

BILL ANALYSIS

S.B. 460
By: Schwertner
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties believe that it is necessary to update provisions of the Texas Pharmacy Act to close loopholes and keep pace with changing technologies. S.B. 460 seeks to amend the law in order to increase the efficiency of the Texas State Board of Pharmacy and hold bad actors accountable.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 460 amends the Health and Safety Code to authorize a pharmacist, in the event of a natural or manmade disaster, to dispense not more than a 30-day supply of a dangerous drug without the authorization of the prescribing practitioner if failure to refill the prescription might result in an interruption of a therapeutic regimen or create patient suffering, the natural or manmade disaster prohibits the pharmacist from being able to contact the practitioner, the governor has declared a state of disaster, and the Texas State Board of Pharmacy, through the executive director, has notified pharmacies in Texas that pharmacists may dispense up to a 30-day supply of a dangerous drug. The bill exempts the prescribing practitioner from liability for an act or omission by a pharmacist in dispensing a dangerous drug in the event of a natural or manmade disaster.

S.B. 460 amends the Occupations Code to authorize the Texas State Board of Pharmacy to provide the required notice of the board's contact information for the purpose of directing complaints to the board on an electronic messaging system in a font specified by board rule prominently displayed in the place of business of each person regulated by the board. The bill authorizes the board or a board representative to enter and inspect a facility relative to financial records relating to the facility's operation but restricts the board's inspection of those records to an inspection in the course of the investigation of a specific complaint and to the records related to the specific complaint. The bill subjects such an inspection to statutory provisions relating to board investigations and the confidentiality of information or material compiled in connection with a board investigation. The bill removes the prohibition against the extension of a board investigation of a facility to financial data, sales data other than shipment data, or pricing data, with certain exceptions, and makes such data obtained by the board during an inspection of a facility confidential and not subject to disclosure under state public information law.

S.B. 460 requires a pharmacist to provide to the board, on request, records of the pharmacist's practice that occurs outside of a pharmacy and requires the pharmacist to provide the records at a time specified by board rule. The bill increases from two to four the maximum number of times an applicant for a license to practice pharmacy may retake the licensing examination subsequent to failure on the applicant's first attempt and increases from three to five the number of failed examination attempts that triggers the requirement that the applicant provide documentation showing completion of additional college course work in the examination subject area the applicant failed in order to be allowed to retake the examination. The bill revises the required contents of a completed pharmacy license application by requiring proof that no owner of the pharmacy for which the application is made has held a pharmacist license in Texas or another state, if applicable, that has been restricted, suspended, revoked, or surrendered for any reason and by specifying the type of license to which certain required contents must be in reference.

S.B. 460 reduces from one year to 91 days the minimum amount of time that a pharmacy's license can be expired before the pharmacy is prohibited from renewing the license and repeals a provision authorizing a pharmacy whose license has been expired for more than 90 days but less than one year to renew the expired license by paying a renewal fee to the board. The bill makes statutory provisions relating to the required practitioner-patient relationship applicable to all prescriptions, regardless of the type of consultation on which the prescription is issued or the type of substance that is prescribed.

S.B. 460 changes the deadline for a pharmacy to report in writing to the board a change of location of the pharmacy from not later than the 10th day after the date of the change of location to not later than the 30th day before the date of the change of location and makes this deadline change applicable only to a pharmacy that changes location on or after October 1, 2015. The bill authorizes the board to discipline an applicant for or the holder of a pharmacy license if the board finds that the applicant or license holder has waived, discounted, or reduced, or offered to waive, discount, or reduce, a patient copayment or deductible for a compounded drug in the absence of a legitimate, documented financial hardship of the patient or evidence of a good faith effort to collect the copayment or deductible from the patient.

S.B. 460 changes the date on which the board must remove all records of a remedial plan imposed to resolve the investigation of a complaint from the board's records if a license holder complies with and successfully completes the terms of the remedial plan from the fifth anniversary of the date the board issued the terms of the remedial plan to the end of the state fiscal year in which the fifth anniversary of the date the board issued the terms of the remedial plan occurs. The bill removes a disciplinary action taken by the board regarding a remedial plan from the disciplinary actions taken by the board that are governed by the Administrative Procedure Act and the rules of practice and procedure before the board and specifies that this change is a clarification of existing law and does not imply that existing law may be construed as inconsistent with the law as amended by the bill.

S.B. 460 repeals requirements that a pharmacist display a specified sign regarding the availability of a less expensive generically equivalent drug and that a pharmacist publicly display the pharmacist's license to practice pharmacy and license renewal certificate in the pharmacist's primary place of practice.

S.B. 460 repeals the following Occupations Code provisions:

- Section 561.003(d)
- Section 562.009(a-1)
- Section 562.051

EFFECTIVE DATE

September 1, 2015.