

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 11, 2019**

**TO:** Honorable Senfronia Thompson, Chair, House Committee on Public Health

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
 Legislative Budget Board

**IN RE:** **SB2316** by Hinojosa (Relating to controlled substance prescriptions under the Texas Controlled Substances Act; creating a criminal offense.), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB2316, Committee Report 2nd House, Substituted: an impact of \$0 through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	\$0
2021	\$0
2022	\$0
2023	\$0
2024	(\$465,000)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2019
2020	(\$163,419)	\$163,419	2.0
2021	(\$154,579)	\$154,579	2.0
2022	(\$154,579)	\$154,579	2.0
2023	(\$154,579)	\$154,579	2.0
2024	(\$619,579)	\$154,579	5.1

## **Fiscal Analysis**

The bill would amend the Health and Safety Code as it relates to controlled substance prescriptions under the Texas Controlled Substances Act.

Under the provisions of the bill, a patient or patient's representative is authorized to request their prescription records from the Board of Pharmacy (TSBP), including a list of persons who have accessed the patient's record. The bill authorizes TSBP to charge a fee for providing a copy of the record.

The bill would create a criminal offense for a person authorized to receive patient prescription records if the person discloses or uses the information in an unauthorized manner or misrepresents or fails to disclose information in a request for the information.

The bill would require TSBP to create an advisory committee to make recommendations on information submitted to the agency and access to the information.

Under the provisions of the bill, the State Auditor's Office (SAO) would be required to audit TSBP with regard to information submitted to the agency and access to that information. The audit must be completed by December 1, 2024.

Unless otherwise specified, the bill would take effect September 1, 2019.

## **Methodology**

To implement the provisions of the bill, TSBP indicates it would require 2.0 full-time-equivalent positions, \$163,419 in General Revenue in fiscal year 2020, and \$154,579 in General Revenue in each fiscal year thereafter to process and verify requests from patients and patient's authorized representatives and provide copies of a patient's prescription record and a list of persons who have accessed that record to verified persons.

These records are stored in the Prescription Monitoring Program database, and this analysis assumes that each agency that participates in the Prescription Monitoring Program (the Texas Medical Board, Optometry Board, Board of Dental Examiners, Board of Nursing, Board of Veterinary Medical Examiners, and Department of Licensing and Regulation) will increase fees or use available revenue to fund the cost of implementing the provisions of the bill.

The SAO indicates it would require 3.1 FTEs and \$465,000 in General Revenue in fiscal year 2024 to complete an audit of information submitted to TSBP and access to that information.

The estimated total to comply with the provisions of the bill would be \$163,419 in fiscal year 2020, \$154,579 in fiscal years 2021 to 2023, and \$619,579 in fiscal year 2024.

The Comptroller of Public Accounts, Department of Public Safety, Texas Medical Board, Board of Dental Examiners, Board of Nursing, and Board of Veterinary Medical Examiners indicate that the provisions of the bill could be implemented using existing resources.

## **Local Government Impact**

A Class C misdemeanor is punishable by a fine of not more than \$500. In addition to the fine, punishment can include up to 180 days of deferred disposition. A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

**Source Agencies:** 308 State Auditor's Office, 515 Board of Pharmacy, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 503 Texas Medical Board, 504 Texas State Board of Dental Examiners, 507 Texas Board of Nursing, 578 Board of Veterinary Medical Examiners

**LBB Staff:** WP, AF, AKi, SGr, ESt, DFR