By: Taylor of Collin S.B. No. 1284

A BILL TO BE ENTITLED

AN ACT

relating to prescriber and dispenser reporting and access to patient prescription information under the Texas Controlled Substances Act.

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

SECTION 1. Sections 481.074(c) and (q), Health and Safety Code, are amended to read as follows:

(c) Not later than the next business [~~seventh~~] day after the date a prescribing practitioner authorizes an emergency oral or telephonically communicated prescription, the prescribing practitioner shall send the information to the board as required by Section 481.075 and cause a written or electronic prescription, completed in the manner required by that section [~~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 next business [~~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 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.

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

SECTION 2. Sections 481.075(g) and (i), Health and Safety Code, are amended to read as follows:

(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 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; and

(3) send all required information, including any information required to complete an official prescription form or electronic prescription record, to the board by electronic transfer or another form approved by the board not later than the next business day after the date the prescription is issued.

(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, including any information required to complete an official prescription form or electronic prescription record, to the board by electronic transfer

or another form approved by the board not later than the next business [~~seventh~~] day after the date the prescription is completely filled.

SECTION 3. Section 481.076, Health and Safety Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) To avoid duplicate entries, the system described by Subsection (c) must be capable of associating a report by a practitioner issuing a prescription with a report by a pharmacist subsequently dispensing the substance under that same prescription.

SECTION 4. Section 481.0761, Health and Safety Code, is amended by adding Subsections (h) and (i) to read as follows:

(h) The board, in consultation with the department and the regulatory agencies listed in Section 481.076(a)(1) shall identify potentially harmful prescribing or dispensing patterns or practices that may suggest drug diversion or drug abuse. The board shall develop indicators for levels of prescriber or patient activity that suggest that a potentially harmful prescribing or dispensing pattern or practice may be occurring or that drug diversion or drug abuse may be occurring.

(i) The board may, based on the indicators developed under Subsection (h), send a prescriber or dispenser an electronic notification if the information submitted under Sections 481.074(q) and 481.075 indicates that a potentially harmful prescribing or dispensing pattern or practice may be occurring or that drug diversion or drug abuse may be occurring.

SECTION 5. Subchapter C, Chapter 481, Health and Safety

Code, is amended by adding Sections 481.0762 and 481.0763 to read as follows:

Sec. 481.0762. DUTIES OF PRESCRIBERS, PHARMACISTS, AND RELATED HEALTH CARE PRACTITIONERS. (a) A person authorized to receive information under Section 481.076(a)(5) shall access that information with respect to the patient before prescribing or dispensing opioids, benzodiazepines, barbiturates, or carisoprodol.

(b) A person authorized to receive information under Section 481.076(a)(5) may access that information with respect to the patient before prescribing or dispensing any controlled substance.

(c) 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.

Sec. 481.0763. EXCEPTIONS. (a) A prescriber is not subject to the requirements of Section 481.0762(a) if:

(1) the patient has been diagnosed with cancer or the patient is receiving hospice care; and

(2) the prescriber clearly notes in the prescription record that the patient was diagnosed with cancer or is receiving hospice care, as applicable.

(b) A dispenser is not subject to the requirements of Section 481.0762(a) if it is clearly noted in the prescription record that the patient has been diagnosed with cancer or is receiving hospice care.

SECTION 6. Section 481.0762, Health and Safety Code, as added by this Act, applies only to:

(1) a prescriber who issues a prescription on or after September 1, 2018; or

(2) a person authorized by law to dispense a controlled substance who dispenses the substance on or after September 1, 2018.

SECTION 7. This Act takes effect September 1, 2017.