

By: Williams S.B. No. 1273
(Hamilton, Gallego, Coleman, Hartnett, Christian, et al.)

A BILL TO BE ENTITLED

AN ACT

relating to the lawful manufacture, distribution, and possession of
and prescriptions for controlled substances under the Texas
Controlled Substances Act.

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

SECTION 1. Section 481.061, Health and Safety Code, is
amended by adding Subsection (d) to read as follows:

(d) A person shall provide the department with the person's
Federal Drug Enforcement Administration number not later than the
45th day after the director issues a registration to the person
under this subchapter.

SECTION 2. Subsections (b), (k), and (q), Section 481.074,
Health and Safety Code, are amended to read as follows:

(b) Except in an emergency as defined by rule of the
director or as provided by Subsection (o) or Section 481.075(j) or
(m), a person may not dispense or administer a controlled substance
listed in Schedule II without the written prescription of a
practitioner on an official prescription form that meets the
requirements of and is completed by the practitioner in accordance
with Section 481.075. In an emergency, a person may dispense or
administer a controlled substance listed in Schedule II on the oral
or telephonically communicated prescription of a practitioner. The
person who administers or dispenses the substance shall:

(1) if the person is a prescribing practitioner or a

1 pharmacist, promptly comply with Subsection (c); or
2 (2) if the person is not a prescribing practitioner or
3 a pharmacist, promptly write the oral or telephonically
4 communicated prescription and include in the written record of the
5 prescription the name, address, [~~department registration number,~~
6 and Federal Drug Enforcement Administration number issued for
7 prescribing a controlled substance in this state of the prescribing
8 practitioner, all information required to be provided by a
9 practitioner under Section 481.075(e)(1), and all information
10 required to be provided by a dispensing pharmacist under Section
11 481.075(e)(2).

12 (k) A prescription for a controlled substance must show:

13 (1) the quantity of the substance prescribed:

14 (A) numerically, followed by the number written
15 as a word, if the prescription is written; or

16 (B) if the prescription is communicated orally or
17 telephonically, as transcribed by the receiving pharmacist;

18 (2) the date of issue;

19 (2-a) if the prescription is issued for a Schedule II
20 controlled substance to be filled at a later date under Subsection
21 (d-1), the earliest date on which a pharmacy may fill the
22 prescription;

23 (3) the name, address, and date of birth or age of the
24 patient or, if the controlled substance is prescribed for an
25 animal, the species of the animal and the name and address of its
26 owner;

27 (4) the name and strength of the controlled substance

1 prescribed;

2 (5) the directions for use of the controlled
3 substance;

4 (6) the intended use of the substance prescribed
5 unless the practitioner determines the furnishing of this
6 information is not in the best interest of the patient;

7 (7) the legibly printed or stamped name, address,
8 Federal Drug Enforcement Administration [~~registration~~] number, and
9 telephone number of the practitioner at the practitioner's usual
10 place of business; and

11 (8) if the prescription is handwritten, the signature
12 of the prescribing practitioner [~~, and~~

13 [~~(9) if the prescribing practitioner is licensed in~~
14 ~~this state, the practitioner's department registration number]~~.

15 (q) Each dispensing pharmacist shall send all information
16 required by the director, including any information required to
17 complete the Schedule III through V prescription forms, to the
18 director by electronic transfer or another form approved by the
19 director not later than the seventh [~~15th~~] day after the date [~~last~~
20 ~~day of the month in which~~] the prescription is completely filled.

21 SECTION 3. Subsections (e) and (i), Section 481.075, Health
22 and Safety Code, are amended to read as follows:

23 (e) Each official prescription form used to prescribe a
24 Schedule II controlled substance must contain:

25 (1) information provided by the prescribing
26 practitioner, including:

27 (A) the date the prescription is written;

- 1 (B) the controlled substance prescribed;
- 2 (C) the quantity of controlled substance
3 prescribed, shown numerically followed by the number written as a
4 word;
- 5 (D) the intended use of the controlled substance
6 or the diagnosis for which it is prescribed and the instructions for
7 use of the substance;
- 8 (E) the practitioner's name, address,
9 [~~department registration number,~~] and Federal Drug Enforcement
10 Administration number issued for prescribing a controlled
11 substance in this state;
- 12 (F) the name, address, and date of birth or age of
13 the person for whom the controlled substance is prescribed; and
- 14 (G) if the prescription is issued to be filled at
15 a later date under Section 481.074(d-1), the earliest date on which
16 a pharmacy may fill the prescription;
- 17 (2) information provided by the dispensing
18 pharmacist, including the date the prescription is filled; and
- 19 (3) the signatures of the prescribing practitioner and
20 the dispensing pharmacist.
- 21 (i) Each dispensing pharmacist shall:
- 22 (1) fill in on the official prescription form each
23 item of information given orally to the dispensing pharmacy under
24 Subsection (h), the date the prescription is filled, and the
25 dispensing pharmacist's signature;
- 26 (2) retain with the records of the pharmacy for at
27 least two years:

- 1 (A) the official prescription form; and
2 (B) the name or other patient identification
3 required by Section 481.074(m) or (n); and
4 (3) send all information required by the director,
5 including any information required to complete an official
6 prescription form, to the director by electronic transfer or
7 another form approved by the director not later than the seventh
8 [~~15th~~] day after the date [~~last day of the month in which~~] the
9 prescription is completely filled.

10 SECTION 4. Subsections (a) and (i), Section 481.076, Health
11 and Safety Code, are amended to read as follows:

12 (a) The director may not permit any person to have access to
13 information submitted to the director under Section 481.074(q) or
14 481.075 except:

15 (1) an investigator for the Texas Medical Board, the
16 Texas State Board of Podiatric Medical Examiners, the State Board
17 of Dental Examiners, the State Board of Veterinary Medical
18 Examiners, the Texas Board of Nursing, or the Texas State Board of
19 Pharmacy;

20 (2) an authorized officer or member of the department
21 engaged in the administration, investigation, or enforcement of
22 this chapter or another law governing illicit drugs in this state or
23 another state; or

24 (3) if the director finds that proper need has been
25 shown to the director:

26 (A) a law enforcement or prosecutorial official
27 engaged in the administration, investigation, or enforcement of

1 this chapter or another law governing illicit drugs in this state or
2 another state;

3 (B) a pharmacist or practitioner who is a
4 physician, dentist, veterinarian, podiatrist, or advanced practice
5 nurse or physician assistant described by Section 481.002(39)(D)
6 and is inquiring about a recent Schedule II, III, IV, or V
7 prescription history of a particular patient of the practitioner;
8 or

9 (C) a pharmacist or practitioner who is inquiring
10 about the person's own dispensing or prescribing activity.

11 (i) Information submitted to the director under Section
12 481.074(q) or 481.075 is confidential and remains confidential
13 regardless of whether the director permits access to the
14 information under this section.

15 SECTION 5. Notwithstanding Section 481.061, Health and
16 Safety Code, as amended by this Act, a person who holds a valid
17 registration under Subchapter C, Chapter 481, Health and Safety
18 Code, on the effective date of this Act is not required to submit
19 the person's Federal Drug Enforcement Administration number to the
20 Department of Public Safety of the State of Texas before October 15,
21 2011.

22 SECTION 6. Sections 481.074 and 481.075, Health and Safety
23 Code, as amended by this Act, apply only to a prescription
24 completely filled on or after the effective date of this Act. A
25 prescription partially or completely filled before the effective
26 date of this Act is covered by the law as it existed immediately
27 before that date, and the former law is continued in effect for that

1 purpose.

2 SECTION 7. This Act takes effect September 1, 2011.