

BILL ANALYSIS

Senate Research Center
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S.B. 683
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 683 makes several recommended “clean-up” changes needed to eliminate inconsistencies and language with conflicting provisions in the Pharmacy Practice Act. The changes included in the bill are recommended by the Texas State Board of Pharmacy. These changes are nonsubstantive and do not increase a pharmacist’s scope of practice in any way.

Specifically, the proposed legislation includes the follow changes:

- requires pharmacies to submit a “zero” report if the pharmacy does not dispense any controlled substance prescriptions;
- allows pharmacist interns and pharmacist technician trainees access to the Prescription Monitoring Program (PMP) and replace the name of the State Board of Podiatric Medical Examiners with the Texas Department of Licensing and Regulation per legislative action;
- allows physicians to view PMP prescribing history of individuals to whom they have given delegating prescribing authority;
- updates the Controlled Substances Act to require wholesale distributors to report on all controlled substances in the same format as required by the Federal Food and Drug Administration;
- allows the Interagency PMP Work Group to meet “as necessary” instead of quarterly;
- allows Class E (mail order) pharmacies to be processing facilities as in other states;
- update language that allows the Texas State Board of Pharmacy to regulate a pharmacist when administering an Immunization and Vaccination under certain conditions;
- repeals sections of the code requiring the licensure of Canadian pharmacies shipping prescriptions to Texas based on an attorney general opinion stating this would be a violation of federal law; and
- repeals the “sister state” section that prevents a license renewal of a pharmacy in Texas if a pharmacy owned by the same company is subject to disciplinary action in another state.

As proposed, S.B. 683 amends current law relating to the licensing and regulation of pharmacists and pharmacies.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to Texas State Board of Pharmacy is rescinded in SECTION 6 (Sections 554.016 and 556.0555, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 481.075(i), Health and Safety Code, to require each dispensing pharmacist if the pharmacy does not dispense any controlled substance prescriptions during a

period of seven consecutive days, to send a report to the Texas State Board of Pharmacy (TSBP) indicating that the pharmacy did not dispense any controlled substance prescriptions during that period, unless the pharmacy has obtained a waiver or permission to delay reporting to TSBP.

SECTION 2. Amends Sections 481.076(a) and (k), Health and Safety Code, as follows:

(a) Prohibits TSBP from permitting any person to have access to information submitted to the board under Section 481.074(q) (relating to the requirement that pharmacists send certain information to TSBP) or 481.075 (Official Prescription Program) except:

(1) certain persons, including the Texas Department of Licensing and Regulation, with respect to the regulation of podiatrists for certain purposes.

(2)–(4) makes no changes to these subdivisions;

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

(A) a pharmacist or a pharmacist-intern, pharmacy technician, or pharmacy technician trainee, as defined by Section 551.003 (Definitions), Occupations Code, acting at the direction of a pharmacist, who is inquiring about a recent Schedule II, III, IV, or V prescription history of a particular patient of the pharmacist, rather than a pharmacist or a pharmacy technician as defined by Section 551.003, Occupations Code, acting at the direction of a pharmacist; or

(B) makes no changes to this paragraph;

(6) a pharmacist or practitioner who is inquiring about the person's own dispensing or prescribing activity or a practitioner who is inquiring about the prescribing activity of an individual to whom the practitioner has delegated prescribing authority, rather than a pharmacist or practitioner who is inquiring about the person's own dispensing or prescribing activity; or

(7) makes no changes to this subdivision.

(k) Provides that a person authorized to access information under Subsection (a)(4) or (5), rather than under (a)(4), who is registered with the board for electronic access to the information is entitled to directly access the information available from other states pursuant to an interoperability agreement described by Subsection (j).

SECTION 3. Amends Section 481.0766(a), Health and Safety Code, as follows:

(a) Requires a wholesale distributor to report to TSBP the distribution of all Schedules II, III, IV, and V controlled substances, rather than requiring a a wholesale distributor to report to TSBP the information that the distributor is required to report to the Automation of Reports and Consolidated Orders System (ARCOS) of the Federal Drug Enforcement Administration for the distribution of a controlled substance, by the distributor to a person in this state. Require the distributor to report the information to the board in the same format and with the same frequency as the information is reported to the Federal Drug Enforcement Administration, rather than ARCOS.

SECTION 4. Amends Section 481.353(a), Health and Safety Code, to require the work group to meet when necessary as determined by TSBP, rather than at least quarterly.

SECTION 5. Amends Section 560.051(f), Occupations Code, as follows:

(f) Authorizes a Class E pharmacy license or nonresident pharmacy license to be issued to a pharmacy located in another state whose primary business is to:

- (1) creates this subdivision from existing Paragraphs (f)(A) and (B);
- (2) process a prescription drug order for a patient, including a patient in this state;
or
- (3) perform another pharmaceutical service, as defined by TSBP rule.

SECTION 6. Repealer: Section 554.016 (Canadian Pharmacy Inspection; Designation; Fees; Information), Occupations Code.

Repealer: Section 556.0555 (Inspections), Occupations Code.

Repealer: Section 560.001(c) (relating to the prohibiting a pharmacy located in Canada from shipping, mailing, or delivering prescriptions unless certain conditions are met), Occupations Code.

Repealer: Section 560.0525 (Additional Qualifications for Canadian Pharmacies), Occupations Code.

Repealer: Section 561.003(f) (relating to the prohibiting a pharmacy from renewing a license if the pharmacy's license to operate was revoked in another state), Occupations Code.

Repealer: Section 562.101 (f-1) (relating to the requirements relating to the designation of a pharmacist-in-charge for a Canadian pharmacy), Occupations Code.

Repealer: Section 562.111 (Prescription Drug Order for Consumer), Occupations Code.

Repealer Subchapter E, Chapter 562 (Practice by Canadian Pharmacy), Occupations Code.

SECTION 7. Effective date: September 1, 2019.