

1-1 By: Watson S.B. No. 363
1-2 (In the Senate - Filed January 16, 2019; February 7, 2019,
1-3 read first time and referred to Committee on Health & Human
1-4 Services; March 14, 2019, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 March 14, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Kolkhorst	X			
1-9 Perry	X			
1-10 Buckingham	X			
1-11 Campbell	X			
1-12 Flores	X			
1-13 Johnson	X			
1-14 Miles	X			
1-15 Powell	X			
1-16 Seliger	X			
1-17				

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 363 By: Perry

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

1-21 relating to access to certain controlled substance prescription
1-22 information.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Sections 481.076(a), (f), (g), and (h), Health
1-25 and Safety Code, are amended to read as follows:

1-26 (a) The board may not permit any person to have access to
1-27 information submitted to the board under Section 481.074(q) or
1-28 481.075 except:

1-29 (1) the board, the Texas Medical Board, the Texas
1-30 Department of Licensing and Regulation, with respect to the
1-31 regulation of podiatrists [State Board of Podiatric Medical
1-32 Examiners], the State Board of Dental Examiners, the State Board of
1-33 Veterinary Medical Examiners, the Texas Board of Nursing, or the
1-34 Texas Optometry Board for the purpose of:

1-35 (A) investigating a specific license holder; or
1-36 (B) monitoring for potentially harmful
1-37 prescribing or dispensing patterns or practices under Section
1-38 481.0762;

1-39 (2) an [authorized officer or member of the department
1-40 or] authorized employee of the board engaged in the administration,
1-41 investigation, or enforcement of this chapter or another law
1-42 governing illicit drugs in this state or another state;

1-43 (3) the department or other [on behalf of a] law
1-44 enforcement or prosecutorial official engaged in the
1-45 administration, investigation, or enforcement of this chapter or
1-46 another law governing illicit drugs in this state or another state,
1-47 if the board is provided a warrant, subpoena, or other court order
1-48 compelling the disclosure;

1-49 (4) a medical examiner conducting an investigation;
1-50 (5) provided that accessing the information is
1-51 authorized under the Health Insurance Portability and
1-52 Accountability Act of 1996 (Pub. L. No. 104-191) and regulations
1-53 adopted under that Act:

1-54 (A) a pharmacist or a pharmacy technician, as
1-55 defined by Section 551.003, Occupations Code, acting at the
1-56 direction of a pharmacist; or

1-57 (B) a practitioner who:
1-58 (i) is a physician, dentist, veterinarian,
1-59 podiatrist, optometrist, or advanced practice nurse or is a
1-60 physician assistant described by Section 481.002(39)(D) or an

2-1 employee or other agent of a practitioner acting at the direction of
2-2 a practitioner; and

2-3 (ii) is inquiring about a recent Schedule
2-4 II, III, IV, or V prescription history of a particular patient of
2-5 the practitioner;

2-6 (6) a pharmacist or practitioner who is inquiring
2-7 about the person's own dispensing or prescribing activity; ~~or~~

2-8 (7) one or more states or an association of states with
2-9 which the board has an interoperability agreement, as provided by
2-10 Subsection (j); or

2-11 (8) the office of the attorney general conducting an
2-12 investigation into a violation of Chapter 36, Human Resources Code.

2-13 (f) If the board ~~accesses [director permits access to]~~ information under Subsection (a)(2) relating to a person licensed
2-14 or regulated by an agency listed in Subsection (a)(1), the board
2-15 ~~[director]~~ shall notify and cooperate with that agency regarding
2-16 the disposition of the matter before taking action against the
2-17 person, unless the board ~~[director]~~ determines that notification is
2-18 reasonably likely to interfere with an administrative or criminal
2-19 investigation or prosecution.

2-20 (g) If the board ~~provides [director permits]~~ access to information under Subsection (a)(3) relating to a person licensed
2-21 or regulated by an agency listed in Subsection (a)(1), the board
2-22 ~~[director]~~ shall notify that agency of the disclosure of the
2-23 information not later than the 10th working day after the date the
2-24 information is disclosed.

2-25 (h) If the board ~~[director]~~ withholds notification to an agency under Subsection (f), the board ~~[director]~~ shall notify the agency of the disclosure of the information and the reason for withholding notification when the board ~~[director]~~ determines that notification is no longer likely to interfere with an administrative or criminal investigation or prosecution.

2-26 SECTION 2. Sections 481.076(a-3), (a-4), and (a-5), Health
2-27 and Safety Code, are repealed.

2-28 SECTION 3. To the extent of any conflict, this Act prevails
2-29 over another Act of the 86th Legislature, Regular Session, 2019,
2-30 relating to nonsubstantive additions to and corrections in enacted
2-31 codes.

2-32 SECTION 4. The changes in law made by this Act apply only to
2-33 information accessed on or after the effective date of this Act.

2-34 SECTION 5. This Act takes effect September 1, 2019.

2-42

* * * * *