

By: Kleinschmidt

H.B. No. 3041

A BILL TO BE ENTITLED

1 AN ACT
2 relating to certain procedures for dispensing narcotic drugs by
3 prescription.

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

5 SECTION 1. Section 481.074, Health and Safety Code, is
6 amended by amending Subsections (a) and (m) and adding Subsection
7 (m-1) to read as follows:

8 (a) A pharmacist may not:

9 (1) dispense or deliver a controlled substance or
10 cause a controlled substance to be dispensed or delivered under the
11 pharmacist's direction or supervision except under a valid
12 prescription and in the course of professional practice;

13 (2) dispense a controlled substance if the pharmacist
14 knows or should have known that the prescription was issued without
15 a valid patient-practitioner relationship;

16 (3) fill a prescription that is not prepared or issued
17 as prescribed by this chapter;

18 (4) permit or allow a person who is not a licensed
19 pharmacist or pharmacist intern to dispense, distribute, or in any
20 other manner deliver a controlled substance even if under the
21 supervision of a pharmacist, except that after the pharmacist or
22 pharmacist intern has fulfilled his professional and legal
23 responsibilities, a nonpharmacist may complete the actual cash or
24 credit transaction and delivery; [~~or~~]

1 (5) permit the delivery of a nonnarcotic controlled
2 substance to any person not known to the pharmacist, the pharmacist
3 intern, or the person authorized by the pharmacist to deliver the
4 controlled substance without first requiring identification of the
5 person taking possession of the controlled substance, except as
6 provided by Subsection (n); or

7 (6) permit the delivery of a narcotic drug to any
8 person taking possession of the drug without first requiring
9 identification in the form required by Subsection (m-1), except as
10 provided by Subsection (n).

11 (m) A pharmacist may permit the delivery of a controlled
12 substance, other than a narcotic drug, by an authorized delivery
13 person, by a person known to the pharmacist, a pharmacist intern, or
14 the authorized delivery person, or by mail to the person or address
15 of the person authorized by the prescription to receive the
16 controlled substance. If a pharmacist permits delivery of a
17 controlled substance under this subsection, the pharmacist shall
18 retain in the records of the pharmacy for a period of not less than
19 two years:

20 (1) the name of the authorized delivery person, if
21 delivery is made by that person;

22 (2) the name of the person known to the pharmacist, a
23 pharmacist intern, or the authorized delivery person if delivery is
24 made by that person; or

25 (3) the mailing address to which delivery is made, if
26 delivery is made by mail.

27 (m-1) A pharmacist may dispense or deliver, or permit the

1 delivery of, a narcotic drug to a person only if the person taking
2 possession of the drug provides the pharmacist with a form of
3 identification issued by this state, another state, the United
4 States, or a foreign government containing the person's photograph.
5 The pharmacist shall retain in the records of the pharmacy for a
6 period of not less than two years:

7 (1) the name of the person taking possession of the
8 drug;

9 (2) the form of identification presented; and

10 (3) the unique identifier number on the identification
11 presented, such as a driver's license number.

12 SECTION 2. The change in law made by this Act applies only
13 to a narcotic drug delivered on or after the effective date of this
14 Act. A narcotic drug delivered before the effective date of this
15 Act is covered by the law as it existed immediately before that
16 date, and the former law is continued in effect for that purpose.

17 SECTION 3. This Act takes effect September 1, 2011.