

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.

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, is amended by amending Subdivisions (4) and (45) and adding Subdivision (55) 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

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

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

11 (55) "Board" means the Texas State Board of Pharmacy.

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

14 (a) The director may adopt rules to administer and enforce
15 this chapter, other than Sections 481.073, 481.074, 481.075,
16 481.076, and 481.0761. The board may adopt rules to administer
17 Sections 481.073, 481.074, 481.075, 481.076, and 481.0761.

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

20 Sec. 481.061. FEDERAL REGISTRATION REQUIRED.

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

23 (a) Except as otherwise provided by this chapter, a person
24 who is not registered with or exempt from registration with the
25 Federal Drug Enforcement Administration [~~a registrant~~] may not
26 manufacture, distribute, prescribe, possess, analyze, or dispense
27 a controlled substance in this state.

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

7 SECTION 6. Section 481.062(a), Health and Safety Code, as
8 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
9 Session, 2015, is amended to read as follows:

10 (a) The following persons ~~[are not required to register and]~~
11 may possess a controlled substance under this chapter without
12 registering with the Federal Drug Enforcement Administration:

13 (1) an agent or employee of a ~~[registered]~~
14 manufacturer, distributor, analyzer, or dispenser of the
15 controlled substance who is registered with the Federal Drug
16 Enforcement Administration and acting in the usual course of
17 business or employment;

18 (2) a common or contract carrier, a warehouseman, or
19 an employee of a carrier or warehouseman whose possession of the
20 controlled substance is in the usual course of business or
21 employment;

22 (3) an ultimate user or a person in possession of the
23 controlled substance under a lawful order of a practitioner or in
24 lawful possession of the controlled substance if it is listed in
25 Schedule V;

26 (4) an officer or employee of this state, another
27 state, a political subdivision of this state or another state, or

1 the United States who is lawfully engaged in the enforcement of a
2 law relating to a controlled substance or drug or to a customs law
3 and authorized to possess the controlled substance in the discharge
4 of the person's official duties; or

5 (5) if the substance is tetrahydrocannabinol or one of
6 its derivatives:

7 (A) a Department of State Health Services
8 official, a medical school researcher, or a research program
9 participant possessing the substance as authorized under
10 Subchapter G; or

11 (B) a practitioner or an ultimate user possessing
12 the substance as a participant in a federally approved therapeutic
13 research program that the commissioner has reviewed and found, in
14 writing, to contain a medically responsible research protocol.

15 SECTION 7. Section 481.067(a), Health and Safety Code, is
16 amended to read as follows:

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

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

26 (a) Only a practitioner defined by Section 481.002(39)(A)
27 and an agent designated in writing by the practitioner in

1 accordance with rules adopted by the board [~~department~~] may
2 communicate a prescription by telephone. A pharmacy that receives
3 a telephonically communicated prescription shall promptly write
4 the prescription and file and retain the prescription in the manner
5 required by this subchapter. A practitioner who designates an
6 agent to communicate prescriptions shall maintain the written
7 designation of the agent in the practitioner's usual place of
8 business and shall make the designation available for inspection by
9 investigators for the Texas Medical Board, the State Board of
10 Dental Examiners, the State Board of Veterinary Medical Examiners,
11 the board, and the department. A practitioner who designates a
12 different agent shall designate that agent in writing and maintain
13 the designation in the same manner in which the practitioner
14 initially designated an agent under this section.

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

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

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

3 (2) if the person is not a prescribing practitioner or
4 a pharmacist, promptly write the oral or telephonically
5 communicated prescription and include in the written record of the
6 prescription the name, address, and Federal Drug Enforcement
7 Administration number issued for prescribing a controlled
8 substance in this state of the prescribing practitioner, all
9 information required to be provided by a practitioner under Section
10 481.075(e)(1), and all information required to be provided by a
11 dispensing pharmacist under Section 481.075(e)(2).

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

1 date of the emergency oral or telephonically communicated
2 prescription.

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

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

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

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

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

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

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

8 (A) under rule adopted by the board [~~director~~]
9 for this purpose, it is unnecessary for the practitioner or the
10 practitioner's agent to provide the patient identification number;
11 or

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

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

21 (i) Each dispensing pharmacist shall:

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

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

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

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

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

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

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

16 (k) Not later than the 30th day after the date a
17 practitioner's [~~department registration number,~~] Federal Drug
18 Enforcement Administration number[~~7~~] or license to practice has
19 been denied, suspended, canceled, surrendered, or revoked, the
20 practitioner shall return to the board [~~department~~] all official
21 prescription forms in the practitioner's possession that have not
22 been used for prescriptions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (4) a medical examiner conducting an investigation;

12 (5) ~~[(B)]~~ a pharmacist or a pharmacy technician, as
13 defined by Section 551.003, Occupations Code, acting at the
14 direction of a pharmacist or a practitioner who is a physician,
15 dentist, veterinarian, podiatrist, optometrist, or advanced
16 practice nurse or is a physician assistant described by Section
17 481.002(39)(D) or an employee or other agent of a practitioner ~~[a~~
18 ~~nurse licensed under Chapter 301, Occupations Code,]~~ acting at the
19 direction of a practitioner and is inquiring about a recent
20 Schedule II, III, IV, or V prescription history of a particular
21 patient of the practitioner, provided that the person accessing the
22 information is authorized to do so under the Health Insurance
23 Portability and Accountability Act of 1996 (Pub. L. No. 104-191)
24 and rules adopted under that Act; ~~[or]~~

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

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

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

9 (a-2) A person authorized to receive information under
10 Subsection (a)(5) [~~(a)(3)(B)~~] may include that information in any
11 form in the medical or pharmacy record of the patient who is the
12 subject of the information. Any information included in a
13 patient's medical or pharmacy record under this subsection is
14 subject to any applicable state or federal confidentiality or
15 privacy laws.

16 (a-3) The board shall ensure that the department has
17 unrestricted access at all times to information submitted to the
18 board under Sections 481.074(q) and 481.075. The department's
19 access to the information shall be provided through a secure
20 electronic portal under the exclusive control of the department.
21 The department shall pay all expenses associated with the
22 electronic portal.

23 (a-4) A law enforcement or prosecutorial official described
24 by Subsection (a)(3) may obtain information submitted to the board
25 under Section 481.074(q) or 481.075 only if the official submits a
26 request to the department. If the department finds that the
27 official has shown proper need for the information, the department

1 shall provide access to the relevant information.

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

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

13 (c) The board [~~director~~] by rule shall design and implement
14 a system for submission of information to the board [~~director~~] by
15 electronic or other means and for retrieval of information
16 submitted to the board [~~director~~] under this section and Sections
17 481.074 and 481.075. The board [~~director~~] shall use automated
18 information security techniques and devices to preclude improper
19 access to the information. The board [~~director~~] shall submit the
20 system design to the director [~~Texas State Board of Pharmacy~~] and
21 the Texas Medical Board for review and [~~approval or~~] comment a
22 reasonable time before implementation of the system and shall
23 comply with the comments of those agencies unless it is
24 unreasonable to do so.

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

27 (1) the administration, investigation, or enforcement

1 of this chapter or another law governing illicit drugs in this state
2 or another state;

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

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

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

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

26 (i) Information submitted to the board [~~director~~] under
27 Section [481.074\(q\)](#) or [481.075](#) is confidential and remains

1 confidential regardless of whether the board [~~director~~] permits
2 access to the information under this section.

3 (j) The board may enter into an interoperability agreement
4 with one or more states or an association of states authorizing the
5 board to access prescription monitoring information maintained or
6 collected by the other state or states or the association,
7 including information maintained on a central database such as the
8 National Association of Boards of Pharmacy Prescription Monitoring
9 Program InterConnect. Pursuant to an interoperability agreement,
10 the board may authorize the prescription monitoring program of one
11 or more states or an association of states to access information
12 submitted to the board under Sections 481.074(q) and 481.075,
13 including by submitting or sharing information through a central
14 database such as the National Association of Boards of Pharmacy
15 Prescription Monitoring Program InterConnect.

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

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

24 (a) The board [~~director~~] shall [~~consult with the Texas State~~
25 ~~Board of Pharmacy and~~] by rule establish and revise as necessary a
26 standardized database format that may be used by a pharmacy to
27 transmit the information required by Sections 481.074(q) and

1 481.075(i) to the board [~~director~~] electronically or to deliver the
2 information on storage media, including disks, tapes, and
3 cassettes.

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

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

8 (1-a) establish a procedure for the issuance of
9 multiple prescriptions of a Schedule II controlled substance under
10 Section 481.074(d-1);

11 (2) remove from or return to the official prescription
12 program any aspect of a practitioner's or pharmacist's hospital
13 practice, including administering or dispensing;

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

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

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

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

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

1 record.

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

11 (f) The board [~~director~~] may authorize a contract between
12 the board [~~department~~] and another agency of this state or a private
13 vendor as necessary to ensure the effective operation of the
14 official prescription program.

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

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

23 (c) This section and Section 481.078 do not apply to a
24 person to whom a registration has been issued by the Federal Drug
25 Enforcement Agency or who is exempt from such registration [~~under~~
26 ~~Section 481.063~~].

27 SECTION 15. Section 481.080(d), Health and Safety Code, is

1 amended to read as follows:

2 (d) This section and Section 481.081 do not apply to a
3 person to whom a registration has been issued by the Federal Drug
4 Enforcement Agency or who is exempt from such registration [~~under~~
5 ~~Section 481.063~~].

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

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

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

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

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

21 (A) anhydrous ammonia;

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

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

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

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

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

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

6 (C) at least three of the following items:

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

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

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

16 (a) A person commits an offense if the person knowingly
17 gives, permits, or obtains unauthorized access to information
18 submitted to the board [~~director~~] under Section 481.074(q) or
19 481.075.

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

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

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

26 (2) manufactures a controlled substance not
27 authorized by the person's Federal Drug Enforcement Administration

1 registration or distributes or dispenses a controlled substance not
2 authorized by the person's registration to another registrant or
3 other person;

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

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

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

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

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

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

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

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

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

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

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

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

13 (3) issues a prescription bearing a forged or
14 fictitious signature;

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

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

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

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

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

26 (6) furnishes false or fraudulent material
27 information in or omits material information from an application,

1 report, record, or other document required to be kept or filed under
2 this chapter.

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

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

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

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

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

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

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

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

23 Sec. 481.301. IMPOSITION OF PENALTY. The department may
24 impose an administrative penalty on a person who violates Section
25 [~~481.061, 481.066,~~] 481.067, [~~481.069, 481.074, 481.075,~~] 481.077,
26 481.0771, 481.078, 481.080, or 481.081 or a rule or order adopted
27 under any of those sections.

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

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

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

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

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

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

13 (4) [(5)] the executive director of the Texas Board of
14 Nursing or the executive director's designee; [~~and~~]

15 (5) [(6)] the executive director of the Texas
16 Physician Assistant Board or the executive director's designee;

17 (6) the executive director of the State Board of
18 Dental Examiners or the executive director's designee;

19 (7) the executive director of the Texas Optometry
20 Board or the executive director's designee;

21 (8) the executive director of the Texas State Board of
22 Podiatric Medical Examiners or the executive director's designee;

23 (9) the executive director of the State Board of
24 Veterinary Medical Examiners or the executive director's designee;

25 and

26 (10) a medical examiner appointed by the board.

27 SECTION 23. Section 554.006, Occupations Code, is amended

1 to read as follows:

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

6 (b) The board by rule shall establish reasonable and
7 necessary fees so that the fees, in the aggregate, produce
8 sufficient revenue to cover the cost of establishing and
9 maintaining the program described by Sections 481.075, 481.076, and
10 481.0761, Health and Safety Code.

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

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

24 (e) A fee collected by an agency under Subsection (d) shall
25 be transferred to the board for the purpose of establishing and
26 maintaining the program described by Sections 481.075, 481.076, and
27 481.0761, Health and Safety Code.

1 (f) Grants received by the board to implement or operate the
2 program described by Sections 481.075, 481.076, and 481.0761,
3 Health and Safety Code, may be used by the board to offset or reduce
4 the amount of fees paid by each agency that licenses individuals or
5 entities who are or may be authorized to prescribe or dispense
6 controlled substances under Chapter 481, Health and Safety Code.

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

9 (a-1) The board may adopt rules to administer Sections
10 481.073, 481.074, 481.075, 481.076, and 481.0761, Health and Safety
11 Code.

12 SECTION 25. The following provisions are repealed:

13 (1) Sections 481.061(c) and (d), 481.062(b), 481.063,
14 481.064, 481.0645, 481.066, and 481.069, Health and Safety Code;
15 and

16 (2) Section 156.0035, Occupations Code.

17 SECTION 26. (a) The changes in law made by this Act to
18 Section 481.076, Health and Safety Code, other than the changes
19 made to Subsection (c) of that section, apply only to information
20 submitted or accessed on or after September 1, 2016.

21 (b) The Texas State Board of Pharmacy may enter into an
22 interoperability agreement described by Section 481.076(j), Health
23 and Safety Code, as added by this Act, before September 1, 2016, but
24 the agreement may not go into effect until on or after September 1,
25 2016.

26 SECTION 27. (a) Not later than September 1, 2016, the
27 Department of Public Safety shall transfer all appropriate records

1 received by the department under Sections 481.074(q) and 481.075,
2 Health and Safety Code, regardless of whether the records were
3 received before, on, or after the effective date of this Act, to the
4 Texas State Board of Pharmacy.

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

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

15 SECTION 28. The Department of Public Safety is responsible
16 for the expenses of the initial implementation and ongoing
17 operation of the secure electronic portal described by Section
18 481.076(a-3), Health and Safety Code, as added by this Act.

19 SECTION 29. (a) Except as otherwise provided by this
20 section, this Act takes effect September 1, 2016.

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

24 (c) Sections 481.003(a), 481.076(c), 481.0761(a), (e), and
25 (f), and 481.352, Health and Safety Code, as amended by this Act,
26 and Section 481.0761(g), Health and Safety Code, as added by this
27 Act, take effect immediately if this Act receives a vote of

1 two-thirds of all the members elected to each house, as provided by
2 Section 39, Article III, Texas Constitution. If this Act does not
3 receive the vote necessary for immediate effect, these provisions
4 take effect September 1, 2015.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 195 passed the Senate on April 9, 2015, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 28, 2015, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 195 passed the House, with amendments, on May 23, 2015, by the following vote: Yeas 122, Nays 18, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor