86R9520 JSC-D

By:  Dean H.B. No. 2087

A BILL TO BE ENTITLED

AN ACT

relating to Schedule II controlled substance prescriptions under the Texas Controlled Substances Act.

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

SECTION 1.  Section 481.003(a), Health and Safety Code, is amended to read as follows:

(a)  The director may adopt rules to administer and enforce this chapter, other than Sections 481.073, 481.074, 481.075, 481.0755, 481.076, 481.0761, 481.0762, 481.0763, 481.0764, 481.0765, and 481.0766.  The board may adopt rules to administer Sections 481.073, 481.074, 481.075, 481.0755, 481.076, 481.0761, 481.0762, 481.0763, 481.0764, 481.0765, and 481.0766.

SECTION 2.  Subchapter C, Chapter 481, Health and Safety Code, is amended by adding Section 481.0755 to read as follows:

Sec. 481.0755.  WRITTEN, ORAL, AND TELEPHONICALLY COMMUNICATED PRESCRIPTIONS FOR SCHEDULE II CONTROLLED SUBSTANCES. (a) Notwithstanding any other provision of this subchapter, a person prescribing or dispensing a Schedule II controlled substance must use the electronic prescription record and may not use a written, oral, or telephonically communicated prescription.

(b)  A prescriber may issue a written, oral, or telephonically communicated prescription for a Schedule II controlled substance as authorized under this subchapter only if the prescription is issued in an emergency, as defined by board rule.

(c)  A written, oral, or telephonically communicated prescription must comply with the applicable requirements prescribed by Sections 481.074 and 481.075.

SECTION 3.  Section 481.128(a), Health and Safety Code, is amended to read as follows:

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

(1)  distributes, delivers, administers, or dispenses a controlled substance in violation of Sections 481.070-481.0755 [~~481.070-481.075~~];

(2)  manufactures a controlled substance not authorized by the person's Federal Drug Enforcement Administration registration or distributes or dispenses a controlled substance not authorized by the person's registration to another registrant or other person;

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

(4)  prints, manufactures, possesses, or produces an official prescription form without the approval of the board;

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

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

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

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

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

SECTION 4.  Section 481.129(a), Health and Safety Code, is amended to read as follows:

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

(1)  distributes as a registrant or dispenser a controlled substance listed in Schedule I or II, unless the person distributes the controlled substance as authorized under the federal Controlled Substances Act (21 U.S.C. Section 801 et seq.);

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

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

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

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

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

(B)  through use of a fraudulent prescription form; [~~or~~]

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

(D)  through the use of a fraudulent electronic prescription; or

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

SECTION 5.  Section 554.051(a-1), Occupations Code, is amended to read as follows:

(a-1)  The board may adopt rules to administer Sections 481.073, 481.074, 481.075, 481.0755, 481.076, 481.0761, 481.0762, 481.0763, 481.0764, 481.0765, and 481.0766, Health and Safety Code.

SECTION 6.  Section 565.003, Occupations Code, is amended to read as follows:

Sec. 565.003.  ADDITIONAL GROUNDS FOR DISCIPLINE REGARDING APPLICANT FOR OR HOLDER OF NONRESIDENT PHARMACY LICENSE. Unless compliance would violate the pharmacy or drug statutes or rules in the state in which the pharmacy is located, the board may discipline an applicant for or the holder of a nonresident pharmacy license if the board finds that the applicant or license holder has failed to comply with:

(1)  Section 481.073, 481.074, [~~or~~] 481.075, 481.0755, 481.076, 481.0761, 481.0762, 481.0763, 481.0764, 481.0765, or 481.0766, Health and Safety Code;

(2)  Texas substitution requirements regarding:

(A)  the practitioner's directions concerning generic substitution;

(B)  the patient's right to refuse generic substitution; or

(C)  notification to the patient of the patient's right to refuse substitution;

(3)  any board rule relating to providing drug information to the patient or the patient's agent in written form or by telephone; or

(4)  any board rule adopted under Section 554.051(a) and determined by the board to be applicable under Section 554.051(b).

SECTION 7.  The change in law made by this Act applies only to a prescription issued on or after the effective date of this Act. A prescription issued before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 8.  This Act takes effect September 1, 2019.