

1-1 By: Williams S.B. No. 1273
1-2 (In the Senate - Filed March 8, 2011; March 16, 2011, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 April 7, 2011, reported favorably by the following vote: Yeas 7,
1-5 Nays 0; April 7, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the lawful manufacture, distribution, and possession of
1-9 and prescriptions for controlled substances under the Texas
1-10 Controlled Substances Act.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 481.061, Health and Safety Code, is
1-13 amended by adding Subsection (d) to read as follows:

1-14 (d) A person shall provide the department with the person's
1-15 Federal Drug Enforcement Administration number not later than the
1-16 45th day after the director issues a registration to the person
1-17 under this subchapter.

1-18 SECTION 2. Subsections (b), (k), and (q), Section 481.074,
1-19 Health and Safety Code, are amended to read as follows:

1-20 (b) Except in an emergency as defined by rule of the
1-21 director or as provided by Subsection (o) or Section 481.075(j) or
1-22 (m), a person may not dispense or administer a controlled substance
1-23 listed in Schedule II without the written prescription of a
1-24 practitioner on an official prescription form that meets the
1-25 requirements of and is completed by the practitioner in accordance
1-26 with Section 481.075. In an emergency, a person may dispense or
1-27 administer a controlled substance listed in Schedule II on the oral
1-28 or telephonically communicated prescription of a practitioner. The
1-29 person who administers or dispenses the substance shall:

1-30 (1) if the person is a prescribing practitioner or a
1-31 pharmacist, promptly comply with Subsection (c); or

1-32 (2) if the person is not a prescribing practitioner or
1-33 a pharmacist, promptly write the oral or telephonically
1-34 communicated prescription and include in the written record of the
1-35 prescription the name, address, [~~department registration number,~~
1-36 and Federal Drug Enforcement Administration number issued for
1-37 prescribing a controlled substance in this state of the prescribing
1-38 practitioner, all information required to be provided by a
1-39 practitioner under Section 481.075(e)(1), and all information
1-40 required to be provided by a dispensing pharmacist under Section
1-41 481.075(e)(2).

1-42 (k) A prescription for a controlled substance must show:

1-43 (1) the quantity of the substance prescribed:

1-44 (A) numerically, followed by the number written
1-45 as a word, if the prescription is written; or

1-46 (B) if the prescription is communicated orally or
1-47 telephonically, as transcribed by the receiving pharmacist;

1-48 (2) the date of issue;

1-49 (2-a) if the prescription is issued for a Schedule II
1-50 controlled substance to be filled at a later date under Subsection
1-51 (d-1), the earliest date on which a pharmacy may fill the
1-52 prescription;

1-53 (3) the name, address, and date of birth or age of the
1-54 patient or, if the controlled substance is prescribed for an
1-55 animal, the species of the animal and the name and address of its
1-56 owner;

1-57 (4) the name and strength of the controlled substance
1-58 prescribed;

1-59 (5) the directions for use of the controlled
1-60 substance;

1-61 (6) the intended use of the substance prescribed
1-62 unless the practitioner determines the furnishing of this
1-63 information is not in the best interest of the patient;

1-64 (7) the legibly printed or stamped name, address,

2-1 Federal Drug Enforcement Administration [~~registration~~] number, and
2-2 telephone number of the practitioner at the practitioner's usual
2-3 place of business; and

2-4 (8) if the prescription is handwritten, the signature
2-5 of the prescribing practitioner[~~, and~~

2-6 [~~(9) if the prescribing practitioner is licensed in~~
2-7 ~~this state, the practitioner's department registration number~~].

2-8 (q) Each dispensing pharmacist shall send all information
2-9 required by the director, including any information required to
2-10 complete the Schedule III through V prescription forms, to the
2-11 director by electronic transfer or another form approved by the
2-12 director not later than the seventh [~~15th~~] day after the date [~~last~~
2-13 ~~day of the month in which~~] the prescription is completely filled.

2-14 SECTION 3. Subsections (e) and (i), Section 481.075, Health
2-15 and Safety Code, are amended to read as follows:

2-16 (e) Each official prescription form used to prescribe a
2-17 Schedule II controlled substance must contain:

2-18 (1) information provided by the prescribing
2-19 practitioner, including:

2-20 (A) the date the prescription is written;

2-21 (B) the controlled substance prescribed;

2-22 (C) the quantity of controlled substance
2-23 prescribed, shown numerically followed by the number written as a
2-24 word;

2-25 (D) the intended use of the controlled substance
2-26 or the diagnosis for which it is prescribed and the instructions for
2-27 use of the substance;

2-28 (E) the practitioner's name, address,
2-29 [~~department registration number,~~] and Federal Drug Enforcement
2-30 Administration number issued for prescribing a controlled
2-31 substance in this state;

2-32 (F) the name, address, and date of birth or age of
2-33 the person for whom the controlled substance is prescribed; and

2-34 (G) if the prescription is issued to be filled at
2-35 a later date under Section 481.074(d-1), the earliest date on which
2-36 a pharmacy may fill the prescription;

2-37 (2) information provided by the dispensing
2-38 pharmacist, including the date the prescription is filled; and

2-39 (3) the signatures of the prescribing practitioner and
2-40 the dispensing pharmacist.

2-41 (i) Each dispensing pharmacist shall:

2-42 (1) fill in on the official prescription form each
2-43 item of information given orally to the dispensing pharmacy under
2-44 Subsection (h), the date the prescription is filled, and the
2-45 dispensing pharmacist's signature;

2-46 (2) retain with the records of the pharmacy for at
2-47 least two years:

2-48 (A) the official prescription form; and

2-49 (B) the name or other patient identification
2-50 required by Section 481.074(m) or (n); and

2-51 (3) send all information required by the director,
2-52 including any information required to complete an official
2-53 prescription form, to the director by electronic transfer or
2-54 another form approved by the director not later than the seventh
2-55 [~~15th~~] day after the date [~~last day of the month in which~~] the
2-56 prescription is completely filled.

2-57 SECTION 4. Subsections (a) and (i), Section 481.076, Health
2-58 and Safety Code, are amended to read as follows:

2-59 (a) The director may not permit any person to have access to
2-60 information submitted to the director under Section 481.074(q) or
2-61 481.075 except:

2-62 (1) an investigator for the Texas Medical Board, the
2-63 Texas State Board of Podiatric Medical Examiners, the State Board
2-64 of Dental Examiners, the State Board of Veterinary Medical
2-65 Examiners, the Texas Board of Nursing, or the Texas State Board of
2-66 Pharmacy;

2-67 (2) an authorized officer or member of the department
2-68 engaged in the administration, investigation, or enforcement of
2-69 this chapter or another law governing illicit drugs in this state or

3-1 another state; or

3-2 (3) if the director finds that proper need has been
3-3 shown to the director:

3-4 (A) a law enforcement or prosecutorial official
3-5 engaged in the administration, investigation, or enforcement of
3-6 this chapter or another law governing illicit drugs in this state or
3-7 another state;

3-8 (B) a pharmacist or practitioner who is a
3-9 physician, dentist, veterinarian, podiatrist, or advanced practice
3-10 nurse or physician assistant described by Section 481.002(39)(D)
3-11 and is inquiring about a recent Schedule II, III, IV, or V
3-12 prescription history of a particular patient of the practitioner;
3-13 or

3-14 (C) a pharmacist or practitioner who is inquiring
3-15 about the person's own dispensing or prescribing activity.

3-16 (i) Information submitted to the director under Section
3-17 481.074(q) or 481.075 is confidential and remains confidential
3-18 regardless of whether the director permits access to the
3-19 information under this section.

3-20 SECTION 5. Notwithstanding Section 481.061, Health and
3-21 Safety Code, as amended by this Act, a person who holds a valid
3-22 registration under Subchapter C, Chapter 481, Health and Safety
3-23 Code, on the effective date of this Act is not required to submit
3-24 the person's Federal Drug Enforcement Administration number to the
3-25 Department of Public Safety of the State of Texas before October 15,
3-26 2011.

3-27 SECTION 6. Sections 481.074 and 481.075, Health and Safety
3-28 Code, as amended by this Act, apply only to a prescription
3-29 completely filled on or after the effective date of this Act. A
3-30 prescription partially or completely filled before the effective
3-31 date of this Act is covered by the law as it existed immediately
3-32 before that date, and the former law is continued in effect for that
3-33 purpose.

3-34 SECTION 7. This Act takes effect September 1, 2011.

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