

15 (h) If the board [~~director~~] withholds notification to an  
16 agency under Subsection (f), the board [~~director~~] shall notify the  
17 agency of the disclosure of the information and the reason for  
18 withholding notification when the board [~~director~~] determines that  
19 notification is no longer likely to interfere with an  
20 administrative or criminal investigation or prosecution.

21 SECTION 2. Sections 481.076(a-3), (a-4), and (a-5), Health  
22 and Safety Code, are repealed.

23 SECTION 3. To the extent of any conflict, this Act prevails  
24 over another Act of the 86th Legislature, Regular Session, 2019,  
25 relating to nonsubstantive additions to and corrections in enacted  
26 codes.

27 SECTION 4. The changes in law made by this Act apply only to

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1 information accessed on or after the effective date of this Act.

2 SECTION 5. This Act takes effect September 1, 2019.