

AN ACT

relating to the monitoring of prescriptions for certain controlled substances; providing penalties.

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

SECTION 1. Section 481.002, Health and Safety Code, is amended by amending Subdivisions (20) and (32) and adding Subdivision (54) to read as follows:

(20) "Hospital" means:

(A) a general or special hospital as defined by Section 241.003 [~~(Texas Hospital Licensing Law)~~]; [~~or~~]

(B) an ambulatory surgical center licensed under Chapter 243 [~~by the Texas Department of Health~~] and approved by the federal government to perform surgery paid by Medicaid on patients admitted for a period of not more than 24 hours; or

(C) a freestanding emergency medical care facility licensed under Chapter 254.

(32) "Patient" means a human for whom or an animal for which a drug:

(A) is administered, dispensed, delivered, or prescribed by a practitioner; or

(B) is intended to be administered, dispensed, delivered, or prescribed by a practitioner.

(54) "Health information exchange" means an organization that:

1 (A) assists in the transmission or receipt of
2 health-related information among organizations transmitting or
3 receiving the information according to nationally recognized
4 standards and under an express written agreement;

5 (B) as a primary business function, compiles or
6 organizes health-related information that is designed to be
7 securely transmitted by the organization among physicians, health
8 care providers, or entities within a region, state, community, or
9 hospital system; or

10 (C) assists in the transmission or receipt of
11 electronic health-related information among physicians, health
12 care providers, or entities within:

13 (i) a hospital system;

14 (ii) a physician organization;

15 (iii) a health care collaborative, as
16 defined by Section 848.001, Insurance Code;

17 (iv) an accountable care organization
18 participating in the Pioneer Model under the initiative by the
19 Innovation Center of the Centers for Medicare and Medicaid
20 Services; or

21 (v) an accountable care organization
22 participating in the Medicare shared savings program under 42
23 U.S.C. Section 1395jjj.

24 SECTION 2. Section 481.076, Health and Safety Code, is
25 amended by amending Subsections (a) and (e) and adding Subsections
26 (a-1) and (a-2) to read as follows:

27 (a) The director may not permit any person to have access to

1 information submitted to the director under Section 481.074(q) or
2 481.075 except:

3 (1) an investigator for the Texas Medical Board, the
4 Texas State Board of Podiatric Medical Examiners, the State Board
5 of Dental Examiners, the State Board of Veterinary Medical
6 Examiners, the Texas Board of Nursing, or the Texas State Board of
7 Pharmacy;

8 (2) an authorized officer or member of the department
9 engaged in the administration, investigation, or enforcement of
10 this chapter or another law governing illicit drugs in this state or
11 another state; or

12 (3) if the director finds that proper need has been
13 shown to the director:

14 (A) a law enforcement or prosecutorial official
15 engaged in the administration, investigation, or enforcement of
16 this chapter or another law governing illicit drugs in this state or
17 another state;

18 (B) a pharmacist or a pharmacy technician, as
19 defined by Section 551.003, Occupations Code, acting at the
20 direction of a pharmacist or a practitioner who is a physician,
21 dentist, veterinarian, podiatrist, or advanced practice nurse or is
22 a physician assistant described by Section 481.002(39)(D) or a
23 nurse licensed under Chapter 301, Occupations Code, acting at the
24 direction of a practitioner and is inquiring about a recent
25 Schedule II, III, IV, or V prescription history of a particular
26 patient of the practitioner; or

27 (C) a pharmacist or practitioner who is inquiring

1 about the person's own dispensing or prescribing activity.

2 (a-1) A person authorized to receive information under
3 Subsection (a)(3)(B) or (C) may access that information through a
4 health information exchange, subject to proper security measures to
5 ensure against disclosure to unauthorized persons.

6 (a-2) A person authorized to receive information under
7 Subsection (a)(3)(B) may include that information in any form in
8 the medical or pharmacy record of the patient who is the subject of
9 the information. Any information included in a patient's medical
10 or pharmacy record under this subsection is subject to any
11 applicable state or federal confidentiality or privacy laws.

12 (e) The director shall remove from the information
13 retrieval system, destroy, and make irretrievable the record of the
14 identity of a patient submitted under this section to the director
15 not later than the end of the 36th [~~12th~~] calendar month after the
16 month in which the identity is entered into the system. However,
17 the director may retain a patient identity that is necessary for use
18 in a specific ongoing investigation conducted in accordance with
19 this section until the 30th day after the end of the month in which
20 the necessity for retention of the identity ends.

21 SECTION 3. Subsection (a), Section 481.127, Health and
22 Safety Code, is amended to read as follows:

23 (a) A person commits an offense if the person knowingly
24 gives, permits, or obtains unauthorized access to information
25 submitted to the director under Section 481.074(q) or 481.075.

26 SECTION 4. Chapter 481, Health and Safety Code, is amended
27 by adding Subchapter I to read as follows:

1 SUBCHAPTER I. INTERAGENCY PRESCRIPTION MONITORING WORK GROUP

2 Sec. 481.351. INTERAGENCY PRESCRIPTION MONITORING WORK
3 GROUP. The interagency prescription monitoring work group is
4 created to evaluate the effectiveness of prescription monitoring
5 under this chapter and offer recommendations to improve the
6 effectiveness and efficiency of recordkeeping and other functions
7 related to the regulation of dispensing controlled substances by
8 prescription.

9 Sec. 481.352. MEMBERS. The work group is composed of:

- 10 (1) the director or the director's designee;
11 (2) the commissioner of state health services or the
12 commissioner's designee;
13 (3) the executive director of the Texas State Board of
14 Pharmacy or the executive director's designee;
15 (4) the executive director of the Texas Medical Board
16 or the executive director's designee;
17 (5) the executive director of the Texas Board of
18 Nursing or the executive director's designee; and
19 (6) the executive director of the Texas Physician
20 Assistant Board or the executive director's designee.

21 Sec. 481.353. MEETINGS. (a) The work group shall meet at
22 least quarterly.

23 (b) The work group is subject to Chapter 551, Government
24 Code.

25 (c) The work group shall proactively engage stakeholders
26 and solicit and take into account input from the public.

27 Sec. 481.354. REPORT. Not later than December 1 of each

1 even-numbered year, the work group shall submit to the legislature
2 its recommendations relating to prescription monitoring.

3 SECTION 5. Section 168.102, Occupations Code, is amended by
4 adding Subsection (d) to read as follows:

5 (d) If an applicant for a certificate under this chapter is
6 under investigation by the board for a violation of this subtitle,
7 board rules, or other law relating to the prescription,
8 dispensation, administration, supply, or sale of a controlled
9 substance, the board may not make a decision on the application
10 until the board has reached a final decision on the matter under
11 investigation.

12 SECTION 6. Subsection (a), Section 168.202, Occupations
13 Code, is amended to read as follows:

14 (a) A violation of this chapter or a rule adopted under this
15 chapter is grounds for disciplinary action, including a temporary
16 suspension or restriction under Section 164.059, against a pain
17 management clinic certified under this chapter or an owner or
18 operator of a clinic certified under this chapter.

19 SECTION 7. This Act takes effect September 1, 2013.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1643 passed the Senate on April 25, 2013, by the following vote: Yeas 28, Nays 0; and that the Senate concurred in House amendments on May 25, 2013, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1643 passed the House, with amendments, on May 22, 2013, by the following vote: Yeas 144, Nays 2, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor