

1-1 By: Schwertner S.B. No. 195  
 1-2 (In the Senate - Filed December 1, 2014; January 27, 2015,  
 1-3 read first time and referred to Committee on Health and Human  
 1-4 Services; April 1, 2015, reported adversely, with favorable  
 1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;  
 1-6 April 1, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17			X	

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 195 By: Schwertner

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to prescriptions for certain controlled substances,  
 1-22 access to information about those prescriptions, and the duties of  
 1-23 prescribers and other entities registered with the Federal Drug  
 1-24 Enforcement Administration; authorizing fees; amending provisions  
 1-25 subject to a criminal penalty.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Section 552.118, Government Code, is amended to  
 1-28 read as follows:

1-29 Sec. 552.118. EXCEPTION: CONFIDENTIALITY OF OFFICIAL  
 1-30 PRESCRIPTION PROGRAM INFORMATION. Information is excepted from the  
 1-31 requirements of Section 552.021 if it is:

1-32 (1) information on or derived from an official  
 1-33 prescription form or electronic prescription record filed with the  
 1-34 Texas State Board of Pharmacy [~~director of the Department of Public~~  
 1-35 ~~Safety~~] under Section 481.075, Health and Safety Code; or

1-36 (2) other information collected under Section 481.075  
 1-37 of that code.

1-38 SECTION 2. Section 481.002, Health and Safety Code, is  
 1-39 amended by amending Subdivisions (4) and (45) and adding  
 1-40 Subdivision (55) to read as follows:

1-41 (4) "Controlled premises" means:

1-42 (A) a place where original or other records or  
 1-43 documents required under this chapter are kept or are required to be  
 1-44 kept; or

1-45 (B) a place, including a factory, warehouse,  
 1-46 other establishment, or conveyance, where a person registered under  
 1-47 this chapter may lawfully hold, manufacture, distribute, dispense,  
 1-48 administer, possess, or otherwise dispose of a controlled substance  
 1-49 or other item governed by the federal Controlled Substances Act (21  
 1-50 U.S.C. Section 801 et seq.) [~~this chapter~~], including a chemical  
 1-51 precursor and a chemical laboratory apparatus.

1-52 (45) "Registrant" means a person who has a current  
 1-53 Federal Drug Enforcement Administration registration number [~~is~~  
 1-54 ~~registered under Section 481.063].~~

1-55 (55) "Board" means the Texas State Board of Pharmacy.

1-56 SECTION 3. Section 481.003(a), Health and Safety Code, is  
 1-57 amended to read as follows:

1-58 (a) The director may adopt rules to administer and enforce  
 1-59 this chapter, other than Sections 481.075, 481.076, and 481.0761.  
 1-60 The board may adopt rules to administer Sections 481.075, 481.076,

2-1 and 481.0761.

2-2 SECTION 4. The heading to Section 481.061, Health and  
2-3 Safety Code, is amended to read as follows:

2-4 Sec. 481.061. FEDERAL REGISTRATION REQUIRED.

2-5 SECTION 5. Sections 481.061(a) and (b), Health and Safety  
2-6 Code, are amended to read as follows:

2-7 (a) Except as otherwise provided by this chapter, a person  
2-8 who is not registered with the Federal Drug Enforcement  
2-9 Administration [~~a registrant~~] may not manufacture, distribute,  
2-10 prescribe, possess, analyze, or dispense a controlled substance in  
2-11 this state.

2-12 (b) A person who is registered with [~~by~~] the Federal Drug  
2-13 Enforcement Administration [~~director~~] to manufacture, distribute,  
2-14 analyze, dispense, or conduct research with a controlled substance  
2-15 may possess, manufacture, distribute, analyze, dispense, or  
2-16 conduct research with that substance to the extent authorized by  
2-17 the person's registration and in conformity with this chapter.

2-18 SECTION 6. Section 481.067(a), Health and Safety Code, is  
2-19 amended to read as follows:

2-20 (a) A person who is registered with the Federal Drug  
2-21 Enforcement Administration to manufacture, distribute, analyze, or  
2-22 dispense a controlled substance shall keep records and maintain  
2-23 inventories in compliance with recordkeeping and inventory  
2-24 requirements of federal law and with additional rules the board  
2-25 [~~director~~] adopts.

2-26 SECTION 7. Section 481.068, Health and Safety Code, is  
2-27 amended to read as follows:

2-28 Sec. 481.068. CONFIDENTIALITY. (a) The board [~~director~~]  
2-29 may authorize a person engaged in research on the use and effects of  
2-30 a controlled substance to withhold the names and other identifying  
2-31 characteristics of individuals who are the subjects of the  
2-32 research. A person who obtains the authorization may not be  
2-33 compelled in a civil, criminal, administrative, legislative, or  
2-34 other proceeding to identify the individuals who are the subjects  
2-35 of the research for which the authorization is obtained.

2-36 (b) Except as provided by Sections 481.074 and 481.075, a  
2-37 practitioner engaged in authorized medical practice or research may  
2-38 not be required to furnish the name or identity of a patient or  
2-39 research subject to the board [~~department~~], the Department of State  
2-40 Health Services [~~director of the Texas Commission on Alcohol and~~  
2-41 Drug Abuse], or any other agency, public official, or law  
2-42 enforcement officer. A practitioner may not be compelled in a state  
2-43 or local civil, criminal, administrative, legislative, or other  
2-44 proceeding to furnish the name or identity of an individual that the  
2-45 practitioner is obligated to keep confidential.

2-46 (c) The board [~~director~~] may not provide to a federal,  
2-47 state, or local law enforcement agency the name or identity of a  
2-48 patient or research subject whose identity could not be obtained  
2-49 under Subsection (b).

2-50 SECTION 8. Section 481.073(a), Health and Safety Code, is  
2-51 amended to read as follows:

2-52 (a) Only a practitioner defined by Section 481.002(39)(A)  
2-53 and an agent designated in writing by the practitioner in  
2-54 accordance with rules adopted by the board [~~department~~] may  
2-55 communicate a prescription by telephone. A pharmacy that receives  
2-56 a telephonically communicated prescription shall promptly write  
2-57 the prescription and file and retain the prescription in the manner  
2-58 required by this subchapter. A practitioner who designates an  
2-59 agent to communicate prescriptions shall maintain the written  
2-60 designation of the agent in the practitioner's usual place of  
2-61 business and shall make the designation available for inspection by  
2-62 investigators for the Texas State Board of Medical Examiners, the  
2-63 State Board of Dental Examiners, the State Board of Veterinary  
2-64 Medical Examiners, the board, and the department. A practitioner  
2-65 who designates a different agent shall designate that agent in  
2-66 writing and maintain the designation in the same manner in which the  
2-67 practitioner initially designated an agent under this section.

2-68 SECTION 9. Sections 481.074(b), (c), (d), (p), and (q),  
2-69 Health and Safety Code, are amended to read as follows:

3-1 (b) Except in an emergency as defined by rule of the board  
 3-2 [~~director~~] or as provided by Subsection (o) or Section 481.075(j)  
 3-3 or (m), a person may not dispense or administer a controlled  
 3-4 substance listed in Schedule II without a written prescription of a  
 3-5 practitioner on an official prescription form or without an  
 3-6 electronic prescription that meets the requirements of and is  
 3-7 completed by the practitioner in accordance with Section 481.075.  
 3-8 In an emergency, a person may dispense or administer a controlled  
 3-9 substance listed in Schedule II on the oral or telephonically  
 3-10 communicated prescription of a practitioner. The person who  
 3-11 administers or dispenses the substance shall:

3-12 (1) if the person is a prescribing practitioner or a  
 3-13 pharmacist, promptly comply with Subsection (c); or

3-14 (2) if the person is not a prescribing practitioner or  
 3-15 a pharmacist, promptly write the oral or telephonically  
 3-16 communicated prescription and include in the written record of the  
 3-17 prescription the name, address, and Federal Drug Enforcement  
 3-18 Administration number issued for prescribing a controlled  
 3-19 substance in this state of the prescribing practitioner, all  
 3-20 information required to be provided by a practitioner under Section  
 3-21 481.075(e)(1), and all information required to be provided by a  
 3-22 dispensing pharmacist under Section 481.075(e)(2).

3-23 (c) Not later than the seventh day after the date a  
 3-24 prescribing practitioner authorizes an emergency oral or  
 3-25 telephonically communicated prescription, the prescribing  
 3-26 practitioner shall cause a written or electronic prescription,  
 3-27 completed in the manner required by Section 481.075, to be  
 3-28 delivered to the dispensing pharmacist at the pharmacy where the  
 3-29 prescription was dispensed. A written prescription may be  
 3-30 delivered in person or by mail. The envelope of a prescription  
 3-31 delivered by mail must be postmarked not later than the seventh day  
 3-32 after the date the prescription was authorized. On receipt of a  
 3-33 written prescription, the dispensing pharmacy shall file the  
 3-34 transcription of the telephonically communicated prescription and  
 3-35 the pharmacy copy and shall send information to the board  
 3-36 [~~director~~] as required by Section 481.075. On receipt of an  
 3-37 electronic prescription, the pharmacist shall annotate the  
 3-38 electronic prescription record with the original authorization and  
 3-39 date of the emergency oral or telephonically communicated  
 3-40 prescription.

3-41 (d) Except as specified in Subsections (e) and (f), the  
 3-42 board [~~director~~], by rule and in consultation with the Texas  
 3-43 Medical Board and the department [~~Texas State Board of Pharmacy~~],  
 3-44 shall establish the period after the date on which the prescription  
 3-45 is issued that a person may fill a prescription for a controlled  
 3-46 substance listed in Schedule II. A person may not refill a  
 3-47 prescription for a substance listed in Schedule II.

3-48 (p) On receipt of the prescription, the dispensing pharmacy  
 3-49 shall file the facsimile copy of the prescription and shall send  
 3-50 information to the board [~~director~~] as required by Section 481.075.

3-51 (q) Each dispensing pharmacist shall send all required  
 3-52 information [~~required by the director~~], including any information  
 3-53 required to complete the Schedule III through V prescription forms,  
 3-54 to the board [~~director~~] by electronic transfer or another form  
 3-55 approved by the board [~~director~~] not later than the seventh day  
 3-56 after the date the prescription is completely filled.

3-57 SECTION 10. Sections 481.075(c), (g), (i), (k), and (m),  
 3-58 Health and Safety Code, are amended to read as follows:

3-59 (c) The board [~~director~~] shall issue official prescription  
 3-60 forms to practitioners for a fee covering the actual cost of  
 3-61 printing, processing, and mailing the forms [~~at 100 a package~~].  
 3-62 Before mailing or otherwise delivering prescription forms to a  
 3-63 practitioner, the board [~~director~~] shall print on each form the  
 3-64 number of the form and any other information the board [~~director~~]  
 3-65 determines is necessary.

3-66 (g) Except for an oral prescription prescribed under  
 3-67 Section 481.074(b), the prescribing practitioner shall:

3-68 (1) legibly fill in, or direct a designated agent to  
 3-69 legibly fill in, on the official prescription form or in the

4-1 electronic prescription, each item of information required to be  
4-2 provided by the prescribing practitioner under Subsection (e)(1),  
4-3 unless the practitioner determines that:

4-4 (A) under rule adopted by the board [~~director~~]  
4-5 for this purpose, it is unnecessary for the practitioner or the  
4-6 practitioner's agent to provide the patient identification number;  
4-7 or

4-8 (B) it is not in the best interest of the patient  
4-9 for the practitioner or practitioner's agent to provide information  
4-10 regarding the intended use of the controlled substance or the  
4-11 diagnosis for which it is prescribed; and

4-12 (2) sign the official prescription form and give the  
4-13 form to the person authorized to receive the prescription or, in the  
4-14 case of an electronic prescription, electronically sign or validate  
4-15 the electronic prescription as authorized by federal law and  
4-16 transmit the prescription to the dispensing pharmacy.

4-17 (i) Each dispensing pharmacist shall:

4-18 (1) fill in on the official prescription form or note  
4-19 in the electronic prescription record each item of information  
4-20 given orally to the dispensing pharmacy under Subsection (h) and  
4-21 the date the prescription is filled, and:

4-22 (A) for a written prescription, fill in the  
4-23 dispensing pharmacist's signature; or

4-24 (B) for an electronic prescription,  
4-25 appropriately record the identity of the dispensing pharmacist in  
4-26 the electronic prescription record;

4-27 (2) retain with the records of the pharmacy for at  
4-28 least two years:

4-29 (A) the official prescription form or the  
4-30 electronic prescription record, as applicable; and

4-31 (B) the name or other patient identification  
4-32 required by Section 481.074(m) or (n); and

4-33 (3) send all required information [~~required by the~~  
4-34 ~~director~~], including any information required to complete an  
4-35 official prescription form or electronic prescription record, to  
4-36 the board [~~director~~] by electronic transfer or another form  
4-37 approved by the board [~~director~~] not later than the seventh day  
4-38 after the date the prescription is completely filled.

4-39 (k) Not later than the 30th day after the date a  
4-40 practitioner's [~~department registration number,~~] Federal Drug  
4-41 Enforcement Administration number[~~7~~] or license to practice has  
4-42 been denied, suspended, canceled, surrendered, or revoked, the  
4-43 practitioner shall return to the board [~~department~~] all official  
4-44 prescription forms in the practitioner's possession that have not  
4-45 been used for prescriptions.

4-46 (m) A pharmacy in this state may fill a prescription for a  
4-47 controlled substance listed in Schedule II issued by a practitioner  
4-48 in another state if:

4-49 (1) a share of the pharmacy's business involves the  
4-50 dispensing and delivery or mailing of controlled substances;

4-51 (2) the prescription is issued by a prescribing  
4-52 practitioner in the other state in the ordinary course of practice;  
4-53 and

4-54 (3) the prescription is filled in compliance with a  
4-55 written plan providing the manner in which the pharmacy may fill a  
4-56 Schedule II prescription issued by a practitioner in another state  
4-57 that:

4-58 (A) is submitted by the pharmacy to the board  
4-59 [~~director~~]; and

4-60 (B) is approved by the board [~~director in~~  
4-61 ~~consultation with the Texas State Board of Pharmacy~~].

4-62 SECTION 11. The heading to Section 481.076, Health and  
4-63 Safety Code, is amended to read as follows:

4-64 Sec. 481.076. OFFICIAL PRESCRIPTION INFORMATION; DUTIES OF  
4-65 TEXAS STATE BOARD OF PHARMACY.

4-66 SECTION 12. Section 481.076, Health and Safety Code, is  
4-67 amended by amending Subsections (a), (a-1), (a-2), (b), (c), (d),  
4-68 (e), (g), and (i) and adding Subsections (a-3), (a-4), (a-5), (j),  
4-69 and (k) to read as follows:

5-1 (a) The board [~~director~~] may not permit any person to have  
 5-2 access to information submitted to the board [~~director~~] under  
 5-3 Section 481.074(q) or 481.075 except:

5-4 (1) an investigator for the board, the Texas Medical  
 5-5 Board, the Texas State Board of Podiatric Medical Examiners, the  
 5-6 State Board of Dental Examiners, the State Board of Veterinary  
 5-7 Medical Examiners, the Texas Board of Nursing, or the Texas  
 5-8 Optometry [~~State~~] Board [~~of Pharmacy~~];

5-9 (2) an authorized officer or member of the department  
 5-10 or authorized employee of the board engaged in the administration,  
 5-11 investigation, or enforcement of this chapter or another law  
 5-12 governing illicit drugs in this state or another state; [~~or~~]

5-13 (3) the department on behalf of [~~if the director finds~~  
 5-14 ~~that proper need has been shown to the director.~~]

5-15 [~~(A)~~] a law enforcement or prosecutorial  
 5-16 official engaged in the administration, investigation, or  
 5-17 enforcement of this chapter or another law governing illicit drugs  
 5-18 in this state or another state;

5-19 (4) a medical examiner conducting an investigation;

5-20 (5) [~~(B)~~] a pharmacist or a pharmacy technician, as  
 5-21 defined by Section 551.003, Occupations Code, acting at the  
 5-22 direction of a pharmacist or a practitioner who is a physician,  
 5-23 dentist, veterinarian, podiatrist, optometrist, or advanced  
 5-24 practice nurse or is a physician assistant described by Section  
 5-25 481.002(39)(D) or an employee or other agent of a practitioner [~~a~~  
 5-26 ~~nurse licensed under Chapter 301, Occupations Code,~~] acting at the  
 5-27 direction of a practitioner and is inquiring about a recent  
 5-28 Schedule II, III, IV, or V prescription history of a particular  
 5-29 patient of the practitioner, provided that the person accessing the  
 5-30 information is authorized to do so under the Health Insurance  
 5-31 Portability and Accountability Act of 1996 (Pub. L. No. 104-191)  
 5-32 and rules adopted under that Act; [~~or~~]

5-33 (6) [~~(C)~~] a pharmacist or practitioner who is  
 5-34 inquiring about the person's own dispensing or prescribing  
 5-35 activity; or

5-36 (7) one or more states or an association of states with  
 5-37 which the board has an interoperability agreement, as provided by  
 5-38 Subsection (j).

5-39 (a-1) A person authorized to receive information under  
 5-40 Subsection (a)(4), (5), [~~(a)(3)(B)~~] or (6) [~~(C)~~] may access that  
 5-41 information through a health information exchange, subject to  
 5-42 proper security measures to ensure against disclosure to  
 5-43 unauthorized persons.

5-44 (a-2) A person authorized to receive information under  
 5-45 Subsection (a)(5) [~~(a)(3)(B)~~] may include that information in any  
 5-46 form in the medical or pharmacy record of the patient who is the  
 5-47 subject of the information. Any information included in a  
 5-48 patient's medical or pharmacy record under this subsection is  
 5-49 subject to any applicable state or federal confidentiality or  
 5-50 privacy laws.

5-51 (a-3) The board shall ensure that the department has  
 5-52 unrestricted access at all times to information received by the  
 5-53 board under this section.

5-54 (a-4) A law enforcement or prosecutorial official described  
 5-55 by Subsection (a)(3) may obtain information received by the board  
 5-56 under this section only if the official submits a request to the  
 5-57 department. The department shall review and process each request  
 5-58 under this subsection. If the department shows that the official  
 5-59 has shown proper need for the information, the department shall  
 5-60 access the information on behalf of the official and submit the  
 5-61 relevant information to the official.

5-62 (a-5) Records relating to the access of information by the  
 5-63 department or by the department on behalf of a law enforcement  
 5-64 agency are confidential, including any information concerning the  
 5-65 identities of the investigating agents or agencies. The board may  
 5-66 not track or monitor the department's access to information.

5-67 (b) This section does not prohibit the board [~~director~~] from  
 5-68 creating, using, or disclosing statistical data about information  
 5-69 received by the board [~~director~~] under this section if the board

6-1 ~~[director]~~ removes any information reasonably likely to reveal the  
6-2 identity of each patient, practitioner, or other person who is a  
6-3 subject of the information.

6-4 (c) The board ~~[director]~~ by rule shall design and implement  
6-5 a system for submission of information to the board ~~[director]~~ by  
6-6 electronic or other means and for retrieval of information  
6-7 submitted to the board ~~[director]~~ under this section and Sections  
6-8 481.074 and 481.075. The board ~~[director]~~ shall use automated  
6-9 information security techniques and devices to preclude improper  
6-10 access to the information. The board ~~[director]~~ shall submit the  
6-11 system design to the director [~~Texas State Board of Pharmacy~~] and  
6-12 the Texas Medical Board for review and ~~[approval or]~~ comment a  
6-13 reasonable time before implementation of the system and shall  
6-14 comply with the comments of those agencies unless it is  
6-15 unreasonable to do so.

6-16 (d) Information submitted to the board ~~[director]~~ under  
6-17 this section may be used only for:

6-18 (1) the administration, investigation, or enforcement  
6-19 of this chapter or another law governing illicit drugs in this state  
6-20 or another state;

6-21 (2) investigatory or evidentiary purposes in  
6-22 connection with the functions of an agency listed in Subsection  
6-23 (a)(1); or

6-24 (3) dissemination by the board ~~[director]~~ to the  
6-25 public in the form of a statistical tabulation or report if all  
6-26 information reasonably likely to reveal the identity of each  
6-27 patient, practitioner, or other person who is a subject of the  
6-28 information has been removed.

6-29 (e) The board ~~[director]~~ shall remove from the information  
6-30 retrieval system, destroy, and make irretrievable the record of the  
6-31 identity of a patient submitted under this section to the board  
6-32 ~~[director]~~ not later than the end of the 36th calendar month after  
6-33 the month in which the identity is entered into the system.  
6-34 However, the board ~~[director]~~ may retain a patient identity that is  
6-35 necessary for use in a specific ongoing investigation conducted in  
6-36 accordance with this section until the 30th day after the end of the  
6-37 month in which the necessity for retention of the identity ends.

6-38 (g) If the director permits access to information under  
6-39 Subsection (a)(3) [~~(a)(3)(A)~~] relating to a person licensed or  
6-40 regulated by an agency listed in Subsection (a)(1), the director  
6-41 shall notify that agency of the disclosure of the information not  
6-42 later than the 10th working day after the date the information is  
6-43 disclosed.

6-44 (i) Information submitted to the board ~~[director]~~ under  
6-45 Section 481.074(q) or 481.075 is confidential and remains  
6-46 confidential regardless of whether the board ~~[director]~~ permits  
6-47 access to the information under this section.

6-48 (j) The board may enter into an interoperability agreement  
6-49 with one or more states or an association of states authorizing the  
6-50 board to access prescription monitoring information maintained or  
6-51 collected by the other state or states or the association,  
6-52 including information maintained on a central database such as the  
6-53 National Association of Boards of Pharmacy Prescription Monitoring  
6-54 Program InterConnect. Pursuant to an interoperability agreement,  
6-55 the board may authorize the prescription monitoring program of one  
6-56 or more states or an association of states to access information  
6-57 submitted to the board under Sections 481.074(q) and 481.075,  
6-58 including by submitting or sharing information through a central  
6-59 database such as the National Association of Boards of Pharmacy  
6-60 Prescription Monitoring Program InterConnect.

6-61 (k) A person authorized to access information under  
6-62 Subsection (a)(4) who is registered with the board for electronic  
6-63 access to the information is entitled to directly access the  
6-64 information available from other states pursuant to an  
6-65 interoperability agreement described by Subsection (j).

6-66 SECTION 13. Section 481.0761, Health and Safety Code, is  
6-67 amended by amending Subsections (a), (c), (d), (e), and (f) and  
6-68 adding Subsection (g) to read as follows:

6-69 (a) The board ~~[director]~~ shall ~~[consult with the Texas State~~

7-1 ~~Board of Pharmacy and~~ by rule establish and revise as necessary a  
 7-2 standardized database format that may be used by a pharmacy to  
 7-3 transmit the information required by Sections 481.074(q) and  
 7-4 481.075(i) to the board [~~director~~] electronically or to deliver the  
 7-5 information on storage media, including disks, tapes, and  
 7-6 cassettes.

7-7 (c) The board [~~director~~] by rule may:

7-8 (1) permit more than one prescription to be  
 7-9 administered or dispensed and recorded on one prescription form for  
 7-10 a Schedule III through V controlled substance;

7-11 (1-a) establish a procedure for the issuance of  
 7-12 multiple prescriptions of a Schedule II controlled substance under  
 7-13 Section 481.074(d-1);

7-14 (2) remove from or return to the official prescription  
 7-15 program any aspect of a practitioner's or pharmacist's hospital  
 7-16 practice, including administering or dispensing;

7-17 (3) waive or delay any requirement relating to the  
 7-18 time or manner of reporting;

7-19 (4) establish compatibility protocols for electronic  
 7-20 data transfer hardware, software, or format, including any  
 7-21 necessary modifications for participation in a database described  
 7-22 by Section 481.076(j);

7-23 (5) establish a procedure to control the release of  
 7-24 information under Sections 481.074, 481.075, and 481.076; and

7-25 (6) establish a minimum level of prescription activity  
 7-26 below which a reporting activity may be modified or deleted.

7-27 (d) The board [~~director~~] by rule shall authorize a  
 7-28 practitioner to determine whether it is necessary to obtain a  
 7-29 particular patient identification number and to provide that number  
 7-30 on the official prescription form or in the electronic prescription  
 7-31 record.

7-32 (e) In adopting a rule relating to the electronic transfer  
 7-33 of information under this subchapter, the board [~~director~~] shall  
 7-34 consider the economic impact of the rule on practitioners and  
 7-35 pharmacists and, to the extent permitted by law, act to minimize any  
 7-36 negative economic impact, including the imposition of costs related  
 7-37 to computer hardware or software or to the transfer of information.  
 7-38 [~~The director may not adopt a rule relating to the electronic~~  
 7-39 ~~transfer of information under this subchapter that imposes a fee in~~  
 7-40 ~~addition to the fees authorized by Section 481.064.~~]

7-41 (f) The board [~~director~~] may authorize a contract between  
 7-42 the board [~~department~~] and another agency of this state or a private  
 7-43 vendor as necessary to ensure the effective operation of the  
 7-44 official prescription program.

7-45 (g) The board may adopt rules providing for a person  
 7-46 authorized to access information under Section 481.076(a)(5) to be  
 7-47 enrolled in electronic access to the information described by  
 7-48 Section 481.076(a) at the time the person obtains or renews the  
 7-49 person's applicable professional or occupational license or  
 7-50 registration.

7-51 SECTION 14. Section 481.077(c), Health and Safety Code, is  
 7-52 amended to read as follows:

7-53 (c) This section and Section 481.078 do not apply to a  
 7-54 person to whom a registration has been issued by the Federal Drug  
 7-55 Enforcement Administration [under Section 481.063].

7-56 SECTION 15. Section 481.080(d), Health and Safety Code, is  
 7-57 amended to read as follows:

7-58 (d) This section and Section 481.081 do not apply to a  
 7-59 person to whom a registration has been issued by the Federal Drug  
 7-60 Enforcement Administration [under Section 481.063].

7-61 SECTION 16. Section 481.124(b), Health and Safety Code, is  
 7-62 amended to read as follows:

7-63 (b) For purposes of this section, an intent to unlawfully  
 7-64 manufacture the controlled substance methamphetamine is presumed  
 7-65 if the actor possesses or transports:

7-66 (1) anhydrous ammonia in a container or receptacle  
 7-67 that is not designed and manufactured to lawfully hold or transport  
 7-68 anhydrous ammonia;

7-69 (2) lithium metal removed from a battery and immersed

8-1 in kerosene, mineral spirits, or similar liquid that prevents or  
 8-2 retards hydration; or  
 8-3 (3) in one container, vehicle, or building,  
 8-4 phenylacetic acid, or more than nine grams, three containers  
 8-5 packaged for retail sale, or 300 tablets or capsules of a product  
 8-6 containing ephedrine or pseudoephedrine, and:  
 8-7 (A) anhydrous ammonia;  
 8-8 (B) at least three of the following categories of  
 8-9 substances commonly used in the manufacture of methamphetamine:  
 8-10 (i) lithium or sodium metal or red  
 8-11 phosphorus, iodine, or iodine crystals;  
 8-12 (ii) lye, sulfuric acid, hydrochloric acid,  
 8-13 or muriatic acid;  
 8-14 (iii) an organic solvent, including ethyl  
 8-15 ether, alcohol, or acetone;  
 8-16 (iv) a petroleum distillate, including  
 8-17 naphtha, paint thinner, or charcoal lighter fluid; or  
 8-18 (v) aquarium, rock, or table salt; or  
 8-19 (C) at least three of the following items:  
 8-20 (i) an item of equipment subject to  
 8-21 regulation under Section 481.080, if the person is not a registrant  
 8-22 [~~registered under Section 481.063~~]; or  
 8-23 (ii) glassware, a plastic or metal  
 8-24 container, tubing, a hose, or other item specially designed,  
 8-25 assembled, or adapted for use in the manufacture, processing,  
 8-26 analyzing, storing, or concealing of methamphetamine.  
 8-27 SECTION 17. Section 481.127(a), Health and Safety Code, is  
 8-28 amended to read as follows:  
 8-29 (a) A person commits an offense if the person knowingly  
 8-30 gives, permits, or obtains unauthorized access to information  
 8-31 submitted to the board [~~director~~] under Section 481.074(q) or  
 8-32 481.075.  
 8-33 SECTION 18. Sections 481.128(a) and (b), Health and Safety  
 8-34 Code, are amended to read as follows:  
 8-35 (a) A registrant or dispenser commits an offense if the  
 8-36 registrant or dispenser knowingly:  
 8-37 (1) distributes, delivers, administers, or dispenses  
 8-38 a controlled substance in violation of Sections 481.070-481.075;  
 8-39 (2) manufactures a controlled substance not  
 8-40 authorized by the person's Federal Drug Enforcement Administration  
 8-41 registration or distributes or dispenses a controlled substance not  
 8-42 authorized by the person's registration to another registrant or  
 8-43 other person;  
 8-44 (3) refuses or fails to make, keep, or furnish a  
 8-45 record, report, notification, order form, statement, invoice, or  
 8-46 information required by this chapter;  
 8-47 (4) prints, manufactures, possesses, or produces an  
 8-48 official prescription form without the approval of the board  
 8-49 [~~director~~];  
 8-50 (5) delivers or possesses a counterfeit official  
 8-51 prescription form;  
 8-52 (6) refuses an entry into a premise for an inspection  
 8-53 authorized by this chapter;  
 8-54 (7) refuses or fails to return an official  
 8-55 prescription form as required by Section 481.075(k);  
 8-56 (8) refuses or fails to make, keep, or furnish a  
 8-57 record, report, notification, order form, statement, invoice, or  
 8-58 information required by a rule adopted by the director or the board;  
 8-59 or  
 8-60 (9) refuses or fails to maintain security required by  
 8-61 this chapter or a rule adopted under this chapter.  
 8-62 (b) If the registrant or dispenser knowingly refuses or  
 8-63 fails to make, keep, or furnish a record, report, notification,  
 8-64 order form, statement, invoice, or information or maintain security  
 8-65 required by a rule adopted by the director or the board, the  
 8-66 registrant or dispenser is liable to the state for a civil penalty  
 8-67 of not more than \$5,000 for each act.  
 8-68 SECTION 19. Section 481.129(a), Health and Safety Code, is  
 8-69 amended to read as follows:



9-1 (a) A person commits an offense if the person knowingly:  
 9-2 (1) distributes as a registrant or dispenser a  
 9-3 controlled substance listed in Schedule I or II, unless the person  
 9-4 distributes the controlled substance as authorized under the  
 9-5 federal Controlled Substances Act (21 U.S.C. Section 801 et seq.)  
 9-6 ~~[an order form as required by Section 481.069]~~;  
 9-7 (2) uses in the course of manufacturing, prescribing,  
 9-8 or distributing a controlled substance a Federal Drug Enforcement  
 9-9 Administration registration number that is fictitious, revoked,  
 9-10 suspended, or issued to another person;  
 9-11 (3) issues a prescription bearing a forged or  
 9-12 fictitious signature;  
 9-13 (4) uses a prescription issued to another person to  
 9-14 prescribe a Schedule II controlled substance;  
 9-15 (5) possesses, obtains, or attempts to possess or  
 9-16 obtain a controlled substance or an increased quantity of a  
 9-17 controlled substance:  
 9-18 (A) by misrepresentation, fraud, forgery,  
 9-19 deception, or subterfuge;  
 9-20 (B) through use of a fraudulent prescription  
 9-21 form; or  
 9-22 (C) through use of a fraudulent oral or  
 9-23 telephonically communicated prescription; or  
 9-24 (6) furnishes false or fraudulent material  
 9-25 information in or omits material information from an application,  
 9-26 report, record, or other document required to be kept or filed under  
 9-27 this chapter.  
 9-28 SECTION 20. Section 481.159(a), Health and Safety Code, is  
 9-29 amended to read as follows:  
 9-30 (a) If a district court orders the forfeiture of a  
 9-31 controlled substance property or plant under Chapter 59, Code of  
 9-32 Criminal Procedure, or under this code, the court shall also order a  
 9-33 law enforcement agency to:  
 9-34 (1) retain the property or plant for its official  
 9-35 purposes, including use in the investigation of offenses under this  
 9-36 code;  
 9-37 (2) deliver the property or plant to a government  
 9-38 agency for official purposes;  
 9-39 (3) deliver the property or plant to a person  
 9-40 authorized by the court to receive it;  
 9-41 (4) deliver the property or plant to a person  
 9-42 authorized by the director to receive it ~~[for a purpose described by~~  
 9-43 ~~Section 481.065(a)]~~; or  
 9-44 (5) destroy the property or plant that is not  
 9-45 otherwise disposed of in the manner prescribed by this subchapter.  
 9-46 SECTION 21. Section 481.301, Health and Safety Code, is  
 9-47 amended to read as follows:  
 9-48 Sec. 481.301. IMPOSITION OF PENALTY. The department or the  
 9-49 board, as applicable, may impose an administrative penalty on a  
 9-50 person who violates Section 481.061, ~~[481.066,]~~ 481.067,  
 9-51 ~~[481.069,]~~ 481.074, 481.075, 481.077, 481.0771, 481.078, 481.080,  
 9-52 or 481.081 or a rule or order adopted under any of those sections.  
 9-53 SECTION 22. Section 481.352, Health and Safety Code, is  
 9-54 amended to read as follows:  
 9-55 Sec. 481.352. MEMBERS. The work group is composed of:  
 9-56 (1) the executive director of the board or the  
 9-57 executive director's designee, who serves as chair of the work  
 9-58 group;  
 9-59 (2) the commissioner of state health services or the  
 9-60 commissioner's designee;  
 9-61 (3) ~~[the executive director of the Texas State Board~~  
 9-62 ~~of Pharmacy or the executive director's designee,~~  
 9-63 ~~(4)]~~ the executive director of the Texas Medical  
 9-64 Board or the executive director's designee;  
 9-65 (4) ~~(5)]~~ the executive director of the Texas Board of  
 9-66 Nursing or the executive director's designee; and  
 9-67 (5) ~~(6)]~~ the executive director of the Texas  
 9-68 Physician Assistant Board or the executive director's designee.  
 9-69 SECTION 23. Section 554.006, Occupations Code, is amended

10-1 to read as follows:

10-2 Sec. 554.006. FEES. (a) The board by rule shall establish  
10-3 reasonable and necessary fees so that the fees, in the aggregate,  
10-4 produce sufficient revenue to cover the cost of administering this  
10-5 subtitle.

10-6 (b) The board by rule shall establish reasonable and  
10-7 necessary fees so that the fees, in the aggregate, produce  
10-8 sufficient revenue to cover the cost of establishing and  
10-9 maintaining the program described by Sections 481.075, 481.076, and  
10-10 481.0761, Health and Safety Code.

10-11 (c) The board may assess the fee described by Subsection (b)  
10-12 on individuals or entities authorized to prescribe or dispense  
10-13 controlled substances under Chapter 481, Health and Safety Code,  
10-14 and to access the program described by Sections 481.075, 481.076,  
10-15 and 481.0761, Health and Safety Code.

10-16 (d) Each agency that licenses individuals or entities  
10-17 authorized to prescribe or dispense controlled substances under  
10-18 Chapter 481, Health and Safety Code, and to access the program  
10-19 described by Sections 481.075, 481.076, and 481.0761, Health and  
10-20 Safety Code, shall increase the occupational license, permit, or  
10-21 registration fee of the license holders or use available excess  
10-22 revenue in an amount sufficient to operate that program as  
10-23 specified by the board.

10-24 (e) A fee collected by an agency under Subsection (d) shall  
10-25 be transferred to the board for the purpose of establishing and  
10-26 maintaining the program described by Sections 481.075, 481.076, and  
10-27 481.0761, Health and Safety Code.

10-28 SECTION 24. Section 554.051, Occupations Code, is amended  
10-29 by adding Subsection (a-1) to read as follows:

10-30 (a-1) The board may adopt rules to administer Sections  
10-31 481.075, 481.076, and 481.0761, Health and Safety Code.

10-32 SECTION 25. The following provisions are repealed:

10-33 (1) Sections 481.061(c) and (d), 481.062(b), 481.063,  
10-34 481.064, 481.0645, 481.065, 481.066, and 481.069, Health and Safety  
10-35 Code; and

10-36 (2) Section 156.0035, Occupations Code.

10-37 SECTION 26. (a) Notwithstanding any other provision of  
10-38 this Act, Sections 481.003(a), 481.076(c), and 481.0761(e) and (f),  
10-39 Health and Safety Code, as amended by this Act, and Section  
10-40 481.0761(g), Health and Safety Code, as added by this Act, apply  
10-41 beginning on the effective date of this Act.

10-42 (b) The changes in law made by this Act to Section 481.076,  
10-43 Health and Safety Code, other than the changes made to Subsection  
10-44 (c) of that section, apply only to information submitted or  
10-45 accessed on or after September 1, 2016.

10-46 (c) The Texas State Board of Pharmacy may enter into an  
10-47 interoperability agreement described by Section 481.076(j), Health  
10-48 and Safety Code, as added by this Act, before September 1, 2016, but  
10-49 the agreement may not go into effect until on or after September 1,  
10-50 2016.

10-51 SECTION 27. (a) Not later than September 1, 2016, the  
10-52 Department of Public Safety shall transfer all appropriate records  
10-53 received by the department under Sections 481.074, 481.076, and  
10-54 481.0761, Health and Safety Code, regardless of whether the records  
10-55 were received before, on, or after the effective date of this Act,  
10-56 to the Texas State Board of Pharmacy.

10-57 (b) The Texas State Board of Pharmacy shall adopt any rules  
10-58 required by Chapter 481, Health and Safety Code, as amended by this  
10-59 Act, not later than March 1, 2016.

10-60 (c) A rule, form, policy, procedure, or decision adopted  
10-61 under Chapter 481, Health and Safety Code, as it existed before the  
10-62 effective date of this Act, continues in effect as a rule, form,  
10-63 policy, procedure, or decision and remains in effect until amended  
10-64 or replaced.

10-65 (d) A reference in law or an administrative rule to the  
10-66 public safety director of the Department of Public Safety relating  
10-67 to rulemaking authority given and duties transferred to the Texas  
10-68 State Board of Pharmacy by this Act is a reference to the Texas  
10-69 State Board of Pharmacy.

11-1 SECTION 28. This Act takes effect immediately if it  
11-2 receives a vote of two-thirds of all the members elected to each  
11-3 house, as provided by Section 39, Article III, Texas Constitution.  
11-4 If this Act does not receive the vote necessary for immediate  
11-5 effect, this Act takes effect September 1, 2015.

11-6

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