

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

1 rule.

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

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

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

9 (1) distributes, delivers, administers, or dispenses  
10 a controlled substance in violation of Sections 481.070-481.0755  
11 [~~481.070-481.075~~];

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

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

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

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

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

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

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

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

7           SECTION 4. Section [481.129\(a\)](#), Health and Safety Code, is  
8 amended to read as follows:

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

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

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

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

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

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

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

27           (B) through use of a fraudulent prescription

1 form; [~~or~~]

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

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

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

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

12 (a-1) The board may adopt rules to administer Sections  
13 481.073, 481.074, 481.075, 481.0755, 481.076, 481.0761, 481.0762,  
14 481.0763, 481.0764, 481.0765, and 481.0766, Health and Safety Code.

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

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

24 (1) Section 481.073, 481.074, [~~or~~] 481.075, 481.0755,  
25 481.076, 481.0761, 481.0762, 481.0763, 481.0764, 481.0765, or  
26 481.0766, Health and Safety Code;

27 (2) Texas substitution requirements regarding:

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

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

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

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

10 (4) any board rule adopted under Section [554.051\(a\)](#)  
11 and determined by the board to be applicable under Section  
12 [554.051\(b\)](#).

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

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