

By: Zerwas

H.B. No. 2766

Substitute the following for H.B. No. 2766:

By: Thompson of Harris

C.S.H.B. No. 2766

A BILL TO BE ENTITLED

1 AN ACT
2 relating to electronic and other controlled substance
3 prescriptions under the Texas Controlled Substances Act;
4 authorizing a fee.

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

6 SECTION 1. Section 552.118, Government Code, is amended to
7 read as follows:

8 Sec. 552.118. EXCEPTION: CONFIDENTIALITY OF OFFICIAL
9 PRESCRIPTION PROGRAM INFORMATION. Information is excepted from the
10 requirements of Section 552.021 if it is:

11 (1) information on or derived from an official
12 prescription form filed with the Texas State Board of Pharmacy
13 under Section 481.0755, Health and Safety Code, or an electronic
14 prescription record filed with the Texas State Board of Pharmacy
15 under Section 481.075, Health and Safety Code; or

16 (2) other information collected under Section 481.075
17 or 481.0755 of that code.

18 SECTION 2. Sections 481.002(10) and (47), Health and Safety
19 Code, are amended to read as follows:

20 (10) "Designated agent" means an individual
21 designated under Section 481.074(b-2) [~~481.073~~] to communicate a
22 practitioner's instructions to a pharmacist in an emergency.

23 (47) "Official prescription form" means a
24 prescription form that is used for a Schedule II controlled

1 substance under Section 481.0755 and contains the prescription
2 information required by Section 481.0755(e) [~~481.075~~].

3 SECTION 3. Section 481.003(a), Health and Safety Code, is
4 amended to read as follows:

5 (a) The director may adopt rules to administer and enforce
6 this chapter, other than Sections [~~481.073,~~] 481.074, 481.075,
7 481.0755, 481.0756, 481.076, 481.0761, 481.0762, 481.0763,
8 481.0764, 481.0765, and 481.0766. The board may adopt rules to
9 administer Sections [~~481.073,~~] 481.074, 481.075, 481.0755,
10 481.0756, 481.076, 481.0761, 481.0762, 481.0763, 481.0764,
11 481.0765, and 481.0766.

12 SECTION 4. Section 481.074, Health and Safety Code, is
13 amended by amending Subsections (b), (c), (e), (f), (g), (h), (k),
14 and (q) and adding Subsections (b-1) and (b-2) to read as follows:

15 (b) Except in an emergency as defined by board rule under
16 Subsection (b-1) [~~of the board~~] or as otherwise provided by
17 [~~Subsection (e) or~~] Section 481.075(j) or (m) or 481.0755, a person
18 may not dispense or administer a controlled substance [~~listed in~~
19 ~~Schedule II without a written prescription of a practitioner on an~~
20 ~~official prescription form or~~] without an electronic prescription
21 that meets the requirements of and is completed by the practitioner
22 in accordance with Section 481.075.

23 (b-1) In an emergency as defined by board rule, a person may
24 dispense or administer a controlled substance [~~listed in Schedule~~
25 ~~II~~] on the oral or telephonically communicated prescription of a
26 practitioner. The person who administers or dispenses the
27 substance shall:

1 (1) if the person is a prescribing practitioner or a
2 pharmacist, promptly comply with Subsection (c); or

3 (2) if the person is not a prescribing practitioner or
4 a pharmacist, promptly write the oral or telephonically
5 communicated prescription and include in the written record of the
6 prescription the name, address, and Federal Drug Enforcement
7 Administration number issued for prescribing a controlled
8 substance in this state of the prescribing practitioner, all
9 information required to be provided by a practitioner under Section
10 481.075(e)(1), and all information required to be provided by a
11 dispensing pharmacist under Section 481.075(e)(2).

12 (b-2) In an emergency described by Subsection (b-1), an
13 agent designated in writing by a practitioner defined by Section
14 481.002(39)(A) may communicate a prescription by telephone. A
15 practitioner who designates a different agent shall designate that
16 agent in writing and maintain the designation in the same manner in
17 which the practitioner initially designated an agent under this
18 subsection. On the request of a pharmacist, a practitioner shall
19 furnish a copy of the written designation. This subsection does not
20 relieve a practitioner or the practitioner's designated agent from
21 the requirement of Subchapter A, Chapter 562, Occupations Code. A
22 practitioner is personally responsible for the actions of the
23 designated agent in communicating a prescription to a pharmacist.

24 (c) Not later than the seventh day after the date a
25 prescribing practitioner authorizes an emergency oral or
26 telephonically communicated prescription, the prescribing
27 practitioner shall cause an [~~a written or~~] electronic prescription,

1 completed in the manner required by Section 481.075, to be
2 delivered to the dispensing pharmacist at the pharmacy where the
3 prescription was dispensed. ~~[A written prescription may be
4 delivered in person or by mail. The envelope of a prescription
5 delivered by mail must be postmarked not later than the seventh day
6 after the date the prescription was authorized. On receipt of a
7 written prescription, the dispensing pharmacy shall file the
8 transcription of the telephonically communicated prescription and
9 the pharmacy copy and shall send information to the board as
10 required by Section 481.075.]~~ On receipt of the [an] electronic
11 prescription, the pharmacist shall annotate the electronic
12 prescription record with the original authorization and date of the
13 emergency oral or telephonically communicated prescription.

14 (e) The partial filling of a prescription for a controlled
15 substance listed in Schedule II is permissible in accordance with
16 applicable federal law~~[, if the pharmacist is unable to supply the
17 full quantity called for in a written or electronic prescription or
18 emergency oral prescription and the pharmacist makes a notation of
19 the quantity supplied on the face of the written prescription, on
20 the written record of the emergency oral prescription, or in the
21 electronic prescription record. The remaining portion of the
22 prescription may be filled within 72 hours of the first partial
23 filling; however, if the remaining portion is not or cannot be
24 filled within the 72-hour period, the pharmacist shall so notify
25 the prescribing individual practitioner. No further quantity may
26 be supplied beyond 72 hours without a new prescription].~~

27 (f) A prescription for a Schedule II controlled substance

1 for a patient in a long-term care facility (LTCF) or for a patient
2 with a medical diagnosis documenting a terminal illness may be
3 filled in partial quantities to include individual dosage units.
4 If there is any question about whether a patient may be classified
5 as having a terminal illness, the pharmacist must contact the
6 practitioner before partially filling the prescription. Both the
7 pharmacist and the practitioner have a corresponding
8 responsibility to assure that the controlled substance is for a
9 terminally ill patient. The pharmacist must record the
10 prescription [~~on an official prescription form or~~] in the
11 electronic prescription record and must indicate [~~on the official~~
12 ~~prescription form or~~] in the electronic prescription record whether
13 the patient is "terminally ill" or an "LTCF patient." A
14 prescription that is partially filled and does not contain the
15 notation "terminally ill" or "LTCF patient" is considered to have
16 been filled in violation of this chapter. For each partial filling,
17 the dispensing pharmacist shall record [~~on the back of the official~~
18 ~~prescription form or~~] in the electronic prescription record the
19 date of the partial filling, the quantity dispensed, the remaining
20 quantity authorized to be dispensed, and the identification of the
21 dispensing pharmacist. Before any subsequent partial filling, the
22 pharmacist must determine that the additional partial filling is
23 necessary. The total quantity of Schedule II controlled substances
24 dispensed in all partial fillings may not exceed the total quantity
25 prescribed. Schedule II prescriptions for patients in a long-term
26 care facility or patients with a medical diagnosis documenting a
27 terminal illness are valid for a period not to exceed 60 days

1 following the issue date unless sooner terminated by discontinuance
2 of the medication.

3 (g) A person may not dispense a controlled substance in
4 Schedule III or IV that is a prescription drug under the Federal
5 Food, Drug, and Cosmetic Act (21 U.S.C. Section 301 et seq.) without
6 a [~~written, electronic, oral, or telephonically communicated~~]
7 prescription of a practitioner defined by Section 481.002(39)(A) or
8 (D), except that the practitioner may dispense the substance
9 directly to an ultimate user. A prescription for a controlled
10 substance listed in Schedule III or IV may not be filled or refilled
11 later than six months after the date on which the prescription is
12 issued and may not be refilled more than five times, unless the
13 prescription is renewed by the practitioner. A prescription under
14 this subsection must comply with other applicable state and federal
15 laws.

16 (h) A pharmacist may dispense a controlled substance listed
17 in Schedule III, IV, or V under a [~~written, electronic, oral, or~~
18 ~~telephonically communicated~~] prescription issued by a practitioner
19 defined by Section 481.002(39)(C) [~~and~~] only if the pharmacist
20 determines that the prescription was issued for a valid medical
21 purpose and in the course of professional practice. A prescription
22 described by [~~issued under~~] this subsection may not be filled or
23 refilled later than six months after the date the prescription is
24 issued and may not be refilled more than five times, unless the
25 prescription is renewed by the practitioner.

26 (k) A prescription for a controlled substance must show:

27 (1) the quantity of the substance prescribed:

- 1 (A) [~~numerically, followed by the number written~~
2 ~~as a word, if the prescription is written,~~
3 [~~(B)~~] numerically, if the prescription is
4 electronic; or
5 (B) [~~(C)~~] if the prescription is communicated
6 orally or telephonically, as transcribed by the receiving
7 pharmacist;
- 8 (2) the date of issue;
- 9 (2-a) if the prescription is issued for a Schedule II
10 controlled substance to be filled at a later date under Subsection
11 (d-1), the earliest date on which a pharmacy may fill the
12 prescription;
- 13 (3) the name, address, and date of birth or age of the
14 patient or, if the controlled substance is prescribed for an
15 animal, the species of the animal and the name and address of its
16 owner;
- 17 (4) the name and strength of the controlled substance
18 prescribed;
- 19 (5) the directions for use of the controlled
20 substance;
- 21 (6) the intended use of the substance prescribed
22 unless the practitioner determines the furnishing of this
23 information is not in the best interest of the patient; and
- 24 (7) the name, address, Federal Drug Enforcement
25 Administration number, and telephone number of the practitioner at
26 the practitioner's usual place of business[, ~~which must be legibly~~
27 ~~printed or stamped on a written prescription, and~~

1 ~~[(8) if the prescription is handwritten, the signature~~
2 ~~of the prescribing practitioner].~~

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

9 SECTION 5. The heading to Section [481.075](#), Health and
10 Safety Code, is amended to read as follows:

11 Sec. 481.075. SCHEDULE II PRESCRIPTIONS ~~[OFFICIAL~~
12 ~~PRESCRIPTION PROGRAM].~~

13 SECTION 6. Sections [481.075](#)(a), (e), (g), (h), (i), and
14 (j), Health and Safety Code, are amended to read as follows:

15 (a) A practitioner who prescribes a controlled substance
16 listed in Schedule II shall, except as provided by Section
17 [481.074](#)(b-1) or [481.0755](#) or a rule adopted under Section [481.0761](#),
18 record the prescription ~~[on an official prescription form or]~~ in an
19 electronic prescription that includes the information required by
20 this section.

21 (e) Each ~~[official prescription form or electronic]~~
22 prescription used to prescribe a Schedule II controlled substance
23 must contain:

24 (1) information provided by the prescribing
25 practitioner, including:

26 (A) the date the prescription is issued;

27 (B) the controlled substance prescribed;

1 (C) the quantity of controlled substance
2 prescribed, shown[+]

3 [(i)] numerically[, ~~followed by the number~~
4 ~~written as a word, if the prescription is written, or~~

5 [(ii) ~~numerically, if the prescription is~~
6 ~~electronic~~];

7 (D) the intended use of the controlled substance,
8 or the diagnosis for which the controlled substance [~~it~~] is
9 prescribed, and the instructions for use of the substance;

10 (E) the practitioner's name, address, and
11 Federal Drug Enforcement Administration number issued for
12 prescribing a controlled substance in this state;

13 (F) the name, address, and date of birth or age of
14 the person for whom the controlled substance is prescribed; and

15 (G) if the prescription is issued to be filled at
16 a later date under Section 481.074(d-1), the earliest date on which
17 a pharmacy may fill the prescription;

18 (2) information provided by the dispensing
19 pharmacist, including the date the prescription is filled; and

20 (3) [~~for a written prescription, the signatures of the~~
21 ~~prescribing practitioner and the dispensing pharmacist or for an~~
22 ~~electronic prescription,~~] the prescribing practitioner's
23 electronic signature or other secure method of validation
24 authorized by federal law.

25 (g) Except for an emergency oral or telephonically
26 communicated prescription described by [~~prescribed under~~] Section
27 481.074(b-1) [~~481.074(b)~~], the prescribing practitioner shall:

1 (1) record [~~legibly fill in,~~] or direct a designated
2 agent to record [~~legibly fill in, on the official prescription form~~
3 ~~or~~] in the electronic prescription[~~]~~ each item of information
4 required to be provided by the prescribing practitioner under
5 Subsection (e)(1), unless the practitioner determines that:

6 (A) under rule adopted by the board for this
7 purpose, it is unnecessary for the practitioner or the
8 practitioner's agent to provide the patient identification number;
9 or

10 (B) it is not in the best interest of the patient
11 for the practitioner or practitioner's agent to provide information
12 regarding the intended use of the controlled substance or the
13 diagnosis for which it is prescribed; and

14 (2) [~~sign the official prescription form and give the~~
15 ~~form to the person authorized to receive the prescription or, in the~~
16 ~~case of an electronic prescription,~~] electronically sign or
17 validate the electronic prescription as authorized by federal law
18 and transmit the prescription to the dispensing pharmacy.

19 (h) In the case of an emergency oral or telephonically
20 communicated prescription described by [~~prescribed under~~] Section
21 481.074(b-1) [~~481.074(b)~~], the prescribing practitioner shall give
22 the dispensing pharmacy the information needed to complete the
23 [~~official prescription form or~~] electronic prescription record.

24 (i) Each dispensing pharmacist shall:

25 (1) [~~fill in on the official prescription form or~~]
26 note in the electronic prescription record each item of information
27 given orally to the dispensing pharmacy under Subsection (h) and

1 the date the prescription is filled~~[7]~~ and~~+~~

2 ~~[(A) for a written prescription, fill in the~~
3 ~~dispensing pharmacist's signature, or~~

4 ~~[(B) for an electronic prescription,]~~
5 appropriately record the identity of the dispensing pharmacist in
6 the electronic prescription record;

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

9 (A) ~~[the official prescription form or]~~ the
10 electronic prescription record~~[, as applicable]; and~~

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

13 (3) send all required information, including any
14 information required to complete an ~~[official prescription form or]~~
15 electronic prescription record, to the board by electronic transfer
16 or another form approved by the board not later than the next
17 business day after the date the prescription is completely filled.

18 (j) A medication order written for a patient who is admitted
19 to a hospital at the time the medication order is written and filled
20 is not required to be recorded ~~[on an official prescription form or]~~
21 in an electronic prescription record that meets the requirements of
22 this section.

23 SECTION 7. Subchapter C, Chapter 481, Health and Safety
24 Code, is amended by adding Sections 481.0755 and 481.0756 to read as
25 follows:

26 Sec. 481.0755. WRITTEN, ORAL, AND TELEPHONICALLY
27 COMMUNICATED PRESCRIPTIONS. (a) Notwithstanding Sections 481.074

1 and 481.075, a prescription for a controlled substance is not
2 required to be issued electronically and may be issued in writing if
3 the prescription is issued:

4 (1) by a veterinarian;

5 (2) in circumstances in which electronic prescribing
6 is not available due to temporary technological or electronic
7 failure, as prescribed by board rule;

8 (3) by a practitioner to be dispensed by a pharmacy
9 located outside this state, as prescribed by board rule;

10 (4) when the prescriber and dispenser are in the same
11 location or under the same license;

12 (5) in circumstances in which necessary elements are
13 not supported by the most recently implemented national data
14 standard that facilitates electronic prescribing;

15 (6) for a drug for which the United States Food and
16 Drug Administration requires additional information in the
17 prescription that is not possible with electronic prescribing;

18 (7) for a non-patient-specific prescription pursuant
19 to a standing order, approved protocol for drug therapy,
20 collaborative drug management, or comprehensive medication
21 management, in response to a public health emergency or in other
22 circumstances in which the practitioner may issue a
23 non-patient-specific prescription;

24 (8) for a drug under a research protocol;

25 (9) by a practitioner who has received a waiver under
26 Section 481.0756 from the requirement to use electronic
27 prescribing; or

1 (10) under circumstances in which the practitioner has
2 the present ability to submit an electronic prescription but
3 reasonably determines that it would be impractical for the patient
4 to obtain the drugs prescribed under the electronic prescription in
5 a timely manner and that a delay would adversely impact the
6 patient's medical condition.

7 (b) A dispensing pharmacist who receives a controlled
8 substance prescription in a manner other than electronically is not
9 required to verify that the prescription is exempt from the
10 requirement that it be submitted electronically. The pharmacist
11 may dispense a controlled substance pursuant to an otherwise valid
12 written, oral, or telephonically communicated prescription
13 consistent with the requirements of this subchapter.

14 (c) Except in an emergency, a practitioner must use a
15 written prescription to submit a prescription described by
16 Subsection (a). In an emergency, the practitioner may submit an
17 oral or telephonically communicated prescription as authorized
18 under Section [481.074\(b-1\)](#).

19 (d) A written prescription for a controlled substance other
20 than a Schedule II controlled substance must include the
21 information required under Section [481.074\(k\)](#) and the signature of
22 the prescribing practitioner.

23 (e) A written prescription for a Schedule II controlled
24 substance must be on an official prescription form and include the
25 information required for an electronic prescription under Section
26 [481.075\(e\)](#), the signature of the practitioner, and the signature of
27 the dispensing pharmacist after the prescription is filled.

1 (f) The board by rule shall authorize a practitioner to
2 determine whether it is necessary to obtain a particular patient
3 identification number and to provide that number on the official
4 prescription form.

5 (g) On request of a practitioner, the board shall issue
6 official prescription forms to the practitioner for a fee covering
7 the actual cost of printing, processing, and mailing the forms.
8 Before mailing or otherwise delivering prescription forms to a
9 practitioner, the board shall print on each form the number of the
10 form and any other information the board determines is necessary.

11 (h) Each official prescription form must be sequentially
12 numbered.

13 (i) A person may not obtain an official prescription form
14 unless the person is a practitioner as defined by Section
15 481.002(39)(A) or an institutional practitioner.

16 (j) Not more than one Schedule II prescription may be
17 recorded on an official prescription form.

18 (k) Not later than the 30th day after the date a
19 practitioner's Federal Drug Enforcement Administration number or
20 license to practice has been denied, suspended, canceled,
21 surrendered, or revoked, the practitioner shall return to the board
22 all official prescription forms in the practitioner's possession
23 that have not been used for prescriptions.

24 (l) Each prescribing practitioner:

25 (1) may use an official prescription form only to
26 submit a prescription described by Subsection (a);

27 (2) shall date or sign an official prescription form

1 only on the date the prescription is issued; and

2 (3) shall take reasonable precautionary measures to
3 ensure that an official prescription form issued to the
4 practitioner is not used by another person to violate this
5 subchapter or a rule adopted under this subchapter.

6 (m) In the case of an emergency oral or telephonically
7 communicated prescription described by Section 481.074(b-1), the
8 prescribing practitioner shall give the dispensing pharmacy the
9 information needed to complete the official prescription form if
10 the pharmacy is not required to use the electronic prescription
11 record.

12 (n) Each dispensing pharmacist receiving an oral or
13 telephonically communicated prescription under Subsection (m)
14 shall:

15 (1) fill in on the official prescription form each
16 item of information given orally to the dispensing pharmacy under
17 Subsection (m) and the date the prescription is filled and fill in
18 the dispensing pharmacist's signature;

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

21 (A) the official prescription form; and

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

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

1 prescription is completely filled.

2 Sec. 481.0756. WAIVERS FROM ELECTRONIC PRESCRIBING. (a)
3 The appropriate regulatory agency that issued the license,
4 certification, or registration to a prescriber is authorized to
5 grant a prescriber a waiver from the electronic prescribing
6 requirement under the provisions of this section.

7 (b) The board shall convene an interagency workgroup that
8 includes representatives of each regulatory agency that issues a
9 license, certification, or registration to a prescriber.

10 (c) The work group described by Subsection (b) shall
11 establish recommendations and standards for circumstances in which
12 a waiver from the electronic prescribing requirement is appropriate
13 and a process under which a prescriber may request and receive a
14 waiver.

15 (d) The board shall adopt rules establishing the
16 eligibility for a waiver, including:

- 17 (1) economic hardship;
18 (2) technological limitations not reasonably within
19 the control of the prescriber; or
20 (3) other exceptional circumstances demonstrated by
21 the prescriber.

22 (e) Each regulatory agency that issues a license,
23 certification, or registration to a prescriber shall adopt rules
24 for the granting of waivers consistent with the board rules adopted
25 under Subsection (d).

26 (f) A waiver may be issued to a prescriber for a period of
27 one year. On expiration of the waiver, the prescriber may reapply

1 for a waiver if the circumstances that necessitated the waiver
2 continue.

3 SECTION 8. Sections 481.0761(c) and (d), Health and Safety
4 Code, are amended to read as follows:

5 (c) The board by rule may:

6 (1) ~~[permit more than one prescription to be~~
7 ~~administered or dispensed and recorded on one prescription form for~~
8 ~~a Schedule III through V controlled substance;~~

9 [(1-a)] establish a procedure for the issuance of
10 multiple prescriptions of a Schedule II controlled substance under
11 Section 481.074(d-1);

12 (2) remove from or return to the official prescription
13 program any aspect of a practitioner's or pharmacist's hospital
14 practice, including administering or dispensing;

15 (3) waive or delay any requirement relating to the
16 time or manner of reporting;

17 (4) establish compatibility protocols for electronic
18 data transfer hardware, software, or format, including any
19 necessary modifications for participation in a database described
20 by Section 481.076(j);

21 (5) establish a procedure to control the release of
22 information under Sections 481.074, 481.075, and 481.076; and

23 (6) establish a minimum level of prescription activity
24 below which a reporting activity may be modified or deleted.

25 (d) The board by rule shall authorize a practitioner to
26 determine whether it is necessary to obtain a particular patient
27 identification number and to provide that number ~~[on the official~~

1 ~~prescription form or~~] in the electronic prescription record.

2 SECTION 9. Section 481.128(a), Health and Safety Code, is
3 amended to read as follows:

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

6 (1) distributes, delivers, administers, or dispenses
7 a controlled substance in violation of Subchapter C [~~Sections~~
8 ~~481.070-481.075~~];

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

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

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

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

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

23 (7) refuses or fails to return an official
24 prescription form as required by Section 481.0755(k) [~~481.075(k)~~];

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

1 or

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

4 SECTION 10. Section 481.129(a), Health and Safety Code, is
5 amended to read as follows:

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

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

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

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

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

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

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

24 (B) through use of a fraudulent prescription
25 form; ~~or~~

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

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

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

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

9 (a-1) The board may adopt rules to administer Sections
10 [~~481.073,~~] 481.074, 481.075, 481.0755, 481.0756, 481.076,
11 481.0761, 481.0762, 481.0763, 481.0764, 481.0765, and 481.0766,
12 Health and Safety Code.

13 SECTION 12. Section 565.003, Occupations Code, is amended
14 to read as follows:

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

22 (1) Section 481.074, [~~or~~] 481.075, 481.0755, or
23 481.0756, Health and Safety Code;

24 (2) Texas substitution requirements regarding:

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

27 (B) the patient's right to refuse generic

1 substitution; or

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

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

7 (4) any board rule adopted under Section 554.051(a)
8 and determined by the board to be applicable under Section
9 554.051(b).

10 SECTION 13. Sections 481.073, 481.074(o) and (p), and
11 481.075(b), (c), (d), (f), (k), and (l), Health and Safety Code, are
12 repealed.

13 SECTION 14. This Act takes effect January 1, 2021.