

By: Schwertner
(Crownover)

S.B. No. 195

Substitute the following for S.B. No. 195:

By: Crownover

C.S.S.B. No. 195

A BILL TO BE ENTITLED

1 AN ACT
2 relating to prescriptions for certain controlled substances,
3 access to information about those prescriptions, and the duties of
4 prescribers and other entities registered with the Federal Drug
5 Enforcement Administration; authorizing fees.

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

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

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

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

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

18 SECTION 2. Section 481.002, Health and Safety Code, is
19 amended by amending Subdivisions (4) and (45) and adding
20 Subdivision (55) to read as follows:

21 (4) "Controlled premises" means:

22 (A) a place where original or other records or
23 documents required under this chapter are kept or are required to be
24 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:

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

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

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

25 (4) an officer or employee of this state, another
26 state, a political subdivision of this state or another state, or
27 the United States who is lawfully engaged in the enforcement of a

1 law relating to a controlled substance or drug or to a customs law
2 and authorized to possess the controlled substance in the discharge
3 of the person's official duties; or

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

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

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

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

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

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

25 (a) Only a practitioner defined by Section 481.002(39)(A)
26 and an agent designated in writing by the practitioner in
27 accordance with rules adopted by the board [~~department~~] may

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

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

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

27 (1) if the person is a prescribing practitioner or a

1 pharmacist, promptly comply with Subsection (c); or

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

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

1 prescription.

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

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

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

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

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

27 (g) Except for an oral prescription prescribed under

1 Section 481.074(b), the prescribing practitioner shall:

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

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

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

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

20 (i) Each dispensing pharmacist shall:

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

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

27 (B) for an electronic prescription,

1 appropriately record the identity of the dispensing pharmacist in
2 the electronic prescription record;

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

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

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

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

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

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

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

27 (2) the prescription is issued by a prescribing

1 practitioner in the other state in the ordinary course of practice;
2 and

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

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

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

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

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

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

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

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

27 (2) an authorized officer or member of the department

1 or authorized employee of the board engaged in the administration,
2 investigation, or enforcement of this chapter or another law
3 governing illicit drugs in this state or another state; ~~[or]~~

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

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

10 (4) a medical examiner conducting an investigation;

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

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

27 (7) one or more states or an association of states with

1 which the board has an interoperability agreement, as provided by
2 Subsection (j).

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

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

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

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

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

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

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

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

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

1 or another state;

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

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

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

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

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

1 access to the information under this section.

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

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

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

23 (a) The board [~~director~~] shall [~~consult with the Texas State~~
24 ~~Board of Pharmacy and~~] by rule establish and revise as necessary a
25 standardized database format that may be used by a pharmacy to
26 transmit the information required by Sections 481.074(q) and
27 481.075(i) to the board [~~director~~] electronically or to deliver the

1 information on storage media, including disks, tapes, and
2 cassettes.

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

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

7 (1-a) establish a procedure for the issuance of
8 multiple prescriptions of a Schedule II controlled substance under
9 Section 481.074(d-1);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (A) anhydrous ammonia;

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

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

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

27 (iii) an organic solvent, including ethyl

1 ether, alcohol, or acetone;

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

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

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

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

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

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

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

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

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

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

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

1 authorized by the person's registration to another registrant or
2 other person;

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

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

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

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

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

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

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

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

27 SECTION 19. Section 481.129(a), Health and Safety Code, is

1 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

1 this chapter.

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

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

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

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

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

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

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

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

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

27 SECTION 22. Section 481.352, Health and Safety Code, is

1 amended to read as follows:

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

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

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

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

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

12 (4) [~~(5)~~] the executive director of the Texas Board of
13 Nursing or the executive director's designee; [~~and~~]

14 (5) [~~(6)~~] the executive director of the Texas
15 Physician Assistant Board or the executive director's designee;

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

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

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

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

24 and

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

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

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

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

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

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

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

27 (f) Grants received by the board to implement or operate the

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

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

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

11 SECTION 25. The following provisions are repealed:

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

15 (2) Section 156.0035, Occupations Code.

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

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

25 SECTION 27. (a) Not later than September 1, 2016, the
26 Department of Public Safety shall transfer all appropriate records
27 received by the department under Sections 481.074(q) and 481.075,

1 Health and Safety Code, regardless of whether the records were
2 received before, on, or after the effective date of this Act, to the
3 Texas State Board of Pharmacy.

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

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

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

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

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

23 (c) Sections [481.003\(a\)](#), [481.076\(c\)](#), [481.0761\(a\)](#), (e), and
24 (f), and [481.352](#), Health and Safety Code, as amended by this Act,
25 and Section [481.0761\(g\)](#), Health and Safety Code, as added by this
26 Act, take effect immediately if this Act receives a vote of
27 two-thirds of all the members elected to each house, as provided by

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1 Section 39, Article III, Texas Constitution. If this Act does not
2 receive the vote necessary for immediate effect, these provisions
3 take effect September 1, 2015.