

AN ACT

relating to the licensing and regulation of pharmacists and pharmacies.

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

SECTION 1. 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;

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

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

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

(3) send all required information, including any information required to complete an official prescription form or

1 electronic prescription record, to the board by electronic transfer
2 or another form approved by the board not later than the next
3 business day after the date the prescription is completely filled;
4 and

5 (4) if the pharmacy does not dispense any controlled
6 substance prescriptions during a period of seven consecutive days,
7 send a report to the board indicating that the pharmacy did not
8 dispense any controlled substance prescriptions during that
9 period, unless the pharmacy has obtained a waiver or permission to
10 delay reporting to the board.

11 SECTION 2. Sections 481.076(a) and (k), Health and Safety
12 Code, are amended to read as follows:

13 (a) The board may not permit any person to have access to
14 information submitted to the board under Section 481.074(q) or
15 481.075 except:

16 (1) the board, the Texas Medical Board, the Texas
17 Department of Licensing and Regulation, with respect to the
18 regulation of podiatrists [~~State Board of Podiatric Medical~~
19 ~~Examiners~~], the State Board of Dental Examiners, the State Board of
20 Veterinary Medical Examiners, the Texas Board of Nursing, or the
21 Texas Optometry Board for the purpose of:

22 (A) investigating a specific license holder; or
23 (B) monitoring for potentially harmful
24 prescribing or dispensing patterns or practices under Section
25 481.0762;

26 (2) an authorized officer or member of the department
27 or authorized employee of the board engaged in the administration,

1 investigation, or enforcement of this chapter or another law
2 governing illicit drugs in this state or another state;

3 (3) the department on behalf of a law enforcement or
4 prosecutorial official engaged in the administration,
5 investigation, or enforcement of this chapter or another law
6 governing illicit drugs in this state or another state;

7 (4) a medical examiner conducting an investigation;

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

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

18 (B) a practitioner who:

19 (i) is a physician, dentist, veterinarian,
20 podiatrist, optometrist, or advanced practice nurse or is a
21 physician assistant described by Section 481.002(39)(D) or an
22 employee or other agent of a practitioner acting at the direction of
23 a practitioner; and

24 (ii) is inquiring about a recent Schedule
25 II, III, IV, or V prescription history of a particular patient of
26 the practitioner;

27 (6) a pharmacist or practitioner who is inquiring

1 about the person's own dispensing or prescribing activity or a
2 practitioner who is inquiring about the prescribing activity of an
3 individual to whom the practitioner has delegated prescribing
4 authority; or

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

8 (k) A person authorized to access information under
9 Subsection (a)(4) or (5) who is registered with the board for
10 electronic access to the information is entitled to directly access
11 the information available from other states pursuant to an
12 interoperability agreement described by Subsection (j).

13 SECTION 3. Section 481.0766(a), Health and Safety Code, is
14 amended to read as follows:

15 (a) A wholesale distributor shall report to the board the
16 distribution of all Schedules II, III, IV, and V controlled
17 substances [~~information that the distributor is required to report~~
18 ~~to the Automation of Reports and Consolidated Orders System (ARCOS)~~
19 ~~of the Federal Drug Enforcement Administration for the distribution~~
20 ~~of a controlled substance~~] by the distributor to a person in this
21 state. The distributor shall report the information to the board in
22 the same format and with the same frequency as the information is
23 reported to the Federal Drug Enforcement Administration [ARCOS].

24 SECTION 4. Section 481.353(a), Health and Safety Code, is
25 amended to read as follows:

26 (a) The work group shall meet when necessary as determined
27 by the board [~~at least quarterly~~].

1 SECTION 5. Section 560.051(f), Occupations Code, is amended
2 to read as follows:

3 (f) A Class E pharmacy license or nonresident pharmacy
4 license may be issued to a pharmacy located in another state whose
5 primary business is to:

6 (1) ~~[(A)]~~ dispense a prescription drug or device under
7 a prescription drug order~~[-]~~ and

8 ~~[(B)]~~ deliver the drug or device to a patient,
9 including a patient in this state, by United States mail, common
10 carrier, or delivery service;

11 (2) process a prescription drug order for a patient,
12 including a patient in this state; or

13 (3) perform another pharmaceutical service, as
14 defined by board rule.

15 SECTION 6. Subchapter B, Chapter 565, Occupations Code, is
16 amended by adding Section 565.0591 to read as follows:

17 Sec. 565.0591. REVOCATION OF PHARMACY LICENSE FOR FAILURE
18 TO OPERATE. (a) On discovery by the board that a pharmacy licensed
19 under Chapter 560 has ceased to operate for a period of 30 days or
20 longer, the board shall notify the pharmacy that the license will be
21 revoked.

22 (b) The notice must:

23 (1) include a statement that the pharmacy license is
24 being revoked for violation of Section 565.002(a)(7); and

25 (2) inform the license holder of the license holder's
26 right to a hearing to contest the revocation.

27 (c) Not later than the 20th day after the date the license

1 holder receives the notice of revocation under this section, the
2 license holder may submit a written request for a hearing to contest
3 the revocation.

4 (d) If the license holder does not request a hearing within
5 the period prescribed by Subsection (c), the board shall:

6 (1) enter an order revoking the license; and

7 (2) notify the license holder of the order.

8 (e) If the license holder requests a hearing within the
9 period prescribed by Subsection (c), a panel of three board members
10 appointed by the president of the board shall conduct the hearing.
11 At the hearing the panel shall determine whether the license holder
12 has violated Section 565.002(a)(7).

13 (f) If the panel determines that the license holder
14 committed the violation, the board shall promptly:

15 (1) enter an order revoking the license; and

16 (2) notify the license holder of the order.

17 (g) Chapter 2001, Government Code, does not apply to a
18 determination under Subsection (e).

19 SECTION 7. The following provisions of the Occupations Code
20 are repealed:

21 (1) Sections 554.016, 556.0555, 560.001(c), 560.0525,
22 561.003(f), 562.101(f-1), and 562.111; and

23 (2) Subchapter E, Chapter 562.

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

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 683 passed the Senate on March 26, 2019, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 21, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 683 passed the House, with amendment, on May 15, 2019, by the following vote: Yeas 141, Nays 4, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor