

1-1 By: Williams S.B. No. 1643
 1-2 (In the Senate - Filed March 8, 2013; March 20, 2013, read
 1-3 first time and referred to Committee on Health and Human Services;
 1-4 April 22, 2013, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 22, 2013,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1643 By: Huffman

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the monitoring of prescriptions for certain controlled
 1-22 substances; providing penalties.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 481.002, Health and Safety Code, is
 1-25 amended by amending Subdivision (32) and adding Subdivision (54) to
 1-26 read as follows:

1-27 (32) "Patient" means a human for whom or an animal for
 1-28 which a drug:

1-29 (A) is administered, dispensed, delivered, or
 1-30 prescribed by a practitioner; or

1-31 (B) is intended to be administered, dispensed,
 1-32 delivered, or prescribed by a practitioner.

1-33 (54) "Health information exchange" means an
 1-34 organization that:

1-35 (A) assists in the transmission or receipt of
 1-36 health-related information among organizations transmitting or
 1-37 receiving the information according to nationally recognized
 1-38 standards and under an express written agreement; or

1-39 (B) compiles and organizes health-related
 1-40 information that is transmitted by the organization.

1-41 SECTION 2. Subsections (e) and (i), Section 491.075, Health
 1-42 and Safety Code, are amended to read as follows:

1-43 (e) Each official prescription form or electronic
 1-44 prescription used to prescribe a Schedule II controlled substance
 1-45 must contain:

1-46 (1) information provided by the prescribing
 1-47 practitioner, including:

1-48 (A) the date the prescription is issued;

1-49 (B) the controlled substance prescribed;

1-50 (C) the quantity of controlled substance
 1-51 prescribed, shown:

1-52 (i) numerically, followed by the number
 1-53 written as a word, if the prescription is written; or

1-54 (ii) numerically, if the prescription is
 1-55 electronic;

1-56 (D) the intended use of the controlled substance
 1-57 or the diagnosis for which it is prescribed and the instructions for
 1-58 use of the substance;

1-59 (E) the practitioner's name, address, and
 1-60 Federal Drug Enforcement Administration number issued for

2-1 prescribing a controlled substance in this state;

2-2 (F) the name, address, and date of birth or age of

2-3 the person for whom the controlled substance is prescribed; and

2-4 (G) if the prescription is issued to be filled at

2-5 a later date under Section 481.074(d-1), the earliest date on which

2-6 a pharmacy may fill the prescription;

2-7 (2) information provided by the dispensing

2-8 pharmacist, including the date the prescription is filled and the

2-9 method of payment used to pay for the prescription; and

2-10 (3) for a written prescription, the signatures of the

2-11 prescribing practitioner and the dispensing pharmacist or for an

2-12 electronic prescription, the prescribing practitioner's electronic

2-13 signature or other secure method of validation authorized by

2-14 federal law.

2-15 (i) Each dispensing pharmacist shall:

2-16 (1) fill in on the official prescription form or note

2-17 in the electronic prescription record each item of information

2-18 given orally to the dispensing pharmacy under Subsection (h), ~~[and]~~

2-19 the date the prescription is filled, and the method of payment used

2-20 to pay for the prescription, and:

2-21 (A) for a written prescription, fill in the

2-22 dispensing pharmacist's signature; or

2-23 (B) for an electronic prescription,

2-24 appropriately record the identity of the dispensing pharmacist in

2-25 the electronic prescription record;

2-26 (2) retain with the records of the pharmacy for at

2-27 least two years:

2-28 (A) the official prescription form or the

2-29 electronic prescription record, as applicable; and

2-30 (B) the name or other patient identification

2-31 required by Section 481.074(m) or (n); and

2-32 (3) send all information required by the director,

2-33 including any information required to complete an official

2-34 prescription form or electronic prescription record, to the

2-35 director by electronic transfer or another form approved by the

2-36 director not later than the seventh day after the date the

2-37 prescription is completely filled.

2-38 SECTION 3. Section 481.076, Health and Safety Code, is

2-39 amended by amending Subsections (a), (d), and (e) and adding

2-40 Subsection (a-1) to read as follows:

2-41 (a) The director may not permit any person to have access to

2-42 information submitted to the director under Section 481.074(q) or

2-43 481.075 except:

2-44 (1) an investigator for the Texas Medical Board, the

2-45 Texas State Board of Podiatric Medical Examiners, the State Board

2-46 of Dental Examiners, the State Board of Veterinary Medical

2-47 Examiners, the Texas Board of Nursing, or the Texas State Board of

2-48 Pharmacy;

2-49 (2) an authorized officer or member of the department

2-50 engaged in the administration, investigation, or enforcement of

2-51 this chapter or another law governing illicit drugs in this state or

2-52 another state; or

2-53 (3) if the director finds that proper need has been

2-54 shown to the director:

2-55 (A) a law enforcement or prosecutorial official

2-56 engaged in the administration, investigation, or enforcement of

2-57 this chapter or another law governing illicit drugs in this state or

2-58 another state;

2-59 (B) a pharmacist or a pharmacy technician, as

2-60 defined by Section 551.003, Occupations Code, acting at the

2-61 direction of a pharmacist or a practitioner who is a physician,

2-62 dentist, veterinarian, podiatrist, or advanced practice nurse or is

2-63 a physician assistant described by Section 481.002(39)(D) or a

2-64 nurse licensed under Chapter 301, Occupations Code, acting at the

2-65 direction of a practitioner and is inquiring about a recent

2-66 Schedule II, III, IV, or V prescription history of a particular

2-67 patient of the practitioner; or

2-68 (C) a pharmacist or practitioner who is inquiring

2-69 about the person's own dispensing or prescribing activity.

3-1 (a-1) A person authorized to receive information under
3-2 Subsection (a)(3)(B) or (C) may access that information through a
3-3 health information exchange.

3-4 (d) Information submitted to the director under this
3-5 section may be used only for:

3-6 (1) the administration, investigation, or enforcement
3-7 of this chapter or another law governing illicit drugs in this state
3-8 or another state;

3-9 (2) investigatory or evidentiary purposes in
3-10 connection with the functions of an agency listed in Subsection
3-11 (a)(1); ~~or~~

3-12 (3) dissemination by the director to the public in the
3-13 form of a statistical tabulation or report if all information
3-14 reasonably likely to reveal the identity of each patient,
3-15 practitioner, or other person who is a subject of the information
3-16 has been removed; or

3-17 (4) inclusion in a patient's medical records as part of
3-18 the patient's medical history.

3-19 (e) The director shall remove from the information
3-20 retrieval system, destroy, and make irretrievable the record of the
3-21 identity of a patient submitted under this section to the director
3-22 not later than the end of the 36th ~~[12th]~~ calendar month after the
3-23 month in which the identity is entered into the system. However,
3-24 the director may retain a patient identity that is necessary for use
3-25 in a specific ongoing investigation conducted in accordance with
3-26 this section until the 30th day after the end of the month in which
3-27 the necessity for retention of the identity ends.

3-28 SECTION 4. Subsection (a), Section 481.127, Health and
3-29 Safety Code, is amended to read as follows:

3-30 (a) A person commits an offense if the person knowingly
3-31 gives, permits, or obtains unauthorized access to information
3-32 submitted to the director under Section 481.074(q) or 481.075.

3-33 SECTION 5. Chapter 481, Health and Safety Code, is amended
3-34 by adding Subchapter I to read as follows:

3-35 SUBCHAPTER I. INTERAGENCY PRESCRIPTION MONITORING WORK GROUP

3-36 Sec. 481.351. INTERAGENCY PRESCRIPTION MONITORING WORK
3-37 GROUP. The interagency prescription monitoring work group is
3-38 created to evaluate the effectiveness of prescription monitoring
3-39 under this chapter and offer recommendations to improve the
3-40 effectiveness and efficiency of recordkeeping and other functions
3-41 related to the regulation of dispensing controlled substances by
3-42 prescription.

3-43 Sec. 481.352. MEMBERS. The work group is composed of:

3-44 (1) the director or the director's designee;

3-45 (2) the commissioner of state health services or the
3-46 commissioner's designee;

3-47 (3) the executive director of the Texas State Board of
3-48 Pharmacy or the executive director's designee; and

3-49 (4) the executive director of the Texas Medical Board
3-50 or the executive director's designee.

3-51 Sec. 481.353. MEETINGS. (a) The work group shall meet at
3-52 least quarterly.

3-53 (b) The work group is subject to Chapter 551, Government
3-54 Code.

3-55 (c) The work group shall proactively engage stakeholders
3-56 and solicit and take into account input from the public.

3-57 Sec. 481.354. REPORT. Not later than December 1 of each
3-58 even-numbered year, the work group shall submit to the legislature
3-59 its recommendations relating to prescription monitoring.

3-60 SECTION 6. This Act takes effect September 1, 2013.

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