

SENATE AMENDMENTS

2nd Printing

By: Thompson of Harris

H.B. No. 2561

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas State Board of Pharmacy; authorizing a reduction in fees.

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

SECTION 1. Section 481.074(q), Health and Safety Code, is amended to read as follows:

(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. Section 481.075(i), Health and Safety Code, is amended to read as follows:

(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;

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

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

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

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

13 SECTION 3. Section 481.0761, Health and Safety Code, is
14 amended by adding Subsections (h), (i), and (j) to read as follows:

15 (h) The board, in consultation with the department and the
16 regulatory agencies listed in Section 481.076(a)(1), shall
17 identify prescribing practices that may be potentially harmful and
18 patient prescription patterns that may suggest drug diversion or
19 drug abuse. The board shall determine the conduct that constitutes
20 a potentially harmful prescribing pattern or practice and develop
21 indicators for levels of prescriber or patient activity that
22 suggest a potentially harmful prescribing pattern or practice may
23 be occurring or drug diversion or drug abuse may be occurring.

24 (i) The board, based on the indicators developed under
25 Subsection (h), may send an electronic notification to a dispenser
26 or prescriber if the information submitted under Section 481.074(q)
27 or 481.075 indicates a potentially harmful prescribing pattern or

1 practice may be occurring or drug diversion or drug abuse may be
2 occurring.

3 (j) The board by rule may develop guidelines identifying
4 behavior suggesting a patient is obtaining controlled substances
5 that indicate drug diversion or drug abuse is occurring. A
6 pharmacist who observes behavior described by this subsection by a
7 person who is to receive a controlled substance shall access the
8 information under Section 481.076(a)(5) regarding the patient for
9 whom the substance is to be dispensed.

10 SECTION 4. Subchapter C, Chapter 481, Health and Safety
11 Code, is amended by adding Sections 481.0763 and 481.0764 to read as
12 follows:

13 Sec. 481.0763. DUTY OF PHARMACISTS. A pharmacist must
14 access information under Section 481.076(a)(5) with respect to a
15 patient before dispensing opioids, benzodiazepines, barbiturates,
16 or carisoprodol for the patient.

17 Sec. 481.0764. REPORTS OF WHOLESALE DISTRIBUTORS. (a) A
18 wholesale distributor shall report to the board the information
19 that the distributor is required to report to the Automation of
20 Reports and Consolidated Orders System (ARCOS) of the Federal Drug
21 Enforcement Administration for the distribution of a controlled
22 substance by the distributor to a person in this state. The
23 distributor shall report the information to the board in the same
24 format and with the same frequency as the information is reported to
25 ARCOS.

26 (b) Information reported to the board under Subsection (a)
27 is confidential and not subject to disclosure under Chapter 552,

1 Government Code.

2 SECTION 5. Section 551.005, Occupations Code, is amended to
3 read as follows:

4 Sec. 551.005. APPLICATION OF SUNSET ACT. The Texas State
5 Board of Pharmacy is subject to Chapter 325, Government Code (Texas
6 Sunset Act). Unless continued in existence as provided by that
7 chapter, the board is abolished and this subtitle expires September
8 1, 2029 [~~2017~~].

9 SECTION 6. Chapter 551, Occupations Code, is amended by
10 adding Section 551.008 to read as follows:

11 Sec. 551.008. CLAIM OR DEFENSE FOR PROHIBITED RULE OR
12 POLICY. (a) A person may assert as an affirmative defense in an
13 administrative hearing or as a claim or defense in a judicial
14 proceeding under Chapter 37, Civil Practice and Remedies Code, that
15 a board rule, regulation, or policy, or a penalty imposed by the
16 board:

17 (1) limits the ability of an applicant for a license or
18 for registration under this subtitle to be licensed or registered
19 based on a sincerely held religious belief of the applicant; or

20 (2) burdens a license holder's or registrant's:

21 (A) free exercise of religion, regardless of
22 whether the burden is the result of a rule generally applicable to
23 all license holders or registrants, as applicable;

24 (B) freedom of speech regarding a sincerely held
25 religious belief; or

26 (C) membership in any religious organization.

27 (b) Subsection (a) does not apply to a rule, regulation, or

1 policy adopted or a penalty imposed by the board that results in a
2 limitation or burden described by Subsection (a) if the rule,
3 regulation, policy, or penalty is:

4 (1) essential to enforcing a compelling governmental
5 purpose; and

6 (2) narrowly tailored to accomplish that purpose.

7 (c) A person may bring an action for injunctive relief
8 against a violation of this section.

9 SECTION 7. Section 552.006, Occupations Code, is amended by
10 amending Subsection (b) and adding Subsection (d) to read as
11 follows:

12 (b) The training program must provide the person with
13 information regarding:

14 (1) the law governing the board's operations;

15 (2) [~~this subtitle and~~] the programs, functions,
16 rules, and budget of the board;

17 (3) the scope of and limitations on the rulemaking
18 authority of the board;

19 (4) [~~(2)~~] the results of the most recent formal audit
20 of the board;

21 (5) [~~(3)~~] the requirements of:

22 (A) laws relating to open meetings, public
23 information, administrative procedure, and disclosing conflicts of
24 interest; and

25 (B) other laws applicable to members of the board
26 in performing their duties; and

27 (6) [~~(4)~~] any applicable ethics policies adopted by

1 the board or the Texas Ethics Commission.

2 (d) The executive director shall create a training manual
3 that includes the information required by Subsection (b). The
4 executive director shall distribute a copy of the training manual
5 annually to each board member. On receipt of the training manual,
6 each board member shall sign and submit to the executive director a
7 statement acknowledging receipt of the training manual. The board
8 shall publish a copy of each signed statement on the board's
9 Internet website.

10 SECTION 8. Section 553.003(b), Occupations Code, is amended
11 to read as follows:

12 (b) The executive director is a full-time employee of the
13 board and shall:

- 14 (1) serve as secretary to the board; ~~and~~
15 (2) perform the regular administrative functions of
16 the board and any other duty as the board directs; and
17 (3) under the direction of the board, perform the
18 duties required by this subtitle or designated by the board.

19 SECTION 9. Subchapter A, Chapter 554, Occupations Code, is
20 amended by adding Section 554.0011 to read as follows:

21 Sec. 554.0011. USE OF ALTERNATIVE RULEMAKING AND DISPUTE
22 RESOLUTION. (a) The board shall develop a policy to encourage the
23 use of:

24 (1) negotiated rulemaking procedures under Chapter
25 2008, Government Code, for the adoption of board rules; and

26 (2) appropriate alternative dispute resolution
27 procedures under Chapter 2009, Government Code, to assist in the

1 resolution of internal and external disputes under the board's
2 jurisdiction.

3 (b) The board's procedures relating to alternative dispute
4 resolution must conform, to the extent possible, to any model
5 guidelines issued by the State Office of Administrative Hearings
6 for the use of alternative dispute resolution by state agencies.

7 (c) The board shall:

8 (1) coordinate the implementation of the policy
9 adopted under Subsection (a);

10 (2) provide training as needed to implement the
11 procedures for negotiated rulemaking or alternative dispute
12 resolution; and

13 (3) collect data concerning the effectiveness of those
14 procedures.

15 SECTION 10. Section 558.051(a), Occupations Code, is
16 amended to read as follows:

17 (a) To qualify for a license to practice pharmacy, an
18 applicant for licensing by examination must submit to the board:

19 (1) a license fee set by the board; and

20 (2) a completed application on a form prescribed by
21 the board with satisfactory sworn evidence that the applicant:

22 (A) is at least 18 years of age;

23 (B) ~~[is of good moral character;~~

24 ~~[(C)]~~ has completed a minimum of a 1,000-hour
25 internship or other program that has been approved by the board or
26 has demonstrated, to the board's satisfaction, experience in the
27 practice of pharmacy that meets or exceeds the board's minimum

1 internship requirements;

2 (C) [~~(D)~~] has graduated and received a
3 professional practice degree, as defined by board rule, from an
4 accredited pharmacy degree program approved by the board;

5 (D) [~~(E)~~] has passed the examination required by
6 the board; and

7 (E) [~~(F)~~] has not had a pharmacist license
8 granted by another state restricted, suspended, revoked, or
9 surrendered, for any reason.

10 SECTION 11. Section 558.101(a), Occupations Code, is
11 amended to read as follows:

12 (a) To qualify for a license to practice pharmacy, an
13 applicant for licensing by reciprocity must:

14 (1) submit to the board:

15 (A) a reciprocity fee set by the board; and

16 (B) a completed application in the form
17 prescribed by the board, given under oath;

18 (2) [~~be of good moral character,~~

19 ~~(3)~~ have graduated and received a professional
20 practice degree, as defined by board rule, from an accredited
21 pharmacy degree program approved by the board;

22 (3) [~~(4)~~] have presented to the board:

23 (A) proof of current or initial licensing by
24 examination; and

25 (B) proof that the current license and any other
26 license granted to the applicant by another state has not been
27 restricted, suspended, revoked, or surrendered for any reason; and

1 (4) [~~(5)~~] pass the Texas Pharmacy Jurisprudence
2 examination.

3 SECTION 12. Section 559.003, Occupations Code, is amended
4 by adding Subsection (f) to read as follows:

5 (f) The board may refuse to renew a license to practice
6 pharmacy for a license holder who is in violation of a board order.

7 SECTION 13. Section 568.002(c), Occupations Code, is
8 amended to read as follows:

9 (c) An applicant for registration as a pharmacy technician
10 or a pharmacy technician trainee must[+]

11 ~~[(1) be of good moral character; and~~

12 ~~[(2)]~~ submit an application on a form prescribed by
13 the board.

14 SECTION 14. Section 568.004, Occupations Code, is amended
15 to read as follows:

16 Sec. 568.004. RENEWAL OF REGISTRATION. (a) The board may
17 adopt a system in which the registrations of pharmacy technicians
18 and pharmacy technician trainees expire on various dates during the
19 year.

20 (b) To renew a pharmacy technician registration, the
21 registrant must, before the expiration date of the registration:

22 (1) pay a renewal fee as determined by the board under
23 Section 568.005; and

24 (2) comply with the continuing education requirements
25 prescribed by the board in accordance with Section 568.0045.

26 (c) A person whose pharmacy technician registration has
27 been expired for 90 days or less may renew the expired registration

1 by paying to the board a renewal fee that is equal to one and
2 one-half times the normally required renewal fee for the
3 registration.

4 (d) A person whose pharmacy technician registration has
5 been expired for more than 90 days but less than one year may renew
6 the expired registration by paying to the board a renewal fee that
7 is equal to two times the normally required renewal fee for the
8 registration.

9 (e) A person whose pharmacy technician registration has
10 been expired for one year or more may not renew the
11 registration. The person may register by complying with the
12 requirements and procedures for initially registering, including
13 the examination requirement.

14 (f) The board may refuse to renew a pharmacy technician
15 registration for a registrant who is in violation of a board order.

16 SECTION 15. Chapter 568, Occupations Code, is amended by
17 adding Section 568.0045 to read as follows:

18 Sec. 568.0045. RULES RELATING TO CONTINUING EDUCATION. The
19 board shall adopt rules relating to the continuing education
20 required for pharmacy technicians. The rules must include
21 requirements for:

- 22 (1) the number of hours of continuing education;
23 (2) the methods for meeting the continuing education
24 requirements;
25 (3) the approval of continuing education programs;
26 (4) reporting completion of continuing education;
27 (5) records of completion of continuing education; and

1 (6) board audits to ensure compliance with the
2 continuing education requirements.

3 SECTION 16. A pharmacist is not required to comply with a
4 rule adopted under Section 481.0761(j), Health and Safety Code, as
5 added by this Act, before January 1, 2018.

6 SECTION 17. Section 481.0763, Health and Safety Code, as
7 added by this Act, applies only to a pharmacist who dispenses a
8 controlled substance on or after January 1, 2018.

9 SECTION 18. (a) Except as provided by Subsection (b) of
10 this section, Section 552.006, Occupations Code, as amended by this
11 Act, applies to a member of the Texas State Board of Pharmacy
12 appointed before, on, or after the effective date of this Act.

13 (b) A member of the Texas State Board of Pharmacy who,
14 before the effective date of this Act, completed the training
15 program required by Section 552.006, Occupations Code, as that law
16 existed before the effective date of this Act, is required to
17 complete additional training only on subjects added by this Act to
18 the training program as required by Section 552.006, Occupations
19 Code, as amended by this Act. A board member described by this
20 subsection may not vote, deliberate, or be counted as a member in
21 attendance at a meeting of the board held on or after December 1,
22 2017, until the member completes the additional training.

23 SECTION 19. Sections 558.051, 558.101, and 568.002,
24 Occupations Code, as amended by this Act, apply only to an
25 application for a license to practice pharmacy or for registration
26 as a pharmacy technician or pharmacy technician trainee filed on or
27 after the effective date of this Act. An application for a license

1 or registration filed before the effective date of this Act is
2 governed by the law in effect on the date the application was filed,
3 and the former law is continued in effect for that purpose.

4 SECTION 20. Section 559.003, Occupations Code, as amended
5 by this Act, and Sections 568.004(b), (e), and (f), Occupations
6 Code, as added by this Act, apply only to the renewal of a license to
7 practice pharmacy or of a pharmacy technician registration on or
8 after the effective date of this Act. The renewal of a license or
9 registration before that date is governed by the law in effect
10 immediately before the effective date of this Act, and the former
11 law is continued in effect for that purpose.

12 SECTION 21. As soon as practicable after the effective date
13 of this Act, the Texas State Board of Pharmacy shall adopt rules to
14 reduce the amount of the fees imposed by the board for the renewal
15 of an expired pharmacy technician registration to reflect the
16 amounts provided for by Sections 568.004(c) and (d), Occupations
17 Code, as added by this Act. A pharmacy technician who renews an
18 expired registration certificate on or after the effective date of
19 this Act shall pay the amount provided for by Section 568.004(c) or
20 (d), Occupations Code, as added by this Act, instead of the amount
21 provided for under board rules adopted before that date.

22 SECTION 22. This Act takes effect September 1, 2017.

ADMITTED

By: Van Taylor

MA. Aditya H.

B. No. 25621

Substitute the following for ____ .B. No. ____

By: Van Taylor

C.S. H. B. No. 2561

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas State Board of Pharmacy; authorizing a reduction in fees.

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

SECTION 1. Section 481.074(q), Health and Safety Code, is amended to read as follows:

(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. Section 481.075(i), Health and Safety Code, is amended to read as follows:

(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;

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

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

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

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

13 SECTION 3. Section 481.0761, Health and Safety Code, is
14 amended by adding Subsections (h), (i), and (j) to read as
15 follows:

16 (h) The board, in consultation with the department and the
17 regulatory agencies listed in Section 481.076(a)(1), shall
18 identify prescribing practices that may be potentially harmful
19 and patient prescription patterns that may suggest drug
20 diversion or drug abuse. The board shall determine the conduct
21 that constitutes a potentially harmful prescribing pattern or
22 practice and develop indicators for levels of prescriber or
23 patient activity that suggest a potentially harmful prescribing
24 pattern or practice may be occurring or drug diversion or drug
25 abuse may be occurring.

26 (i) The board, based on the indicators developed under
27 Subsection (h), may send an electronic notification to a

1 dispenser or prescriber if the information submitted under
2 Section 481.074(q) or 481.075 indicates a potentially harmful
3 prescribing pattern or practice may be occurring or drug
4 diversion or drug abuse may be occurring.

5 (j) The board by rule may develop guidelines identifying
6 behavior suggesting a patient is obtaining controlled substances
7 that indicate drug diversion or drug abuse is occurring. A
8 pharmacist who observes behavior described by this subsection by
9 a person who is to receive a controlled substance shall access
10 the information under Section 481.076(a)(5) regarding the
11 patient for whom the substance is to be dispensed.

12 SECTION 4. Subchapter C, Chapter 481, Health and Safety
13 Code, is amended by adding Sections 481.0763 and 481.0764 to
14 read as follows:

15 Sec. 481.0763. DUTY OF PHARMACISTS. A pharmacist must
16 access information under Section 481.076(a)(5) with respect to a
17 patient before dispensing opioids, benzodiazepines,
18 barbiturates, or carisoprodol for the patient.

19 Sec. 481.0764. REPORTS OF WHOLESALE DISTRIBUTORS. (a) A
20 wholesale distributor shall report to the board the information
21 that the distributor is required to report to the Automation of
22 Reports and Consolidated Orders System (ARCOS) of the Federal
23 Drug Enforcement Administration for the distribution of a
24 controlled substance by the distributor to a person in this
25 state. The distributor shall report the information to the
26 board in the same format and with the same frequency as the
27 information is reported to ARCOS.

1 (b) Information reported to the board under Subsection (a)
2 is confidential and not subject to disclosure under Chapter 552,
3 Government Code.

4 SECTION 5. Section 551.005, Occupations Code, is amended
5 to read as follows:

6 Sec. 551.005. APPLICATION OF SUNSET ACT. The Texas State
7 Board of Pharmacy is subject to Chapter 325, Government Code
8 (Texas Sunset Act). Unless continued in existence as provided by
9 that chapter, the board is abolished and this subtitle expires
10 September 1, 2029 [~~2017~~].

11 SECTION 6. Chapter 551, Occupations Code, is amended by
12 adding Section 551.008 to read as follows:

13 Sec. 551.008. CLAIM OR DEFENSE FOR PROHIBITED RULE OR
14 POLICY. (a) A person may assert as an affirmative defense in
15 an administrative hearing or as a claim or defense in a judicial
16 proceeding under Chapter 37, Civil Practice and Remedies Code,
17 that a board rule, regulation, or policy, or a penalty imposed
18 by the board:

19 (1) limits the ability of an applicant for a license
20 or for registration under this subtitle to be licensed or
21 registered based on a sincerely held religious belief of the
22 applicant; or

23 (2) burdens a license holder's or registrant's:

24 (A) free exercise of religion, regardless of
25 whether the burden is the result of a rule generally applicable
26 to all license holders or registrants, as applicable;

27 (B) freedom of speech regarding a sincerely held

1 religious belief; or

2 (C) membership in any religious organization.

3 (b) Subsection (a) does not apply to a rule, regulation,
4 or policy adopted or a penalty imposed by the board that results
5 in a limitation or burden described by Subsection (a) if the
6 rule, regulation, policy, or penalty is:

7 (1) essential to enforcing a compelling governmental
8 purpose; and

9 (2) narrowly tailored to accomplish that purpose.

10 (c) Subsection (a) does not apply to any action imposed by
11 the board to enforce a minimum standard applicable to the
12 licensing, practice, or professional conduct of a license holder
13 or registrant, as required by a statute or rule of the board.

14 (d) A person may bring an action for injunctive relief
15 against a violation of this section.

16 SECTION 7. Section 552.006, Occupations Code, is amended
17 by amending Subsection (b) and adding Subsection (d) to read as
18 follows:

19 (b) The training program must provide the person with
20 information regarding:

21 (1) the law governing the board's operations;

22 (2) [this subtitle and] the programs, functions,
23 rules, and budget of the board;

24 (3) the scope of and limitations on the rulemaking
25 authority of the board;

26 (4) [+2+] the results of the most recent formal audit
27 of the board;

1 (5) [~~3~~] the requirements of:

2 (A) laws relating to open meetings, public
3 information, administrative procedure, and disclosing conflicts
4 of interest; and

5 (B) other laws applicable to members of the
6 board in performing their duties; and

7 (6) [~~4~~] any applicable ethics policies adopted by
8 the board or the Texas Ethics Commission.

9 (d) The executive director shall create a training manual
10 that includes the information required by Subsection (b). The
11 executive director shall distribute a copy of the training
12 manual annually to each board member. On receipt of the
13 training manual, each board member shall sign and submit to the
14 executive director a statement acknowledging receipt of the
15 training manual. The board shall publish a copy of each signed
16 statement on the board's Internet website.

17 SECTION 8. Section 553.003(b), Occupations Code, is
18 amended to read as follows:

19 (b) The executive director is a full-time employee of the
20 board and shall:

21 (1) serve as secretary to the board; [~~and~~]

22 (2) perform the regular administrative functions of
23 the board and any other duty as the board directs; and

24 (3) under the direction of the board, perform the
25 duties required by this subtitle or designated by the board.

26 SECTION 9. Subchapter A, Chapter 554, Occupations Code, is
27 amended by adding Section 554.0011 to read as follows:

1 Sec. 554.0011. USE OF ALTERNATIVE RULEMAKING AND DISPUTE
2 RESOLUTION. (a) The board shall develop a policy to encourage
3 the use of:

4 (1) negotiated rulemaking procedures under Chapter
5 2008, Government Code, for the adoption of board rules; and

6 (2) appropriate alternative dispute resolution
7 procedures under Chapter 2009, Government Code, to assist in the
8 resolution of internal and external disputes under the board's
9 jurisdiction.

10 (b) The board's procedures relating to alternative dispute
11 resolution must conform, to the extent possible, to any model
12 guidelines issued by the State Office of Administrative Hearings
13 for the use of alternative dispute resolution by state agencies.

14 (c) The board shall:

15 (1) coordinate the implementation of the policy
16 adopted under Subsection (a);

17 (2) provide training as needed to implement the
18 procedures for negotiated rulemaking or alternative dispute
19 resolution; and

20 (3) collect data concerning the effectiveness of
21 those procedures.

22 SECTION 10. Section 558.051(a), Occupations Code, is
23 amended to read as follows:

24 (a) To qualify for a license to practice pharmacy, an
25 applicant for licensing by examination must submit to the board:

26 (1) a license fee set by the board; and

27 (2) a completed application on a form prescribed by

1 the board with satisfactory sworn evidence that the applicant:

2 (A) is at least 18 years of age;

3 (B) ~~[is of good moral character;~~

4 ~~[(C)]~~ has completed a minimum of a 1,000-hour
5 internship or other program that has been approved by the board
6 or has demonstrated, to the board's satisfaction, experience in
7 the practice of pharmacy that meets or exceeds the board's
8 minimum internship requirements;

9 (C) ~~[(D)]~~ has graduated and received a
10 professional practice degree, as defined by board rule, from an
11 accredited pharmacy degree program approved by the board;

12 (D) ~~[(E)]~~ has passed the examination required by
13 the board; and

14 (E) ~~[(F)]~~ has not had a pharmacist license
15 granted by another state restricted, suspended, revoked, or
16 surrendered, for any reason.

17 SECTION 11. Section 558.101(a), Occupations Code, is
18 amended to read as follows:

19 (a) To qualify for a license to practice pharmacy, an
20 applicant for licensing by reciprocity must:

21 (1) submit to the board:

22 (A) a reciprocity fee set by the board; and

23 (B) a completed application in the form
24 prescribed by the board, given under oath;

25 (2) ~~[be of good moral character;~~

26 ~~[(3)]~~ have graduated and received a professional
27 practice degree, as defined by board rule, from an accredited

1 pharmacy degree program approved by the board;

2 (3) [~~4~~] have presented to the board:

3 (A) proof of current or initial licensing by
4 examination; and

5 (B) proof that the current license and any other
6 license granted to the applicant by another state has not been
7 restricted, suspended, revoked, or surrendered for any reason;
8 and

9 (4) [~~5~~] pass the Texas Pharmacy Jurisprudence
10 examination.

11 SECTION 12. Section 559.003, Occupations Code, is amended
12 by adding Subsection (f) to read as follows:

13 (f) The board may refuse to renew a license to practice
14 pharmacy for a license holder who is in violation of a board
15 order.

16 SECTION 13. Section 568.002(c), Occupations Code, is
17 amended to read as follows:

18 (c) An applicant for registration as a pharmacy technician
19 or a pharmacy technician trainee must[~~+~~

20 [~~1~~] ~~be of good moral character; and~~

21 [~~2~~] submit an application on a form prescribed by
22 the board.

23 SECTION 14. Section 568.004, Occupations Code, is amended
24 to read as follows:

25 Sec. 568.004. RENEWAL OF REGISTRATION. (a) The board may
26 adopt a system in which the registrations of pharmacy
27 technicians and pharmacy technician trainees expire on various

1 dates during the year.

2 (b) To renew a pharmacy technician registration, the
3 registrant must, before the expiration date of the registration:

4 (1) pay a renewal fee as determined by the board
5 under Section 568.005; and

6 (2) comply with the continuing education requirements
7 prescribed by the board in accordance with Section 568.0045.

8 (c) A person whose pharmacy technician registration has
9 been expired for 90 days or less may renew the expired
10 registration by paying to the board a renewal fee that is equal
11 to one and one-half times the normally required renewal fee for
12 the registration.

13 (d) A person whose pharmacy technician registration has
14 been expired for more than 90 days but less than one year may
15 renew the expired registration by paying to the board a renewal
16 fee that is equal to two times the normally required renewal fee
17 for the registration.

18 (e) A person whose pharmacy technician registration has
19 been expired for one year or more may not renew the
20 registration. The person may register by complying with the
21 requirements and procedures for initially registering, including
22 the examination requirement.

23 (f) The board may refuse to renew a pharmacy technician
24 registration for a registrant who is in violation of a board
25 order.

26 SECTION 15. Chapter 568, Occupations Code, is amended by
27 adding Section 568.0045 to read as follows:

1 Sec. 568.0045. RULES RELATING TO CONTINUING EDUCATION.

2 The board shall adopt rules relating to the continuing education
3 required for pharmacy technicians. The rules must include
4 requirements for:

5 (1) the number of hours of continuing education;

6 (2) the methods for meeting the continuing education
7 requirements;

8 (3) the approval of continuing education programs;

9 (4) reporting completion of continuing education;

10 (5) records of completion of continuing education;

11 and

12 (6) board audits to ensure compliance with the
13 continuing education requirements.

14 SECTION 16. A pharmacist is not required to comply with a
15 rule adopted under Section 481.0761(j), Health and Safety Code,
16 as added by this Act, before January 1, 2018.

17 SECTION 17. Section 481.0763, Health and Safety Code, as
18 added by this Act, applies only to a pharmacist who dispenses a
19 controlled substance on or after January 1, 2018.

20 SECTION 18. (a) Except as provided by Subsection (b) of
21 this section, Section 552.006, Occupations Code, as amended by
22 this Act, applies to a member of the Texas State Board of
23 Pharmacy appointed before, on, or after the effective date of
24 this Act.

25 (b) A member of the Texas State Board of Pharmacy who,
26 before the effective date of this Act, completed the training
27 program required by Section 552.006, Occupations Code, as that

1 law existed before the effective date of this Act, is required
2 to complete additional training only on subjects added by this
3 Act to the training program as required by Section 552.006,
4 Occupations Code, as amended by this Act. A board member
5 described by this subsection may not vote, deliberate, or be
6 counted as a member in attendance at a meeting of the board held
7 on or after December 1, 2017, until the member completes the
8 additional training.

9 SECTION 19. Sections 558.051, 558.101, and 568.002,
10 Occupations Code, as amended by this Act, apply only to an
11 application for a license to practice pharmacy or for
12 registration as a pharmacy technician or pharmacy technician
13 trainee filed on or after the effective date of this Act. An
14 application for a license or registration filed before the
15 effective date of this Act is governed by the law in effect on
16 the date the application was filed, and the former law is
17 continued in effect for that purpose.

18 SECTION 20. Section 559.003, Occupations Code, as amended
19 by this Act, and Sections 568.004(b), (e), and (f), Occupations
20 Code, as added by this Act, apply only to the renewal of a
21 license to practice pharmacy or of a pharmacy technician
22 registration on or after the effective date of this Act. The
23 renewal of a license or registration before that date is
24 governed by the law in effect immediately before the effective
25 date of this Act, and the former law is continued in effect for
26 that purpose.

27 SECTION 21. As soon as practicable after the effective

1 date of this Act, the Texas State Board of Pharmacy shall adopt
2 rules to reduce the amount of the fees imposed by the board for
3 the renewal of an expired pharmacy technician registration to
4 reflect the amounts provided for by Sections 568.004(c) and (d),
5 Occupations Code, as added by this Act. A pharmacy technician
6 who renews an expired registration certificate on or after the
7 effective date of this Act shall pay the amount provided for by
8 Section 568.004(c) or (d), Occupations Code, as added by this
9 Act, instead of the amount provided for under board rules
10 adopted before that date.

11 SECTION 22. This Act takes effect September 1, 2017.

ADOPTED

MAY 24 2017

Leta Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: Van Taylor

1 Amend C.S.H.B. No. 2561 (senate committee report) as
2 follows:

3 (1) In SECTION 7 of the bill, in amended Section 552.006(b),
4 Occupations Code (page 3, between lines 18 and 19), insert the
5 following appropriately numbered subdivision:

6 () the types of board rules, interpretations, and
7 enforcement actions that may implicate federal antitrust law by
8 limiting competition or impacting prices charged by persons engaged
9 in a profession or business the board regulates, including rules,
10 interpretations, and enforcement actions that:

11 (A) regulate the scope of practice of persons in
12 a profession or business the board regulates;

13 (B) restrict advertising by persons in a
14 profession or business the board regulates;

15 (C) affect the price of goods or services
16 provided by persons in a profession or business the board
17 regulates; and

18 (D) restrict participation in a profession or
19 business the board regulates;

20 (2) Renumber subsequent subdivisions of amended Section
21 552.006(b), Occupations Code, appropriately.

ADOPTED

MAY 24 2017

VV
Arlene Spaw
Secretary of the Senate

Van Taylor

FLOOR AMENDMENT NO. 2

BY:

Walter
Byron Hughes

Amend H.B. No. 2561 (senate committee report) by striking added Section 551.008, Occupations Code (page 2, line 49 through page 3 line 8), and replacing it with the following:

Sec. 551.008. PROHIBITION ON RULE VIOLATING SINCERELY HELD RELIGIOUS BELIEF. (a) All rules, regulations, or policies adopted by the board may not violate Chapter 110, Civil Practice and Remedies Code.

(b) A person may assert a violation of Subsection (a) as an affirmative defense in an administrative hearing or as a claim or defense in a judicial proceeding under Chapter 37, Civil Practice and Remedies Code.

ADOPTED

MAY 24 2017

Lotay Spaul
Secretary of the Senate

FLOOR AMENDMENT NO. 3

BY: *J. J. King*

1 Amend C.S.H.B. No. 2561 (senate committee report) as
2 follows:

3 (1) In the recital to SECTION 3 of the bill (page 1, line
4 58), strike "(i), and (j)" and substitute "(i), (j), and (k)".

5 (2) In SECTION 3 of the bill, following added Subsection
6 481.0761(j), Health and Safety Code (page 2, between lines 20 and
7 21), insert the following:

8 (k) The board by rule may develop guidelines identifying
9 patterns that may indicate that a particular patient to whom a
10 controlled substance is prescribed or dispensed is engaging in drug
11 abuse or drug diversion. These guidelines may be based on the
12 frequency of prescriptions issued to and filled by the patient, the
13 types of controlled substances prescribed, and the number of
14 prescribers who prescribe controlled substances to the patient.
15 The board may, based on the guidelines developed under this
16 subsection, send a prescriber or dispenser an electronic
17 notification if there is reason to believe that a particular
18 patient is engaging in drug abuse or drug diversion.

19 (3) In the recital to SECTION 4 of the bill (page 2, line
20 22), strike "481.0763 and 481.0764" and substitute "481.0762,
21 481.0763, 481.0764, 481.0765, and 481.0766".

22 (4) In SECTION 4 of the bill, strike added Section 481.0763,
23 Health and Safety Code (page 2, lines 24 through 27), and substitute
24 the following:

25 Sec. 481.0762. MONITORING BY REGULATORY AGENCY. (a) Each
26 regulatory agency that issues a license, certification, or
27 registration to a prescriber shall promulgate specific guidelines
28 for prescribers regulated by that agency for the responsible
29 prescribing of opioids, benzodiazepines, barbiturates, or

1 carisoprodol.

2 (b) A regulatory agency that issues a license,
3 certification, or registration to a prescriber shall periodically
4 access the information submitted to the board under Sections
5 481.074(q) and 481.075 to determine whether a prescriber is
6 engaging in potentially harmful prescribing patterns or practices.

7 (c) If the board sends a prescriber an electronic
8 notification authorized under Section 481.0761(i), the board shall
9 immediately send an electronic notification to the appropriate
10 regulatory agency.

11 (d) In determining whether a potentially harmful
12 prescribing pattern or practice is occurring, the appropriate
13 regulatory agency, at a minimum, shall consider:

14 (1) the number of times a prescriber prescribes
15 opioids, benzodiazepines, barbiturates, or carisoprodol; and

16 (2) for prescriptions described by Subdivision (1),
17 patterns of prescribing combinations of those drugs and other
18 dangerous combinations of drugs identified by the board.

19 (e) If, during a periodic check under this section, the
20 regulatory agency finds evidence that a prescriber may be engaging
21 in potentially harmful prescribing patterns or practices, the
22 regulatory agency may notify that prescriber.

23 (f) A regulatory agency may open a complaint against a
24 prescriber if the agency finds evidence during a periodic check
25 under this section that the prescriber is engaging in conduct that
26 violates this subchapter or any other statute or rule.

27 Sec. 481.0763. REGISTRATION BY REGULATORY AGENCY. A
28 regulatory agency that issues a license, certification, or
29 registration to a prescriber or dispenser shall provide the board
30 with any necessary information for each prescriber or dispenser,
31 including contact information for the notifications described by

1 Sections 481.0761(i) and (k), to register the prescriber or
2 dispenser with the system by which the prescriber or dispenser
3 receives information as authorized under Section 481.076(a)(5).

4 Sec. 481.0764. DUTIES OF PRESCRIBERS, PHARMACISTS, AND
5 RELATED HEALTH CARE PRACTITIONERS. (a) A person authorized to
6 receive information under Section 481.076(a)(5), other than a
7 veterinarian, shall access that information with respect to the
8 patient before prescribing or dispensing opioids, benzodiazepines,
9 barbiturates, or carisoprodol.

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

14 (c) A veterinarian authorized to access information under
15 Subsection (b) regarding a controlled substance may access the
16 information for prescriptions dispensed only for the animals of an
17 owner and may not consider the personal prescription history of the
18 owner.

19 (d) A violation of Subsection (a) is grounds for
20 disciplinary action by the regulatory agency that issued a license,
21 certification, or registration to the person who committed the
22 violation.

23 (e) This section does not grant a person the authority to
24 issue prescriptions for or dispense controlled substances.

25 Sec. 481.0765. EXCEPTIONS. (a) A prescriber is not subject
26 to the requirements of Section 481.0764(a) if:

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

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

1 (b) A dispenser is not subject to the requirements of
2 Section 481.0764(a) if it is clearly noted in the prescription
3 record that the patient has been diagnosed with cancer or is
4 receiving hospice care.

5 (c) A prescriber or dispenser is not subject to the
6 requirements of Section 481.0764(a) and a dispenser is not subject
7 to a rule adopted under Section 481.0761(j) if the prescriber or
8 dispenser makes a good faith attempt to comply but is unable to
9 access the information under Section 481.076(a)(5) because of
10 circumstances outside the control of the prescriber or dispenser.

11 (5) In SECTION 4 of the bill, in the heading to added Section
12 481.0764, Health and Safety Code (page 2, line 28), strike
13 "481.0764" and substitute "481.0766".

14 (6) Strike SECTION 17 of the bill (page 5, lines 30 through
15 32) and substitute the following appropriately numbered SECTION:

16 SECTION _____. Section 481.0764(a), Health and Safety Code,
17 as added by this Act, applies only to:

18 (1) a prescriber other than a veterinarian who issues
19 a prescription for a controlled substance on or after September 1,
20 2019; or

21 (2) a person authorized by law to dispense a
22 controlled substance other than a veterinarian who dispenses a
23 controlled substance on or after September 1, 2019.

24 (7) Add the following appropriately numbered SECTIONS to
25 the bill and renumber subsequent sections of the bill accordingly:

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

28 (a) The director may adopt rules to administer and enforce
29 this chapter, other than Sections 481.073, 481.074, 481.075,
30 481.076, [~~and~~] 481.0761, 481.0762, 481.0763, 481.0764, 481.0765,
31 and 481.0766. The board may adopt rules to administer Sections

1 481.073, 481.074, 481.075, 481.076, [~~and~~] 481.0761, 481.0762,
2 481.0763, 481.0764, 481.0765, and 481.0766.

3 SECTION _____. Sections 481.076(a) and (d), Health and
4 Safety Code, are amended to read as follows:

5 (a) The board may not permit any person to have access to
6 information submitted to the board under Section 481.074(q) or
7 481.075 except:

8 (1) [~~an investigator for~~] the board, the Texas Medical
9 Board, the Texas State Board of Podiatric Medical Examiners, the
10 State Board of Dental Examiners, the State Board of Veterinary
11 Medical Examiners, the Texas Board of Nursing, or the Texas
12 Optometry Board for the purpose of:

13 (A) investigating a specific license holder; or
14 (B) monitoring for potentially harmful
15 prescribing or dispensing patterns or practices under Section
16 481.0762;

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

21 (3) the department on behalf of a law enforcement or
22 prosecutorial official engaged in the administration,
23 investigation, or enforcement of this chapter or another law
24 governing illicit drugs in this state or another state;

25 (4) a medical examiner conducting an investigation;

26 (5) provided that accessing the information is
27 authorized under the Health Insurance Portability and
28 Accountability Act of 1996 (Pub. L. No. 104-191) and regulations
29 adopted under that Act:

30 (A) a pharmacist or a pharmacy technician, as
31 defined by Section 551.003, Occupations Code, acting at the

1 direction of a pharmacist; or

2 (B) a practitioner who:

3 (i) is a physician, dentist, veterinarian,
4 podiatrist, optometrist, or advanced practice nurse or is a
5 physician assistant described by Section 481.002(39)(D) or an
6 employee or other agent of a practitioner acting at the direction of
7 a practitioner; and

8 (ii) is inquiring about a recent Schedule
9 II, III, IV, or V prescription history of a particular patient of
10 the practitioner[, ~~provided that the person accessing the~~
11 ~~information is authorized to do so under the Health Insurance~~
12 ~~Portability and Accountability Act of 1996 (Pub. L. No. 104-191)~~
13 ~~and rules adopted under that Act];~~

14 (6) a pharmacist or practitioner who is inquiring
15 about the person's own dispensing or prescribing activity; or

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

19 (d) Information submitted to the board under this section
20 may be used only for:

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

24 (2) investigatory, ~~[or]~~ evidentiary, or monitoring
25 purposes in connection with the functions of an agency listed in
26 Subsection (a)(1);

27 (3) the prescribing and dispensing of controlled
28 substances by a person listed in Subsection (a)(5); or

29 (4) ~~[(3)]~~ dissemination by the board to the public in
30 the form of a statistical tabulation or report if all information
31 reasonably likely to reveal the identity of each patient,

1 practitioner, or other person who is a subject of the information
2 has been removed.

3 SECTION _____. Section 554.051(a-1), Occupations Code, is
4 amended to read as follows:

5 (a-1) The board may adopt rules to administer Sections
6 481.073, 481.074, 481.075, 481.076, [~~and~~] 481.0761, 481.0762,
7 481.0763, 481.0764, 481.0765, and 481.0766, Health and Safety Code.

8 SECTION _____. (a) A joint interim committee is created to
9 conduct an interim study on the monitoring of the prescribing and
10 dispensing of controlled substances in this state.

11 (b) The joint interim committee shall be composed of three
12 senators appointed by the lieutenant governor and three members of
13 the house of representatives appointed by the speaker of the house
14 of representatives.

15 (c) The lieutenant governor and speaker of the house of
16 representatives shall each designate a co-chair from among the
17 joint interim committee members.

18 (d) The joint interim committee shall convene at the joint
19 call of the co-chairs.

20 (e) The joint interim committee has all other powers and
21 duties provided to a special or select committee by the rules of the
22 senate and house of representatives, by Subchapter B, Chapter 301,
23 Government Code, and by policies of the senate and house committees
24 on administration.

25 (f) The interim study conducted by the joint interim
26 committee must:

27 (1) include the number of prescribers and dispensers
28 registered to receive information electronically under Section
29 481.076, Health and Safety Code, as amended by this Act;

30 (2) evaluate the accessing of information under
31 Section 481.076, Health and Safety Code, as amended by this Act, by

1 regulatory agencies to monitor persons issued a license,
2 certification, or registration by those agencies;

3 (3) address any complaints, technical difficulties,
4 or other issues with electronically accessing and receiving
5 information under Section 481.076, Health and Safety Code, as
6 amended by this Act;

7 (4) examine controlled substance prescribing and
8 dispensing trends that may be affected by the passage and
9 implementation of this Act;

10 (5) evaluate the use and effectiveness of electronic
11 notifications sent to prescribers and dispensers under Sections
12 481.0761(i) and (k), Health and Safety Code, as added by this Act;

13 (6) evaluate the use and effectiveness of identifying
14 geographic anomalies in comparing delivery and dispensing data;

15 (7) evaluate the integration of any new data elements
16 required to be reported under this Act;

17 (8) evaluate the existence and scope of diversion of
18 controlled substances by animal owners to whom the substances are
19 dispensed by veterinarians;

20 (9) explore the best methods for preventing the
21 diversion of controlled substances by animal owners; and

22 (10) determine how any future reporting by dispensing
23 veterinarians might best be tailored to fit the practice of
24 veterinary medicine.

25 (g) The committee shall solicit feedback from regulatory
26 agencies, prescribers, dispensers, and patients affected by the
27 passage of this Act.

28 (h) The committee shall submit a report to the legislature
29 on the results of the interim study, including any legislative
30 recommendations for improvements to information access and
31 controlled substance prescription monitoring, not later than

1 January 1, 2019.

2 (i) Subject to available resources, the Texas Legislative
3 Council shall provide legal and policy research, drafts of proposed
4 legislation, and statistical analysis services to the joint interim
5 committee for the purpose of the study required under this section.

6 (j) Notwithstanding Section 481.076, Health and Safety
7 Code, as amended by this Act, or any other law relating to access to
8 or disclosure of prescription drug information maintained by the
9 Texas State Board of Pharmacy, the Texas State Board of Pharmacy
10 shall disclose any information maintained by the board under
11 Section 481.076, Health and Safety Code, to the Texas Legislative
12 Council on request of the council for the purpose of assisting with
13 the study required under this section.

14 (k) Not later than November 1, 2017, the lieutenant governor
15 and speaker of the house of representatives shall appoint the
16 members of the joint interim committee in accordance with this
17 section.

18 (l) The joint interim committee created under this section
19 is abolished and this section expires January 2, 2019.

ADOPTED

MAY 24 2017

FLOOR AMENDMENT NO. 4

BY:

Van Taylor

Haley Spaw
Secretary of the Senate

1 Amend Amendment No. 3 by Hinojosa to C.S.H.B. No.
2 2561 (85R32206) by adding the following appropriately numbered
3 items to the amendment and renumbering subsequent items of the
4 amendment accordingly:

5 () In the recital to SECTION 6 of the bill, adding
6 Section 551.008, Occupations Code (page 2, line 48), strike
7 "Section" and substitute "Sections 551.006 and".

8 () In SECTION 6 of the bill, immediately before added
9 Section 551.008, Occupations Code (page 2, between lines 48 and
10 49), insert the following:

11 Sec. 551.006. EXCLUSIVE AUTHORITY. Notwithstanding any
12 other law, a pharmacist has the exclusive authority to determine
13 whether or not to dispense a drug.

ADOPTED

VV
MAY 24 2017

Hatay Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 5

BY: *Charles Perry*

1 Amend C.S.H.B. No. 2561 (senate committee report) by adding
2 the following appropriately numbered SECTIONS to the bill and
3 renumbering the SECTIONS of the bill accordingly:

4 SECTION _____. Section 562.110, Occupations Code, is amended
5 by amending Subsections (a), (b), (d), (e), and (f) and adding
6 Subsections (g), (h), and (i) to read as follows:

7 (a) In this section:

8 (1) "Provider pharmacy" means a Class A pharmacy that
9 provides pharmacy services through a telepharmacy system at a
10 remote dispensing site.

11 (2) "Remote dispensing site" means a location licensed
12 as a telepharmacy that is authorized by a provider pharmacy through
13 a telepharmacy system to store and dispense prescription drugs and
14 devices, including dangerous drugs and controlled substances.

15 (3) "Telepharmacy[,"telepharmacy] system" means a
16 system that monitors the dispensing of prescription drugs and
17 provides for related drug use review and patient counseling
18 services by an electronic method, including the use of the
19 following types of technology:

20 (A) [+1] audio and video;

21 (B) [+2] still image capture; and

22 (C) [+3] store and forward.

23 (b) A Class A or Class C pharmacy located in this state may
24 provide pharmacy services, including the dispensing of drugs,
25 through a telepharmacy system at locations separate from [~~in a~~
26 ~~facility that is not at the same location as~~] the Class A or Class C
27 pharmacy.

28 (d) A telepharmacy system may be located only at:

29 (1) a health care facility in this state that is

1 regulated by this state or the United States; or

2 (2) a remote dispensing site.

3 (e) The board shall adopt rules regarding the use of a
4 telepharmacy system under this section, including:

5 (1) the types of health care facilities at which a
6 telepharmacy system may be located under Subsection (d)(1), which
7 must include the following facilities:

8 (A) a clinic designated as a rural health clinic
9 regulated under 42 U.S.C. Section 1395x(aa) [~~as amended~~]; and

10 (B) a health center as defined by 42 U.S.C.
11 Section 254b [~~as amended~~];

12 (2) the locations eligible to be licensed as remote
13 dispensing sites, which must include locations in medically
14 underserved areas, areas with a medically underserved population,
15 and health professional shortage areas determined by the United
16 States Department of Health and Human Services;

17 (3) licensing and operating requirements for remote
18 dispensing sites, including:

19 (A) a requirement that a remote dispensing site
20 license identify the provider pharmacy that will provide pharmacy
21 services at the remote dispensing site;

22 (B) a requirement that a provider pharmacy be
23 allowed to provide pharmacy services at not more than two remote
24 dispensing sites;

25 (C) a requirement that a pharmacist employed by a
26 provider pharmacy make at least monthly on-site visits to a remote
27 dispensing site or more frequent visits if specified by board rule;

28 (D) a requirement that each month the perpetual
29 inventory of controlled substances at the remote dispensing site be
30 reconciled to the on-hand count of those controlled substances at
31 the site by a pharmacist employed by the provider pharmacy;

1 (E) a requirement that a pharmacist employed by a
2 provider pharmacy be physically present at a remote dispensing site
3 when the pharmacist is providing services requiring the physical
4 presence of the pharmacist, including immunizations;

5 (F) a requirement that a remote dispensing site
6 be staffed by an on-site pharmacy technician who is under the
7 continuous supervision of a pharmacist employed by the provider
8 pharmacy;

9 (G) a requirement that all pharmacy technicians
10 at a remote dispensing site be counted for the purpose of
11 establishing the pharmacist-pharmacy technician ratio of the
12 provider pharmacy, which, notwithstanding Section 568.006, may not
13 exceed three pharmacy technicians for each pharmacist providing
14 supervision;

15 (H) a requirement that, before working at a
16 remote dispensing site, a pharmacy technician must:

17 (i) have worked at least one year at a
18 retail pharmacy during the three years preceding the date the
19 pharmacy technician begins working at the remote dispensing site;
20 and

21 (ii) have completed a board-approved
22 training program on the proper use of a telepharmacy system;

23 (I) a requirement that pharmacy technicians at a
24 remote dispensing site may not perform extemporaneous sterile or
25 nonsterile compounding but may prepare commercially available
26 medications for dispensing, including the reconstitution of orally
27 administered powder antibiotics; and

28 (J) any additional training or practice
29 experience requirements for pharmacy technicians at a remote
30 dispensing site;

31 (4) the areas that qualify under Subsection (f);

1 (5) [~~3~~] recordkeeping requirements; and
2 (6) [~~4~~] security requirements.

3 (f) A telepharmacy system located at a health care facility
4 under Subsection (d)(1) may not be located in a community in which a
5 Class A or Class C pharmacy is located as determined by board rule.
6 If a Class A or Class C pharmacy is established in a community in
7 which a telepharmacy system has been located under this section,
8 the telepharmacy system may continue to operate in that community.

9 (g) A telepharmacy system located at a remote dispensing
10 site under Subsection (d)(2) may not dispense a controlled
11 substance listed in Schedule II as established by the commissioner
12 of state health services under Chapter 481, Health and Safety Code,
13 and may not be located within 22 miles by road of a Class A pharmacy.

14 (h) If a Class A pharmacy is established within 22 miles by
15 road of a remote dispensing site that is currently operating, the
16 remote dispensing site may continue to operate at that location.

17 (i) The board by rule shall require and develop a process
18 for a remote dispensing site to apply for classification as a Class
19 A pharmacy if the average number of prescriptions dispensed each
20 day the remote dispensing site is open for business is more than
21 125, as calculated each calendar year.

22 SECTION _____. The Texas State Board of Pharmacy shall adopt
23 rules under Section 562.110, Occupations Code, as amended by this
24 Act, not later than January 1, 2018.

ADOPTED

MAY 24 2017

Leta Spaul
Secretary of the Senate

Van Taylor
Korri Burton

FLOOR AMENDMENT NO. 6

BY:

1 Amend C.S.H.B. No. 2561 (senate committee report) by adding
2 the following appropriately numbered SECTIONS to the bill and
3 renumbering the SECTIONS of the bill accordingly:

4 SECTION _____. (a) Subtitle A, Title 6, Health and Safety
5 Code, is amended by adding Chapter 442 to read as follows:

6 CHAPTER 442. DONATION OF PRESCRIPTION DRUGS

7 SUBCHAPTER A. GENERAL PROVISIONS

8 Sec. 442.001. DEFINITIONS. In this chapter:

9 (1) "Donor" means an individual who donates unused
10 prescription drugs under this chapter to a participating provider.

11 (2) "Health care facility" means a facility that
12 provides health care services to patients and maintains a pharmacy
13 in the facility. The term includes the following facilities if a
14 pharmacy is maintained in the facility:

15 (A) a general or special hospital as defined by
16 Chapter 241;

17 (B) an ambulatory surgical center licensed under
18 Chapter 243; and

19 (C) an institution licensed under Chapter 242.

20 (3) "Health care professional" means an individual
21 licensed, certified, or otherwise authorized to administer health
22 care and prescribe prescription drugs, for profit or otherwise, in
23 the ordinary course of business or professional practice. The term
24 does not include a health care facility.

25 (4) "Participating provider" means a health care
26 facility or pharmacy, or a pharmacist who is an employee of the
27 facility or pharmacy, that elects to participate in the collection
28 and redistribution of donated prescription drugs under this
29 chapter.

1 determine whether the drugs are adulterated and whether the drugs
2 are safe and suitable for redistribution.

3 (b) In adopting standards and procedures under this
4 section, the executive commissioner shall ensure that the donation
5 and redistribution process is consistent with public health and
6 safety standards.

7 Sec. 442.053. REQUIREMENTS FOR DONATED PRESCRIPTION DRUGS.

8 (a) A donated prescription drug may be accepted or dispensed under
9 this chapter only if the drug is in its original, unopened, sealed,
10 and tamper-evident unit-dose packaging. A drug packaged in single
11 unit doses may be accepted and dispensed if the outside packaging is
12 opened but the single unit-dose packaging is unopened.

13 (b) A donated prescription drug may not be accepted or
14 dispensed under this chapter if:

15 (1) the drug is a controlled substance;

16 (2) the drug is adulterated or misbranded;

17 (3) the drug is not stored in compliance with the
18 drug's product label; or

19 (4) the United States Food and Drug Administration
20 requires the drug to have a risk evaluation or mitigation strategy.

21 (c) A participating provider shall comply with all
22 applicable provisions of state and federal law relating to the
23 inspection, storage, labeling, and dispensing of prescription
24 drugs.

25 Sec. 442.054. DONATION PROCESS. (a) Before being
26 dispensed to a recipient, a prescription drug donated under this
27 chapter must be inspected by the participating provider in
28 accordance with federal law, laws of this state, and department
29 rule to determine whether the drug is adulterated or misbranded and
30 whether the drug has been stored in compliance with the
31 requirements of the product label.

1 (b) A donated prescription drug dispensed to a recipient
2 under this chapter must be prescribed by a health care professional
3 for use by the recipient.

4 (c) A participating provider may charge a handling fee not
5 to exceed \$20 to a recipient to cover the costs of inspecting,
6 storing, labeling, and dispensing the donated prescription drug. A
7 participating provider may not resell a prescription drug donated
8 under this chapter. A donor may not sell a prescription drug to a
9 participating provider.

10 (d) A participating provider may not submit a claim or
11 otherwise seek reimbursement from any public or private third-party
12 payor for donated prescription drugs dispensed to a recipient under
13 this chapter. A public or private third-party payor is not required
14 to provide reimbursement for donated drugs dispensed to a recipient
15 under this chapter.

16 Sec. 442.055. DONOR FORM. Before donating a prescription
17 drug under this chapter, a donor shall sign a form prescribed by the
18 department stating that:

19 (1) the donor is the owner of the donated prescription
20 drug;

21 (2) the donated prescription drug has been properly
22 stored and the container has not been opened or tampered with;

23 (3) the donated prescription drug has not been
24 adulterated or misbranded; and

25 (4) the donor is voluntarily donating the prescription
26 drug.

27 Sec. 442.056. RECIPIENT FORM. Before accepting a donated
28 prescription drug under this chapter, a recipient shall sign a form
29 prescribed by the department stating that:

30 (1) the recipient acknowledges that the donor is not a
31 pharmacist and the donor took ordinary care of the prescription

1 drug;

2 (2) the recipient acknowledges that the donor is known
3 to the participating provider and that there is no reason to believe
4 that the prescription drug was improperly handled or stored;

5 (3) by accepting the prescription drug, the recipient
6 accepts any risk that an accidental mishandling could create; and

7 (4) the recipient releases the donor, participating
8 provider, and manufacturer of the drug from liability related to
9 the prescription drug.

10 Sec. 442.057. LIMITATION OF LIABILITY. (a) A donor or
11 participating provider who acts in good faith in donating,
12 accepting, storing, labeling, distributing, or dispensing
13 prescription drugs under this chapter:

14 (1) is not criminally liable and is not subject to
15 professional disciplinary action for those activities; and

16 (2) is not civilly liable for damages for bodily
17 injury, death, or property damage that arises from those activities
18 unless the injury, death, or damage arises from the donor or
19 participating provider's recklessness or intentional conduct.

20 (b) A manufacturer of a prescription drug that donates a
21 drug under this chapter is not, in the absence of bad faith,
22 criminally or civilly liable for bodily injury, death, or property
23 damage arising from the donation, acceptance, or dispensing of the
24 drug, including the manufacturer's failure to communicate to a
25 donor or other person:

26 (1) product or consumer information about the donated
27 prescription drug; or

28 (2) the expiration date of the donated prescription
29 drug.

30 Sec. 442.058. DATABASE OF PARTICIPATING PROVIDERS. The
31 department shall establish and maintain an electronic database that

1 lists each participating provider. The department shall post the
2 database on its Internet website.

3 (b) If before implementing any provision of this section a
4 state agency determines that a waiver or authorization from a
5 federal agency is necessary for implementation of that provision,
6 the agency affected by the provision shall request the waiver or
7 authorization and may delay implementing that provision until the
8 waiver or authorization is granted.

9 SECTION _____. Not later than December 1, 2017, the
10 executive commissioner of the Health and Human Services Commission
11 shall adopt the rules necessary for the implementation of Chapter
12 442, Health and Safety Code, as added by this Act.

ADOPTED

MAY 24 2017

Holay Daw
Secretary of the Senate

BY:

Van Taylor

FLOOR AMENDMENT NO. 8

1 Amend H.B. No. 2561 by adding the following appropriately
2 numbered SECTION and renumbering subsequent SECTIONS
3 accordingly:

4 SECTION ____ . Section 89.051(b), Education Code, is
5 amended to read as follows:

6 (b) The college shall be known as The Texas A&M University
7 System Health Science Center Irma Lerma Rangel College of
8 Pharmacy, and the primary building in which the school is
9 operated shall be located in Kleberg County and must include
10 "Irma Rangel" in its official name.

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 25, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2561 by Thompson, Senfronia (Relating to the continuation and functions of the Texas State Board of Pharmacy; authorizing a reduction in fees.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2561, As Passed 2nd House: an impact of \$0 through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2017
2018	(\$307,990)	\$307,990	2.0
2019	(\$241,400)	\$241,400	2.0
2020	(\$241,400)	\$241,400	2.0
2021	(\$241,400)	\$241,400	2.0
2022	(\$241,400)	\$241,400	2.0

Fiscal Analysis

The bill would amend the Health and Safety Code relating to the continuation and functions of the Texas State Board of Pharmacy (TSBP); authorizing a reduction in fees. The bill would continue TSBP for twelve years until September 1, 2029.

The bill would require the TSBP, in consultation with the Optometry Board, Texas Medical Board, Texas State Board of Podiatric Medical Examiners, State Board of Dental Examiners, State Board of Veterinary Medical Examiners, and the Texas Board of Nursing, to determine conduct that constitutes abusive prescribing patterns or practices by applicable licensees. Under the provisions of the bill, TSBP would be permitted to send electronic notification to a dispenser or a prescriber if the information submitted to the Prescription Monitoring Program (PMP) indicates harmful prescribing patterns. The bill would require a wholesale distributor to report the same information that is reported to the Automation of Reports and Consolidated Orders System of the Federal Drug Enforcement Administration to TSBP.

The bill would require TSBP to develop a policy to encourage the use of certain negotiated rulemaking and appropriate alternative dispute resolution procedures. Under the provisions of the bill, TSBP would be required to coordinate the implementation of the policy, provide training for implementation of the policy, and collect data on the effectiveness of the procedures.

The bill would permit an applicant or a licensee to assert as an affirmative defense in an administrative hearing or as a claim of defense in a judicial proceeding that a rule, regulation, policy or a penalty imposed by TSBP limits an applicant's exercise of religion or membership in a religious organization. The bill would provide exemptions to certain rules, regulations, policies, or penalties imposed by TSBP. Under the provisions of the bill, a licensee or applicant could bring an action for injunctive relief against a violation.

The bill would modify the renewal fee of a pharmacy technician based on the amount of time from the expiration of the licensee's former license. The bill would require TSBP to adopt rules relating to the continuing education requirements for pharmacy technicians.

The bill would require regulatory agencies, including the Texas State Board of Dental Examiners, Optometry Board, Board of Veterinary Medical Examiners, Texas Medical Board, Texas Board of Nursing and the Board of Podiatric Medical Examiners to periodically access and monitor the Prescription Monitoring Program for prescribing behavior and dispensing patterns of licensees. The bill would allow a regulatory agency to notify a prescriber of potentially harmful behavior and allow for the opening of a complaint by the agency under certain requirements. The bill would require a regulatory agency to provide contact information for applicable licensees to the TSBP and the TSBP would be required to notify the regulatory agency when TSBP notifies a licensee that a potentially harmful prescribing pattern has been indicated. The bill would permit TSBP to send electronic notifications to prescribers and dispensers meeting harmful patterns. The bill would require certain licensees to access prescription history prior to prescribing or dispensing certain substances. The bill provides exceptions.

The bill would specify that a pharmacist has the exclusive authority to determine whether or not to dispense a drug. The bill would require the Texas State Board of Pharmacy (TSBP) to develop a process for a remote dispensing site to apply for classification as a Class A pharmacy.

The bill would authorize, in certain circumstances, the donation of unused prescription drugs and the dispensing of donated drugs. The bill would require the Department of State Health Services (DSHS) to develop a form for donors and recipients participating in the program and establish and

maintain an electronic database of participating providers. Additionally, the bill would require the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules to implement the program.

The bill would amend the Education Code to require the primary building in which the Texas A&M University System Health Science Center Irma Lerma Rangel College of Pharmacy is operated to be located in Kleberg County.

The bill would take effect on September 1, 2017.

Methodology

The provisions of the bill would result in a cost of \$307,990 in General Revenue in fiscal year 2018 and a cost of \$241,400 in General Revenue in fiscal year 2019 and following fiscal years. This analysis assumes that TSBP would input and track wholesale pharmaceutical distributor reporting in a database.

Based on the analysis of the TBSP, it is assumed the TSBP would require two additional full-time-equivalents (FTEs) to implement provisions of the bill relating to TSBP inputting and tracking wholesale pharmaceutical distributor reporting in a database and monitoring requirements by searching PMP data and providing the information to the other regulatory agencies, including the Texas State Board of Dental Examiners, Optometry Board, Board of Veterinary Medical Examiners, Texas Medical Board, Texas Board of Nursing and the Board of Podiatric Medical Examiners. The additional two FTEs would have an estimated cost to General Revenue of \$149,594 in fiscal year 2018 and \$141,404 each year thereafter. TSBP estimates one-time start up costs of \$8,190 for the additional FTEs and annual costs of \$100,224 in salaries and wages for a Program Specialist III, \$36,701 in employee benefits and other payroll contribution costs, and \$4,480 for other operating expenses.

TSBP also estimates a one-time cost of \$58,400 in General Revenue in fiscal year 2018 for a database to track the additional required information from wholesale pharmaceutical distributors and a PMP upgrade to include contact information for notifications of potentially harmful prescribing or dispensing habits to licensees. In addition to the one-time costs in fiscal year 2018, TSBP estimates an ongoing operating cost of \$99,996 for the database in each fiscal year due to ongoing hosting and data support for the wholesale pharmaceutical distribution information.

This analysis assumes that any increased database cost to the TSBP, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee generated revenue by the agency.

This analysis assumes that any increased Prescription Monitoring Program cost to the TSBP, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee generated revenue by the agency and other regulatory agencies whose licensees are required to access the PMP, including the Board of Veterinary Medical Examiners, Texas State Board of Dental Examiners, Optometry Board, Texas Medical Board, Texas Board of Nursing and the Board of Podiatric Medical Examiners.

The Comptroller of Public Accounts estimates the modification to the renewal fee of a pharmacy technician based on time elapsed since the expiration of the licensee's former license would result in a decrease of approximately \$36,000 in revenue to the General Revenue Fund per fiscal year.

The Department of Public Safety, Department of State Health Services, Health and Human Services Commission, Office of the Attorney General, State Office of Administrative Hearings, Office of Court Administration, Texas A&M University System Administration, Texas State Board of Dental Examiners, Optometry Board, Board of Veterinary Medical Examiners, Texas Medical Board, Texas Board of Nursing, and Texas Board of Podiatric Medical Examiners anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within current resources.

Technology

The costs identified above include estimated one-time information technology costs of \$58,400 in fiscal year 2018 and ongoing costs of \$99,996 for database development to accompany the wholesale distributor reporting requirements and \$2,308 for one-time equipment for the additional FTE at TSBP.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 515 Board of Pharmacy, 302 Office of the Attorney General, 405 Department of Public Safety, 503 Texas Medical Board, 504 Texas State Board of Dental Examiners, 507 Texas Board of Nursing, 512 Board of Podiatric Medical Examiners, 514 Optometry Board, 578 Board of Veterinary Medical Examiners

LBB Staff: UP, EK, KCA, EH, BRI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 16, 2017

TO: Honorable Charles Schwertner, Chair, Senate Committee on Health & Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2561 by Thompson, Senfronia (Relating to the continuation and functions of the Texas State Board of Pharmacy; authorizing a reduction in fees.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2561, Committee Report 2nd House, Substituted: an impact of \$0 through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2017
2018	(\$224,793)	\$224,793	1.0
2019	(\$170,698)	\$170,698	1.0
2020	(\$170,698)	\$170,698	1.0
2021	(\$170,698)	\$170,698	1.0
2022	(\$170,698)	\$170,698	1.0

Fiscal Analysis

The bill would amend the Health and Safety Code relating to the continuation and functions of the Texas State Board of Pharmacy (TSBP); authorizing a reduction in fees. The bill would continue TSBP for twelve years until September 1, 2029.

The bill would require the TSBP, in consultation with the Optometry Board, Texas Medical Board, Texas State Board of Podiatric Medical Examiners, State Board of Dental Examiners, State Board of Veterinary Medical Examiners, and the Texas Board of Nursing, to determine conduct that constitutes abusive prescribing patterns or practices by applicable licensees. Under the provisions of the bill, TSBP would be permitted to send electronic notification to a dispenser or a prescriber if the information submitted to the Prescription Monitoring Program (PMP) indicates harmful prescribing patterns. The bill would require a wholesale distributor to report the same information that is reported to the Automation of Reports and Consolidated Orders System of the Federal Drug Enforcement Administration to TSBP.

The bill would require TSBP to develop a policy to encourage the use of certain negotiated rulemaking and appropriate alternative dispute resolution procedures. Under the provisions of the bill, TSBP would be required to coordinate the implementation of the policy, provide training for implementation of the policy, and collect data on the effectiveness of the procedures.

The bill would permit an applicant or a licensee to assert as an affirmative defense in an administrative hearing or as a claim of defense in a judicial proceeding that a rule, regulation, policy or a penalty imposed by TSBP limits an applicant's exercise of religion or membership in a religious organization. The bill would provide exemptions to certain rules, regulations, policies, or penalties imposed by TSBP. Under the provisions of the bill, a licensee or applicant could bring an action for injunctive relief against a violation.

The bill would modify the renewal fee of a pharmacy technician based on the amount of time from the expiration of the licensee's former license. The bill would require TSBP to adopt rules relating to the continuing education requirements for pharmacy technicians.

The bill would take effect on September 1, 2017.

Methodology

This analysis assumes that TSBP would input and track wholesale pharmaceutical distributor reporting in a database. The provisions of the bill would result in a cost of \$224,793 in General Revenue in fiscal year 2018 and a cost of \$170,698 in General Revenue in fiscal year 2019 and following fiscal years. Based on the analysis of the TSBP, it is assumed the TSBP would require one additional full-time-equivalent (FTE) to implement provisions of the bill relating to reporting requirements of wholesale pharmaceutical distribution information. This would have an estimated cost to General Revenue of \$74,797 in fiscal year 2018 and \$70,702 each year thereafter. TSBP estimates one-time start up costs of \$4,095 for the additional FTE and annual costs of \$50,111 in salaries and wages for a Program Specialist III, \$18,351 in employee benefits and other payroll contribution costs, and \$2,240 for other operating expenses.

TSBP also estimates a one-time cost of \$50,000 in General Revenue in fiscal year 2018 for a database to track the additional required information from wholesale pharmaceutical distributors. In addition to the one-time costs in fiscal year 2018, TSBP estimates an ongoing operating cost of \$99,996 for the database in each fiscal year due to ongoing hosting and data support for the

wholesale pharmaceutical distribution information.

This analysis assumes that any increased cost to the TSBP, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by a corresponding increase in fee generated revenue by the agency.

The Comptroller of Public Accounts estimates the modification to the renewal fee of a pharmacy technician based on time elapsed since the expiration of the licensee's former license would result in a decrease of approximately \$36,000 in revenue to the General Revenue Fund per fiscal year.

The Department of Public Safety, Office of the Attorney General, State Office of Administrative Hearings, Office of Court Administration, Texas State Board of Dental Examiners, Optometry Board, Board of Veterinary Medical Examiners, Texas Medical Board, Texas Board of Nursing, and Texas Board of Podiatric Medical Examiners anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within current resources.

Technology

The costs identified above include estimated one-time information technology costs of \$50,000 in fiscal year 2018 and ongoing costs of \$99,996 for database development to accompany the wholesale distributor reporting requirements and \$1,154 for one-time equipment for the additional FTE at TSBP.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 515 Board of Pharmacy, 302 Office of the Attorney General, 405 Department of Public Safety, 503 Texas Medical Board, 504 Texas State Board of Dental Examiners, 507 Texas Board of Nursing, 512 Board of Podiatric Medical Examiners, 514 Optometry Board, 578 Board of Veterinary Medical Examiners

LBB Staff: UP, EK, KCA, EH, BRi

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 9, 2017

TO: Honorable Charles Schwertner, Chair, Senate Committee on Health & Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2561 by Thompson, Senfronia (Relating to the continuation and functions of the Texas State Board of Pharmacy; authorizing a reduction in fees.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2561, As Engrossed: an impact of \$0 through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2017
2018	(\$224,793)	\$224,793	1.0
2019	(\$170,698)	\$170,698	1.0
2020	(\$170,698)	\$170,698	1.0
2021	(\$170,698)	\$170,698	1.0
2022	(\$170,698)	\$170,698	1.0

Fiscal Analysis

The bill would amend the Health and Safety Code relating to the continuation and functions of the Texas State Board of Pharmacy (TSBP); authorizing a reduction in fees. The bill would continue TSBP for twelve years until September 1, 2029.

The bill would require the TSBP, in consultation with the Optometry Board, Texas Medical Board, Texas State Board of Podiatric Medical Examiners, State Board of Dental Examiners, State Board of Veterinary Medical Examiners, and the Texas Board of Nursing, to determine conduct that constitutes abusive prescribing patterns or practices by applicable licensees. Under the provisions of the bill, TSBP would be permitted to send electronic notification to a dispenser or a prescriber if the information submitted to the Prescription Monitoring Program (PMP) indicates harmful prescribing patterns. The bill would require a wholesale distributor to report the same information that is reported to the Automation of Reports and Consolidated Orders System of the Federal Drug Enforcement Administration to TSBP.

The bill would require TSBP to develop a policy to encourage the use of certain negotiated rulemaking and appropriate alternative dispute resolution procedures. Under the provisions of the bill, TSBP would be required to coordinate the implementation of the policy, provide training for implementation of the policy, and collect data on the effectiveness of the procedures.

The bill would permit an applicant or a licensee to assert as an affirmative defense in an administrative hearing or as a claim of defense in a judicial proceeding that a rule, regulation, policy or a penalty imposed by TSBP limits an applicant's exercise of religion or membership in a religious organization. The bill would provide exemptions to certain rules, regulations, policies, or penalties imposed by TSBP. Under the provisions of the bill, a licensee or applicant could bring an action for injunctive relief against a violation.

The bill would modify the renewal fee of a pharmacy technician based on the amount of time from the expiration of the licensee's former license. The bill would require TSBP to adopt rules relating to the continuing education requirements for pharmacy technicians.

The bill would take effect on September 1, 2017.

Methodology

This analysis assumes that TSBP would input and track wholesale pharmaceutical distributor reporting in a database. The provisions of the bill would result in a cost of \$224,793 in General Revenue in fiscal year 2018 and a cost of \$170,698 in General Revenue in fiscal year 2019 and following fiscal years. Based on the analysis of the TSBP, it is assumed the TSBP would require one additional full-time-equivalent (FTE) to implement provisions of the bill relating to reporting requirements of wholesale pharmaceutical distribution information. This would have an estimated cost to General Revenue of \$74,797 in fiscal year 2018 and \$70,702 each year thereafter. TSBP estimates one-time start up costs of \$4,095 for the additional FTE and annual costs of \$50,111 in salaries and wages for a Program Specialist III, \$18,351 in employee benefits and other payroll contribution costs, and \$2,240 for other operating expenses.

TSBP also estimates a one-time cost of \$50,000 in General Revenue in fiscal year 2018 for a database to track the additional required information from wholesale pharmaceutical distributors. In addition to the one-time costs in fiscal year 2018, TSBP estimates an ongoing operating cost of \$99,996 for the database in each fiscal year due to ongoing hosting and data support for the

wholesale pharmaceutical distribution information.

This analysis assumes that any increased cost to the TSBP, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by a corresponding increase in fee generated revenue by the agency.

The Comptroller of Public Accounts estimates the modification to the renewal fee of a pharmacy technician based on time elapsed since the expiration of the licensee's former license would result in a decrease of approximately \$36,000 in revenue to the General Revenue Fund per fiscal year.

The Department of Public Safety, Office of the Attorney General, State Office of Administrative Hearings, Office of Court Administration, Texas State Board of Dental Examiners, Optometry Board, Board of Veterinary Medical Examiners, Texas Medical Board, Texas Board of Nursing, and Texas Board of Podiatric Medical Examiners anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within current resources.

Technology

The costs identified above include estimated one-time information technology costs of \$50,000 in fiscal year 2018 and ongoing costs of \$99,996 for database development to accompany the wholesale distributor reporting requirements and \$1,154 for one-time equipment for the additional FTE at TSBP.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 116 Sunset Advisory Commission, 515 Board of Pharmacy, 302 Office of the Attorney General, 405 Department of Public Safety, 503 Texas Medical Board, 504 Texas State Board of Dental Examiners, 507 Texas Board of Nursing, 512 Board of Podiatric Medical Examiners, 514 Optometry Board, 578 Board of Veterinary Medical Examiners

LBB Staff: UP, EK, KCA, EH, BRi

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 20, 2017

TO: Honorable Four Price, Chair, House Committee on Public Health

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2561 by Thompson, Senfronia (Relating to the continuation and functions of the Texas State Board of Pharmacy; authorizing a reduction in fees.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2561, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	\$0
2019	\$0
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2021	\$0
2022	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2017
2018	(\$224,793)	\$224,793	1.0
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Fiscal Analysis

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The bill would modify the renewal fee of a pharmacy technician based on the amount of time from the expiration of the licensee's former license. The bill would require TSBP to adopt rules relating to the continuing education requirements for pharmacy technicians.

The bill would take effect on September 1, 2017.

Methodology

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in a decrease of approximately \$36,000 in revenue to the General Revenue Fund per fiscal year.

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Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 515 Board of Pharmacy, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 405 Department of Public Safety, 503 Texas Medical Board, 504 Texas State Board of Dental Examiners, 507 Texas Board of Nursing, 512 Board of Podiatric Medical Examiners, 514 Optometry Board, 578 Board of Veterinary Medical Examiners

LBB Staff: UP, EK, KCA, EH, BRi

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 2, 2017

TO: Honorable Four Price, Chair, House Committee on Public Health

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2561 by Thompson, Senfronia (Relating to the continuation and functions of the Texas State Board of Pharmacy; authorizing a reduction in fees.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2561, As Introduced: an impact of \$0 through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
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Fiscal Analysis

The bill would amend the Health and Safety Code relating to the continuation and functions of the Texas State Board of Pharmacy (TSBP); authorizing a reduction in fees. The bill would continue TSBP for twelve years until September 1, 2029.

The bill would require the TSBP, in consultation with the Optometry Board, Texas Medical Board, Texas State Board of Podiatric Medical Examiners, State Board of Dental Examiners, State Board of Veterinary Medical Examiners, and the Texas Board of Nursing, to determine conduct that constitutes abusive prescribing patterns or practices by applicable licensees. Under the provisions of the bill, TSBP would be permitted to send electronic notification to a dispenser or a prescriber if the information submitted to the Prescription Monitoring Program (PMP) indicates harmful prescribing patterns. The bill would require a wholesale pharmaceutical distributor to report to TSBP the sale of a controlled substance made by the distributor to a person in the state. TSBP would be required to include this information in the PMP.

The bill would require TSBP to develop a policy to encourage the use of certain negotiated rulemaking and appropriate alternative dispute resolution procedures. Under the provisions of the bill, TSBP would be required to coordinate the implementation of the policy, provide training for implementation of the policy, and collect data on the effectiveness of the procedures.

The bill would modify the renewal fee of a pharmacy technician based on the amount of time from the expiration of the licensee's former license. The bill would require TSBP to adopt rules relating to the continuing education requirements for pharmacy technicians.

The bill would take effect on September 1, 2017.

Methodology

The provisions of the bill would result in a cost of \$224,793 in General Revenue in fiscal year 2018 and a cost of \$170,698 in General Revenue in fiscal year 2019 and following fiscal years. Based on the analysis of the TSBP, it is assumed the TSBP would require one additional full-time-equivalent (FTE) to implement provisions of the bill relating to reporting requirements of wholesale pharmaceutical distribution information to the PMP. This would have an estimated cost to General Revenue of \$74,797 in fiscal year 2018 and \$70,702 each year thereafter. TSBP estimates one-time start up costs of \$4,095 for the additional FTE and annual costs of \$50,111 in salaries and wages for a Program Specialist III, \$18,351 in employee benefits and other payroll contribution costs, and \$2,240 for other operating expenses.

TSBP also estimates a one-time cost of \$50,000 in General Revenue in fiscal year 2018 for modifications to the PMP to accommodate the additional required information for wholesale pharmaceutical distributors. In addition to the one-time costs in fiscal year 2018, TSBP estimates an ongoing operating cost of \$99,996 for the PMP in each fiscal year due to ongoing hosting and data support for the wholesale pharmaceutical distribution information.

This analysis assumes that any increased cost to the TSBP, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by a corresponding increase in fee generated revenue by the agency and other regulatory agencies whose licensees are required to access the PMP, including the Texas State Board of Dental Examiners, Optometry Board, Board of Veterinary Medical Examiners, Texas Medical Board, Texas Board of Nursing and the Board of Podiatric Medical Examiners.

The Comptroller of Public Accounts estimates the modification to the renewal fee of a pharmacy technician based on time elapsed since the expiration of the licensee's former license would result in a decrease of approximately \$36,000 in revenue to the General Revenue Fund per fiscal year.

The Department of Public Safety, Office of the Attorney General, State Office of Administrative Hearings, Texas State Board of Dental Examiners, Optometry Board, Board of Veterinary Medical Examiners, Texas Medical Board, Texas Board of Nursing, and Texas Board of Podiatric Medical Examiners anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within current resources.

Technology

The costs identified above include estimated one-time information technology costs of \$50,000 in fiscal year 2018 and ongoing costs of \$99,996 for PMP database changes to accompany the wholesale distributor reporting requirements and \$1,154 for one-time equipment for the additional FTE at TSBP.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 405 Department of Public Safety, 503 Texas Medical Board, 504 Texas State Board of Dental Examiners, 507 Texas Board of Nursing, 512 Board of Podiatric Medical Examiners, 514 Optometry Board, 515 Board of Pharmacy, 578 Board of Veterinary Medical Examiners

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