BILL ANALYSIS

Senate Research Center

S.B. 1412
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The country is facing a prescription drug abuse epidemic that claims tens of thousands of lives each year. This is a constant backdrop to the Texas Sunset Advisory Commission's (Sunset's) reviews of the agencies responsible for licensing health practitioners who prescribe and dispense controlled substances. Texas' Prescription Monitoring Program (PMP) is a database collecting statewide information on controlled substances dispensed in Texas. In 2015, the legislature transferred operation of the database to the Texas State Board of Pharmacy (TSBP), and TSBP began operating the PMP on September 1, 2016. The PMP allows prescribers, pharmacists, and related regulatory agencies to check for information on a patient's controlled substance prescription history to inform responsible prescribing and dispensing practices. Regulatory agencies also rely on the database to investigate potentially improper prescribing and dispensing patterns.

Texas' PMP lags behind national best practices, lacking basic tools needed to maximize its effectiveness. Sunset reviewed TSBP and regulatory agencies responsible for licensing prescribers and made several recommendations to improve the effectiveness of the PMP. This bill includes pieces of those recommendations, as discussed below.

Key Provisions

- Requires practitioners to search the PMP before prescribing or dispensing opioids, benzodiazepines, barbiturates, or carisoprodol.

- Authorizes regulatory boards to take disciplinary action for practitioners who fail to search the PMP before prescribing or dispensing these four classes of drugs.

- Authorizes regulatory boards to access PMP information to monitor practitioners prescribing or dispensing behavior, but does not require the boards to monitor practitioners using the PMP.

As proposed, S.B. 1412 amends current law relating to the powers and duties of certain prescribers and dispensers of controlled substances and to the regulatory agencies that issue a license, certification, or registration to the prescribers or dispensers.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 481.076(a), Health and Safety Code, as follows:

> (a) Prohibits the Texas State Board of Pharmacy (TSBP) from permitting any person to have access to information submitted to TSBP under Section 481.074(q) (relating to requiring each dispensing pharmacist to send certain required information to TSBP by certain means by a certain time) or 481.075 (Official Prescription Program) except:

(1) to (5) Makes no changes to these subdivisions;

(5-a) a practitioner inquiring about a recent Schedule II, III, IV, or V prescription history of a particular patient of the practitioner, provided that the practitioner 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;

(6) and (7) Makes no changes to these subdivisions.

SECTION 2. Amends Subchapter C, Chapter 481, Health and Safety Code, by adding Section 481.0762, as follows:

Sec. 481.0762. DUTIES OF PHARMACISTS AND PRACTITIONERS. (a) Requires a person authorized to access information under Section 481.076(a)(5) (relating to allowing a pharmacist or pharmacy technician acting at the direction of certain professionals to access certain information submitted to TSBP) or (5-a) to access that information to review a patient's recent prescription history regarding opioids, benzodiazepines, barbiturates, and carisoprodol before prescribing or dispensing any of those drugs to the patient.

(b) Authorizes each regulatory agency with jurisdiction over a person authorized to access information under Section 481.076(a)(5) or (5-a) to monitor the prescribing or dispensing actions of the person.

(c) Provides that a violation of Subsection (a) is grounds for disciplinary action by the regulatory agency that issued a license, certification, or registration to the person who committed the violation.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2017.