

BILL ANALYSIS

S.B. 1273
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Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

S.B. 1273 makes several changes to Chapter 481 (Texas Controlled Substances Act), Health and Safety Code. These improvements to the Texas Prescription Monitoring Program were the suggestion of the Interagency Council created by H.B. 2730, 81st Legislature, Regular Session, 2009, which consisted of the Department of Public Safety (DPS), the Texas State Board of Pharmacy, and the Texas Medical Board.

The bill removes the current requirement that the DPS registration number be included on prescriptions written for controlled substances. Also, when a registrant obtains a DPS registration number they must provide their Federal Drug Enforcement Administration (DEA) number within 45 days from the receipt of the DPS number.

S.B.1273 further requires prescription data that is currently sent to DPS by the 15th day of the preceding month will now be sent to DPS by the 7th day. The bill also adds the Texas Board of Nursing to the list of regulatory agencies that have statutory access to the data collected on controlled substances.

As proposed, S.B. 1273 amends current law relating to the lawful manufacture, distribution, and possession of and prescriptions for controlled substances under the Texas Controlled Substances Act.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Section 481.061, Health and Safety Code, by adding Subsection (d), as follows:

(d) Requires a person to provide the Department of Public Safety of the State of Texas (DPS) with the person's Federal Drug Enforcement Administration (DEA) number not later than the 45th day after the director of DPS (director) issues a registration to the person under this subchapter.

SECTION 2. Amends Sections 481.074(b), (k), and (q), Health and Safety Code, as follows:

(b) Requires the person who administers or dispenses a controlled substance listed in Schedule II to:

(1) if the person is a prescribing practitioner or a pharmacist, promptly comply with Subsection (c) (relating to requiring a prescribing practitioner, not later than the seventh day after the date a prescribing practitioner authorizes an emergency prescription, to cause a written prescription to be delivered to the dispensing pharmacist); or

(2) if the person is not a prescribing practitioner or a pharmacist, promptly write the oral or telephonically communicated prescription and include in the written

record of the prescription the name, address, and DEA number issued for prescribing a controlled substance in this state of the prescribing practitioner, all information required to be provided by a practitioner under Section 481.075(e)(1), and all information required to be provided by a dispensing pharmacist under Section 481.075(e)(2) (relating to requiring each official prescription form used to prescribe a Schedule II controlled substance to contain certain information provided by the dispensing pharmacist).

Deletes existing text requiring the person who administers or dispenses the controlled substance listed in Schedule II, if the person is not a prescribing practitioner or a pharmacist, to include in the written record of the prescription the DPS registration number of the prescribing practitioner.

(k) Requires that a prescription for a controlled substance show certain information, including the legibly printed or stamped name, address, DEA number, rather than DEA registration number, and telephone number of the practitioner at the practitioner's usual place of business. Deletes existing Subdivision (9) requiring that a prescription for a controlled substance show the practitioner's DPS registration number if the prescribing practitioner is licensed in this state.

(q) Requires each dispensing pharmacist to send all information required by the director, including any information required to complete the Schedule III through V prescription forms, to the director by electronic transfer or another form approved by the director not later than the seventh day after the date the prescription is completely filled, rather than not later than the 15th day after the last day of the month in which the prescription is completely filled.

SECTION 3. Amends Sections 481.075(e) and (i), Health and Safety Code, as follows:

(e) Requires that each official prescription form used to prescribe a Schedule II controlled substance contain certain information provided by the prescribing practitioner, including the practitioner's name, address, and DEA number issued for prescribing a controlled substance in this state, rather than the practitioner's name, address, department registration number, and DEA number.

(i) Requires each dispensing pharmacist to take certain actions, including to send all information required by the director, including any information required to complete an official prescription form, to the director by electronic transfer or another form approved by the director not later than the seventh day after the date the prescription is completely filled, rather than not later than the 15th day after the last day of the month in which the prescription is completely filled.

SECTION 4. Amends Sections 481.076(a) and (i), Health and Safety Code, as follows:

(a) Prohibits the director from permitting any person to have access to information submitted to the director under Section 481.074(q) or 481.075 except certain persons, including an investigator for the Texas Medical Board, the Texas 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 State Board of Pharmacy.

(i) Provides that information submitted to the director under Section 481.074(q) or 481.075 is confidential and remains confidential regardless of whether the director permits access to the information under this section.

SECTION 5. Provides that, notwithstanding Section 481.061, Health and Safety Code, as amended by this Act, a person who holds a valid registration under Subchapter C, Chapter 481, Health and Safety Code, on the effective date of this Act is not required to submit the person's DEA number to DPS before October 15, 2011.

SECTION 6. Provides that Sections 481.074 and 481.075, Health and Safety Code, as amended by this Act, apply only to a prescription completely filled on or after the effective date of this Act. Provides that a prescription partially or completely filled before the effective date of this

Act is covered by the law as it existed immediately before that date, and the former law is continued in effect for that purpose.

EFFECTIVE DATE

September 1, 2011.