By: Schwertner S.B. No. 195

A BILL TO BE ENTITLED

AN ACT

relating to prescriptions for certain controlled substances, access to information about those prescriptions, and the duties of prescribers and other entities registered with the Federal Drug Enforcement Administration; authorizing fees; amending provisions subject to a criminal penalty.

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

SECTION 1. Section 552.118, Government Code, is amended to read as follows:

Sec. 552.118. EXCEPTION: CONFIDENTIALITY OF OFFICIAL PRESCRIPTION PROGRAM INFORMATION. Information is excepted from the requirements of Section 552.021 if it is:

(1) information on or derived from an official prescription form or electronic prescription record filed with the Texas State Board of Pharmacy [~~director of the Department of Public Safety~~] under Section 481.075, Health and Safety Code; or

(2) other information collected under Section 481.075 of that code.

SECTION 2. Section 481.002, Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by amending Subdivisions (4) and (45) and adding Subdivision (56) to read as follows:

(4) "Controlled premises" means:

(A) a place where original or other records or

documents required under this chapter are kept or are required to be kept; or

(B) a place, including a factory, warehouse, other establishment, or conveyance, where a person registered under this chapter may lawfully hold, manufacture, distribute, dispense, administer, possess, or otherwise dispose of a controlled substance or other item governed by the federal Controlled Substances Act (21 U.S.C. Section 801 et seq.) [~~this chapter~~], including a chemical precursor and a chemical laboratory apparatus.

(45) "Registrant" means a person who has a current Federal Drug Enforcement Administration registration number [~~is registered under Section 481.063~~].

(56) "Board" means the Texas State Board of Pharmacy.

SECTION 3. Section 481.003(a), Health and Safety Code, is amended to read as follows:

(a) The director may adopt rules to administer and enforce this chapter, other than Sections 481.075, 481.076, and 481.0761. The board may adopt rules to administer Sections 481.075, 481.076, and 481.0761.

SECTION 4. The heading to Section 481.061, Health and Safety Code, is amended to read as follows:

Sec. 481.061. FEDERAL REGISTRATION REQUIRED.

SECTION 5. Sections 481.061(a) and (b), Health and Safety Code, are amended to read as follows:

(a) Except as otherwise provided by this chapter, a person who is not registered with the Federal Drug Enforcement Administration [~~a registrant~~] may not manufacture, distribute,

prescribe, possess, analyze, or dispense a controlled substance in this state.

(b) A person who is registered with [~~by~~] the Federal Drug Enforcement Administration [~~director~~] to manufacture, distribute, analyze, dispense, or conduct research with a controlled substance may possess, manufacture, distribute, analyze, dispense, or conduct research with that substance to the extent authorized by the person's registration and in conformity with this chapter.

SECTION 6. Section 481.067(a), Health and Safety Code, is amended to read as follows:

(a) A person who is registered with the Federal Drug Enforcement Administration to manufacture, distribute, analyze, or dispense a controlled substance shall keep records and maintain inventories in compliance with recordkeeping and inventory requirements of federal law and with additional rules the board [~~director~~] adopts.

SECTION 7. Section 481.068, Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 481.068. CONFIDENTIALITY. (a) The board [~~director~~] may authorize a person engaged in research on the use and effects of a controlled substance to withhold the names and other identifying characteristics of individuals who are the subjects of the research. A person who obtains the authorization may not be compelled in a civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of the research for which the authorization is obtained.

(b) Except as provided by Sections 481.074 and 481.075, a practitioner engaged in authorized medical practice or research may not be required to furnish the name or identity of a patient or research subject to the board [~~department~~], the Department of State Health Services, or any other agency, public official, or law enforcement officer. A practitioner may not be compelled in a state or local civil, criminal, administrative, legislative, or other proceeding to furnish the name or identity of an individual that the practitioner is obligated to keep confidential.

(c) The board [~~director~~] may not provide to a federal, state, or local law enforcement agency the name or identity of a patient or research subject whose identity could not be obtained under Subsection (b).

SECTION 8. Section 481.073(a), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) Only a practitioner defined by Section 481.002(39)(A) and an agent designated in writing by the practitioner in accordance with rules adopted by the board [~~department~~] may communicate a prescription by telephone. A pharmacy that receives a telephonically communicated prescription shall promptly write the prescription and file and retain the prescription in the manner required by this subchapter. A practitioner who designates an agent to communicate prescriptions shall maintain the written designation of the agent in the practitioner's usual place of business and shall make the designation available for inspection by investigators for the Texas Medical Board, the State Board of

Dental Examiners, the State Board of Veterinary Medical Examiners, the board, and the department. A practitioner who designates a different agent shall designate that agent in writing and maintain the designation in the same manner in which the practitioner initially designated an agent under this section.

SECTION 9. Sections 481.074(b), (c), (d), (p), and (q), Health and Safety Code, are amended to read as follows:

(b) Except in an emergency as defined by rule of the board [~~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 a written prescription of a practitioner on an official prescription form or without an electronic prescription 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 pharmacist, promptly comply with Subsection (c); or

(2) if the person is not a prescribing practitioner or a pharmacist, promptly write the oral or telephonically communicated prescription and include in the written record of the prescription the name, address, and Federal Drug Enforcement Administration number issued for prescribing a controlled substance in this state of the prescribing practitioner, all information required to be provided by a practitioner under Section

481.075(e)(1), and all information required to be provided by a dispensing pharmacist under Section 481.075(e)(2).

(c) Not later than the seventh day after the date a prescribing practitioner authorizes an emergency oral or telephonically communicated prescription, the prescribing practitioner shall cause a written or electronic prescription, completed in the manner required by Section 481.075, to be delivered to the dispensing pharmacist at the pharmacy where the prescription was dispensed. A written prescription may be delivered in person or by mail. The envelope of a prescription delivered by mail must be postmarked not later than the seventh day after the date the prescription was authorized. On receipt of a written prescription, the dispensing pharmacy shall file the transcription of the telephonically communicated prescription and the pharmacy copy and shall send information to the board [~~director~~] as required by Section 481.075. On receipt of an electronic prescription, the pharmacist shall annotate the electronic prescription record with the original authorization and date of the emergency oral or telephonically communicated prescription.

(d) Except as specified in Subsections (e) and (f), the board [~~director~~], by rule and in consultation with the Texas Medical Board and the department [~~Texas State Board of Pharmacy~~], shall establish the period after the date on which the prescription is issued that a person may fill a prescription for a controlled substance listed in Schedule II. A person may not refill a prescription for a substance listed in Schedule II.

(p) On receipt of the prescription, the dispensing pharmacy shall file the facsimile copy of the prescription and shall send information to the board [~~director~~] as required by Section 481.075.

(q) Each dispensing pharmacist shall send all required information [~~required by the director~~], including any information required to complete the Schedule III through V prescription forms, to the board [~~director~~] by electronic transfer or another form approved by the board [~~director~~] not later than the seventh day after the date the prescription is completely filled.

SECTION 10. Sections 481.075(c), (g), (i), (k), and (m), Health and Safety Code, are amended to read as follows:

(c) The board [~~director~~] shall issue official prescription forms to practitioners for a fee covering the actual cost of printing, processing, and mailing the forms [~~at 100 a package~~]. Before mailing or otherwise delivering prescription forms to a practitioner, the board [~~director~~] shall print on each form the number of the form and any other information the board [~~director~~] determines is necessary.

(g) Except for an oral prescription prescribed under Section 481.074(b), the prescribing practitioner shall:

(1) legibly fill in, or direct a designated agent to legibly fill in, on the official prescription form or in the electronic prescription, each item of information required to be provided by the prescribing practitioner under Subsection (e)(1), unless the practitioner determines that:

(A) under rule adopted by the board [~~director~~] for this purpose, it is unnecessary for the practitioner or the

practitioner's agent to provide the patient identification number; or

(B) it is not in the best interest of the patient for the practitioner or practitioner's agent to provide information regarding the intended use of the controlled substance or the diagnosis for which it is prescribed; and

(2) sign the official prescription form and give the form to the person authorized to receive the prescription or, in the case of an electronic prescription, electronically sign or validate the electronic prescription as authorized by federal law and transmit the prescription to the dispensing pharmacy.

(i) Each dispensing pharmacist shall:

(1) fill in on the official prescription form or note in the electronic prescription record each item of information given orally to the dispensing pharmacy under Subsection (h) and the date the prescription is filled, and:

(A) for a written prescription, fill in the dispensing pharmacist's signature; or

(B) for an electronic prescription, appropriately record the identity of the dispensing pharmacist in the electronic prescription record;

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

(A) the official prescription form or the electronic prescription record, as applicable; and

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

(3) send all required information [~~required by the director~~], including any information required to complete an official prescription form or electronic prescription record, to the board [~~director~~] by electronic transfer or another form approved by the board [~~director~~] not later than the seventh day after the date the prescription is completely filled.

(k) Not later than the 30th day after the date a practitioner's [~~department registration number,~~] Federal Drug Enforcement Administration number[~~,~~] or license to practice has been denied, suspended, canceled, surrendered, or revoked, the practitioner shall return to the board [~~department~~] all official prescription forms in the practitioner's possession that have not been used for prescriptions.

(m) A pharmacy in this state may fill a prescription for a controlled substance listed in Schedule II issued by a practitioner in another state if:

(1) a share of the pharmacy's business involves the dispensing and delivery or mailing of controlled substances;

(2) the prescription is issued by a prescribing practitioner in the other state in the ordinary course of practice; and

(3) the prescription is filled in compliance with a written plan providing the manner in which the pharmacy may fill a Schedule II prescription issued by a practitioner in another state that:

(A) is submitted by the pharmacy to the board [~~director~~]; and

(B) is approved by the board [~~director in consultation with the Texas State Board of Pharmacy~~].

SECTION 11. The heading to Section 481.076, Health and Safety Code, is amended to read as follows:

Sec. 481.076. OFFICIAL PRESCRIPTION INFORMATION; DUTIES OF TEXAS STATE BOARD OF PHARMACY.

SECTION 12. Section 481.076, Health and Safety Code, is amended by amending Subsections (a), (a-1), (a-2), (b), (c), (d), (e), (g), and (i) and adding Subsections (a-3), (a-4), (a-5), (j), and (k) to read as follows:

(a) The board [~~director~~] may not permit any person to have access to information submitted to the board [~~director~~] under Section 481.074(q) or 481.075 except:

(1) an investigator for the board, the Texas Medical Board, the Texas State Board of Podiatric Medical Examiners, the State Board of Dental Examiners, the State Board of Veterinary Medical Examiners, the Texas Board of Nursing, or the Texas Optometry [~~State~~] Board [~~of Pharmacy~~];

(2) an authorized officer or member of the department or authorized employee of the board engaged in the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state; [~~or~~]

(3) the department on behalf of [~~if the director finds that proper need has been shown to the director:~~

[~~(A)~~] a law enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of this chapter or another law governing illicit drugs

in this state or another state;

(4) a medical examiner conducting an investigation;

(5) [~~(B)~~] a pharmacist or a pharmacy technician, as defined by Section 551.003, Occupations Code, acting at the direction of a pharmacist or a practitioner who is a physician, dentist, veterinarian, podiatrist, optometrist, or advanced practice nurse or is a physician assistant described by Section 481.002(39)(D) or an employee or other agent of a practitioner [~~a nurse licensed under Chapter 301, Occupations Code,~~] acting at the direction of a practitioner and is inquiring about a recent Schedule II, III, IV, or V prescription history of a particular patient of the practitioner, provided that the person accessing the information is authorized to do so under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) and rules adopted under that Act; [~~or~~]

(6) [~~(C)~~] a pharmacist or practitioner who is inquiring about the person's own dispensing or prescribing activity; or

(7) one or more states or an association of states with which the board has an interoperability agreement, as provided by Subsection (j).

(a-1) A person authorized to receive information under Subsection (a)(4), (5), [~~(a)(3)(B)~~] or (6) [~~(C)~~] may access that information through a health information exchange, subject to proper security measures to ensure against disclosure to unauthorized persons.

(a-2) A person authorized to receive information under

Subsection (a)(5) [~~(a)(3)(B)~~] may include that information in any form in the medical or pharmacy record of the patient who is the subject of the information. Any information included in a patient's medical or pharmacy record under this subsection is subject to any applicable state or federal confidentiality or privacy laws.

(a-3) The board shall ensure that the department has unrestricted access at all times to information received by the board under this section.

(a-4) A law enforcement or prosecutorial official described by Subsection (a)(3) may obtain information received by the board under this section only if the official submits a request to the department. The department shall review and process each request under this subsection. If the department shows that the official has shown proper need for the information, the department shall access the information on behalf of the official and submit the relevant information to the official.

(a-5) Records relating to the access of information by the department or by the department on behalf of a law enforcement agency are confidential, including any information concerning the identities of the investigating agents or agencies. The board may not track or monitor the department's access to information.

(b) This section does not prohibit the board [~~director~~] from creating, using, or disclosing statistical data about information received by the board [~~director~~] under this section if the board [~~director~~] removes any information reasonably likely to reveal the identity of each patient, practitioner, or other person who is a

subject of the information.

(c) The board [~~director~~] by rule shall design and implement a system for submission of information to the board [~~director~~] by electronic or other means and for retrieval of information submitted to the board [~~director~~] under this section and Sections 481.074 and 481.075. The board [~~director~~] shall use automated information security techniques and devices to preclude improper access to the information. The board [~~director~~] shall submit the system design to the director [~~Texas State Board of Pharmacy~~] and the Texas Medical Board for review and [~~approval or~~] comment a reasonable time before implementation of the system and shall comply with the comments of those agencies unless it is unreasonable to do so.

(d) Information submitted to the board [~~director~~] under this section may be used only for:

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

(2) investigatory or evidentiary purposes in connection with the functions of an agency listed in Subsection (a)(1); or

(3) dissemination by the board [~~director~~] to the public in the form of a statistical tabulation or report if all information reasonably likely to reveal the identity of each patient, practitioner, or other person who is a subject of the information has been removed.

(e) The board [~~director~~] shall remove from the information

retrieval system, destroy, and make irretrievable the record of the identity of a patient submitted under this section to the board [~~director~~] not later than the end of the 36th calendar month after the month in which the identity is entered into the system. However, the board [~~director~~] may retain a patient identity that is necessary for use in a specific ongoing investigation conducted in accordance with this section until the 30th day after the end of the month in which the necessity for retention of the identity ends.

(g) If the director permits access to information under Subsection (a)(3) [~~(a)(3)(A)~~] relating to a person licensed or regulated by an agency listed in Subsection (a)(1), the director shall notify that agency of the disclosure of the information not later than the 10th working day after the date the information is disclosed.

(i) Information submitted to the board [~~director~~] under Section 481.074(q) or 481.075 is confidential and remains confidential regardless of whether the board [~~director~~] permits access to the information under this section.

(j) The board may enter into an interoperability agreement with one or more states or an association of states authorizing the board to access prescription monitoring information maintained or collected by the other state or states or the association, including information maintained on a central database such as the National Association of Boards of Pharmacy Prescription Monitoring Program InterConnect. Pursuant to an interoperability agreement, the board may authorize the prescription monitoring program of one or more states or an association of states to access information

submitted to the board under Sections 481.074(q) and 481.075, including by submitting or sharing information through a central database such as the National Association of Boards of Pharmacy Prescription Monitoring Program InterConnect.

(k) A person authorized to access information under Subsection (a)(4) who is registered with the board for electronic access to the information is entitled to directly access the information available from other states pursuant to an interoperability agreement described by Subsection (j).

SECTION 13. Section 481.0761, Health and Safety Code, is amended by amending Subsections (a), (c), (d), (e), and (f) and adding Subsection (g) to read as follows:

(a) The board [~~director~~] shall [~~consult with the Texas State Board of Pharmacy and~~] by rule establish and revise as necessary a standardized database format that may be used by a pharmacy to transmit the information required by Sections 481.074(q) and 481.075(i) to the board [~~director~~] electronically or to deliver the information on storage media, including disks, tapes, and cassettes.

(c) The board [~~director~~] by rule may:

(1) permit more than one prescription to be administered or dispensed and recorded on one prescription form for a Schedule III through V controlled substance;

(1-a) establish a procedure for the issuance of multiple prescriptions of a Schedule II controlled substance under Section 481.074(d-1);

(2) remove from or return to the official prescription

program any aspect of a practitioner's or pharmacist's hospital practice, including administering or dispensing;

(3) waive or delay any requirement relating to the time or manner of reporting;

(4) establish compatibility protocols for electronic data transfer hardware, software, or format, including any necessary modifications for participation in a database described by Section 481.076(j);

(5) establish a procedure to control the release of information under Sections 481.074, 481.075, and 481.076; and

(6) establish a minimum level of prescription activity below which a reporting activity may be modified or deleted.

(d) The board [~~director~~] by rule shall authorize a practitioner to determine whether it is necessary to obtain a particular patient identification number and to provide that number on the official prescription form or in the electronic prescription record.

(e) In adopting a rule relating to the electronic transfer of information under this subchapter, the board [~~director~~] shall consider the economic impact of the rule on practitioners and pharmacists and, to the extent permitted by law, act to minimize any negative economic impact, including the imposition of costs related to computer hardware or software or to the transfer of information. [~~The director may not adopt a rule relating to the electronic transfer of information under this subchapter that imposes a fee in addition to the fees authorized by Section 481.064.~~]

(f) The board [~~director~~] may authorize a contract between

the board [~~department~~] and another agency of this state or a private vendor as necessary to ensure the effective operation of the official prescription program.

(g) The board may adopt rules providing for a person authorized to access information under Section 481.076(a)(5) to be enrolled in electronic access to the information described by Section 481.076(a) at the time the person obtains or renews the person's applicable professional or occupational license or registration.

SECTION 14. Section 481.077(c), Health and Safety Code, is amended to read as follows:

(c) This section and Section 481.078 do not apply to a person to whom a registration has been issued by the Federal Drug Enforcement Administration [~~under Section 481.063~~].

SECTION 15. Section 481.080(d), Health and Safety Code, is amended to read as follows:

(d) This section and Section 481.081 do not apply to a person to whom a registration has been issued by the Federal Drug Enforcement Administration [~~under Section 481.063~~].

SECTION 16. Section 481.124(b), Health and Safety Code, is amended to read as follows:

(b) For purposes of this section, an intent to unlawfully manufacture the controlled substance methamphetamine is presumed if the actor possesses or transports:

(1) anhydrous ammonia in a container or receptacle that is not designed and manufactured to lawfully hold or transport anhydrous ammonia;

(2) lithium metal removed from a battery and immersed in kerosene, mineral spirits, or similar liquid that prevents or retards hydration; or

(3) in one container, vehicle, or building, phenylacetic acid, or more than nine grams, three containers packaged for retail sale, or 300 tablets or capsules of a product containing ephedrine or pseudoephedrine, and:

(A) anhydrous ammonia;

(B) at least three of the following categories of substances commonly used in the manufacture of methamphetamine:

(i) lithium or sodium metal or red phosphorus, iodine, or iodine crystals;

(ii) lye, sulfuric acid, hydrochloric acid, or muriatic acid;

(iii) an organic solvent, including ethyl ether, alcohol, or acetone;

(iv) a petroleum distillate, including naphtha, paint thinner, or charcoal lighter fluid; or

(v) aquarium, rock, or table salt; or

(C) at least three of the following items:

(i) an item of equipment subject to regulation under Section 481.080, if the person is not a registrant [~~registered under Section 481.063~~]; or

(ii) glassware, a plastic or metal container, tubing, a hose, or other item specially designed, assembled, or adapted for use in the manufacture, processing, analyzing, storing, or concealing of methamphetamine.

SECTION 17. Section 481.127(a), Health and Safety Code, is amended to read as follows:

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

SECTION 18. Sections 481.128(a) and (b), Health and Safety Code, are amended to read as follows:

(a) A registrant or dispenser commits an offense if the registrant or dispenser knowingly:

(1) distributes, delivers, administers, or dispenses a controlled substance in violation of Sections 481.070-481.075;

(2) manufactures a controlled substance not authorized by the person's Federal Drug Enforcement Administration registration or distributes or dispenses a controlled substance not authorized by the person's registration to another registrant or other person;

(3) refuses or fails to make, keep, or furnish a record, report, notification, order form, statement, invoice, or information required by this chapter;

(4) prints, manufactures, possesses, or produces an official prescription form without the approval of the board [~~director~~];

(5) delivers or possesses a counterfeit official prescription form;

(6) refuses an entry into a premise for an inspection authorized by this chapter;

(7) refuses or fails to return an official prescription form as required by Section 481.075(k);

(8) refuses or fails to make, keep, or furnish a record, report, notification, order form, statement, invoice, or information required by a rule adopted by the director or the board; or

(9) refuses or fails to maintain security required by this chapter or a rule adopted under this chapter.

(b) If the registrant or dispenser knowingly refuses or fails to make, keep, or furnish a record, report, notification, order form, statement, invoice, or information or maintain security required by a rule adopted by the director or the board, the registrant or dispenser is liable to the state for a civil penalty of not more than $5,000 for each act.

SECTION 19. Section 481.129(a), Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly:

(1) distributes as a registrant or dispenser a controlled substance listed in Schedule I or II, unless the person distributes the controlled substance as authorized under the federal Controlled Substances Act (21 U.S.C. Section 801 et seq.) [~~an order form as required by Section 481.069~~];

(2) uses in the course of manufacturing, prescribing, or distributing a controlled substance a Federal Drug Enforcement Administration registration number that is fictitious, revoked, suspended, or issued to another person;

(3) issues a prescription bearing a forged or

fictitious signature;

(4) uses a prescription issued to another person to prescribe a Schedule II controlled substance;

(5) possesses, obtains, or attempts to possess or obtain a controlled substance or an increased quantity of a controlled substance:

(A) by misrepresentation, fraud, forgery, deception, or subterfuge;

(B) through use of a fraudulent prescription form; or

(C) through use of a fraudulent oral or telephonically communicated prescription; or

(6) furnishes false or fraudulent material information in or omits material information from an application, report, record, or other document required to be kept or filed under this chapter.

SECTION 20. Section 481.159(a), Health and Safety Code, is amended to read as follows:

(a) If a district court orders the forfeiture of a controlled substance property or plant under Chapter 59, Code of Criminal Procedure, or under this code, the court shall also order a law enforcement agency to:

(1) retain the property or plant for its official purposes, including use in the investigation of offenses under this code;

(2) deliver the property or plant to a government agency for official purposes;

(3) deliver the property or plant to a person authorized by the court to receive it;

(4) deliver the property or plant to a person authorized by the director to receive it [~~for a purpose described by Section 481.065(a)~~]; or

(5) destroy the property or plant that is not otherwise disposed of in the manner prescribed by this subchapter.

SECTION 21. Section 481.301, Health and Safety Code, is amended to read as follows:

Sec. 481.301. IMPOSITION OF PENALTY. The department or the board, as applicable, may impose an administrative penalty on a person who violates Section 481.061, [~~481.066,~~] 481.067, [~~481.069,~~] 481.074, 481.075, 481.077, 481.0771, 481.078, 481.080, or 481.081 or a rule or order adopted under any of those sections.

SECTION 22. Section 481.352, Health and Safety Code, is amended to read as follows:

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

(1) the executive director of the board or the executive director's designee, who serves as chair of the work group;

(2) the commissioner of state health services or the commissioner's designee;

(3) [~~the executive director of the Texas State Board of Pharmacy or the executive director's designee;~~

[~~(4)~~] the executive director of the Texas Medical Board or the executive director's designee;

(4) [~~(5)~~] the executive director of the Texas Board of

Nursing or the executive director's designee; and

(5) [~~(6)~~] the executive director of the Texas Physician Assistant Board or the executive director's designee.

SECTION 23. Section 554.006, Occupations Code, is amended to read as follows:

Sec. 554.006. FEES. (a) The board by rule shall establish reasonable and necessary fees so that the fees, in the aggregate, produce sufficient revenue to cover the cost of administering this subtitle.

(b) The board by rule shall establish reasonable and necessary fees so that the fees, in the aggregate, produce sufficient revenue to cover the cost of establishing and maintaining the program described by Sections 481.075, 481.076, and 481.0761, Health and Safety Code.

(c) The board may assess the fee described by Subsection (b) on individuals or entities authorized to prescribe or dispense controlled substances under Chapter 481, Health and Safety Code, and to access the program described by Sections 481.075, 481.076, and 481.0761, Health and Safety Code.

(d) Each agency that licenses individuals or entities authorized to prescribe or dispense controlled substances under Chapter 481, Health and Safety Code, and to access the program described by Sections 481.075, 481.076, and 481.0761, Health and Safety Code, shall increase the occupational license, permit, or registration fee of the license holders or use available excess revenue in an amount sufficient to operate that program as specified by the board.

(e) A fee collected by an agency under Subsection (d) shall be transferred to the board for the purpose of establishing and maintaining the program described by Sections 481.075, 481.076, and 481.0761, Health and Safety Code.

SECTION 24. Section 554.051, Occupations Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) The board may adopt rules to administer Sections 481.075, 481.076, and 481.0761, Health and Safety Code.

SECTION 25. The following provisions are repealed:

(1) Sections 481.061(c) and (d), 481.062(b), 481.063, 481.064, 481.0645, 481.065, 481.066, and 481.069, Health and Safety Code; and

(2) Section 156.0035, Occupations Code.

SECTION 26. (a) Notwithstanding any other provision of this Act, Sections 481.003(a), 481.076(c), and 481.0761(e) and (f), Health and Safety Code, as amended by this Act, and Section 481.0761(g), Health and Safety Code, as added by this Act, apply beginning on the effective date of this Act.

(b) The changes in law made by this Act to Section 481.076, Health and Safety Code, other than the changes made to Subsection (c) of that section, apply only to information submitted or accessed on or after September 1, 2016.

(c) The Texas State Board of Pharmacy may enter into an interoperability agreement described by Section 481.076(j), Health and Safety Code, as added by this Act, before September 1, 2016, but the agreement may not go into effect until on or after September 1, 2016.

SECTION 27. (a) Not later than September 1, 2016, the Department of Public Safety shall transfer all appropriate records received by the department under Sections 481.074, 481.076, and 481.0761, Health and Safety Code, regardless of whether the records were received before, on, or after the effective date of this Act, to the Texas State Board of Pharmacy.

(b) The Texas State Board of Pharmacy shall adopt any rules required by Chapter 481, Health and Safety Code, as amended by this Act, not later than March 1, 2016.

(c) A rule, form, policy, procedure, or decision adopted under Chapter 481, Health and Safety Code, as it existed before the effective date of this Act, continues in effect as a rule, form, policy, procedure, or decision and remains in effect until amended or replaced.

(d) A reference in law or an administrative rule to the public safety director of the Department of Public Safety relating to rulemaking authority given and duties transferred to the Texas State Board of Pharmacy by this Act is a reference to the Texas State Board of Pharmacy.

SECTION 28. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.