RULE ANALYSIS

Introduction: THE AMENDMENTS ARE SUBMITTED TO THE BOARD FOR CONSIDERATION AS A PROPOSED RULE

Short Title: Access Requirements.

Rule Numbers: §315.15

Statutory Authority: Texas Pharmacy Act, Chapter 551-569, Occupations Code:

(1) Section 551.002 specifies that the purpose of the Act is to protect the public through the effective control and regulation of the practice of pharmacy; and

(2) Section 554.051 gives the Board the authority to adopt rules for the proper administration and enforcement of the Act.

Purpose: The amendments, if adopted, change the effective date of mandatory PMP database review before dispensing an opioid, benzodiazepine, barbiturate, or carisoprodol, in accordance with Senate Bill 3284, and clarify that the duty to consult the PMP database does not apply if the patient has a documented diagnosis of sickle cell disease, in accordance with Senate Bill 1564.
§315.15. Access Requirements.

(a) Effective \textbf{March 1, 2020}[September 1, 2019], a pharmacist before dispensing an opioid, benzodiazepine, barbiturate, or carisoprodol for a patient shall consult the Texas Prescription Monitoring Program (PMP) database to review the patient's controlled substance history. The dispensing pharmacist of a prescription shall be responsible for the review of the PMP database prior to dispensing the prescription, unless the pharmacy has designated another pharmacist whose identity has been recorded in the pharmacy's data processing system as responsible for PMP review.

(b) The duty to consult the PMP database as described in subsection (a) of this section does not apply in the following circumstances:

(1) the prescribing individual practitioner is a veterinarian;

(2) it is clearly noted in the prescription record that the patient has a diagnosis of cancer or \textbf{sickle cell disease} or is in hospice care; or

(3) the pharmacist is unable to access the PMP after making and documenting a good faith effort to do so.

(c) If a pharmacist uses pharmacy management systems that integrate data from the PMP, a review of the pharmacy management system with the integrated data shall be deemed compliant with the review of the PMP database as required under §481.0764(a) of the Texas Health and Safety Code and in subsection (a) of this section.

(d) Pharmacists and pharmacy technicians acting at the direction of a pharmacist may only access information contained in the PMP as authorized in §481.076 of Texas Controlled Substances Act. A person who is authorized to access the PMP may only do so utilizing that person's assigned identifier (i.e., login and password) and may not use the assigned identifier of another person. Unauthorized access of PMP information is a violation of Texas Controlled Substances Act, the Texas Pharmacy Act, and board rules.
S.B. No. 1564

AN ACT
relating to access to certain medication-assisted treatment.

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

SECTION 1. Sections 481.0765(a) and (b), Health and Safety Code, are amended to read as follows:

(a) A prescriber is not subject to the requirements of Section 481.0764(a) if:

(1) the patient has been diagnosed with cancer or sickle cell disease or the patient is receiving hospice care; and

(2) the prescriber clearly notes in the prescription record that the patient was diagnosed with cancer or sickle cell disease or is receiving hospice care, as applicable.

(b) A dispenser is not subject to the requirements of Section 481.0764(a) if it is clearly noted in the prescription record that the patient has been diagnosed with cancer or sickle cell disease or is receiving hospice care.

SECTION 2. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.03115 to read as follows:

Sec. 32.03115. REIMBURSEMENT FOR MEDICATION-ASSISTED TREATMENT FOR OPIOID OR SUBSTANCE USE DISORDER. (a) In this section, "medication-assisted opioid or substance use disorder treatment" means the use of methadone, buprenorphine, oral buprenorphine/naloxone, or naltrexone to treat opioid or substance use disorder.
(b) Notwithstanding Sections 531.072 and 531.073, Government Code, or any other law and subject to Subsections (c) and (d), the commission shall provide medical assistance reimbursement for medication-assisted opioid or substance use disorder treatment without requiring a recipient of medical assistance or health care provider to obtain prior authorization or precertification for the treatment.

(c) The duty to provide medical assistance reimbursement for medication-assisted opioid or substance use disorder treatment under Subsection (b) does not apply with respect to:

(1) a prescription for methadone;
(2) a recipient for whom medication-assisted opioid or substance use disorder treatment is determined to be medically contraindicated by the recipient’s physician; or
(3) a recipient who is subject to an age-related restriction applicable to medication-assisted opioid or substance use disorder treatment.

(d) The commission may provide medical assistance reimbursement for medication-assisted opioid or substance use disorder treatment only if the treatment is prescribed to a recipient of medical assistance by a licensed health care provider who is authorized to prescribe methadone, buprenorphine, oral buprenorphine/naloxone, or naltrexone.

(e) This section expires August 31, 2023.

SECTION 3. (a) In this section, "qualifying practitioner" has the meaning assigned by 21 U.S.C. Section 823(g)(2)(G)(iii).

(b) Not later than November 1, 2019, the Health and Human
Services Commission shall amend the commission's Medicaid Substance Use Disorder Services Medical Policy and any other provider or claims payment policy or manual necessary to authorize Medicaid medical benefits reimbursement for the prescribing of buprenorphine for the treatment of an opioid use disorder by an advanced practice registered nurse recognized by the Texas Board of Nursing as a clinical nurse specialist, nurse anesthetist, or nurse midwife, provided that the advanced practice registered nurse:

(1) is a qualifying practitioner; and

(2) has obtained a waiver from registration requirements as provided by 21 U.S.C. Section 823(g).

SECTION 4. Section 481.0765, Health and Safety Code, as amended by this Act, applies only to a prescription issued on or after the effective date of this Act. A prescription issued before the effective date of this Act is governed by the law in effect on the date the prescription is issued, and the former law is continued in effect for that purpose.

SECTION 5. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this...
S.B. No. 1564

1  Act takes effect September 1, 2019.

______________________________AAAA______________________________
President of the Senate  Speaker of the House

I hereby certify that S.B. No. 1564 passed the Senate on April 3, 2019, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 25, 2019, by the following vote: Yeas 30, Nays 0.

______________________________
AAAASecretary of the Senate

I hereby certify that S.B. No. 1564 passed the House, with amendments, on May 22, 2019, by the following vote: Yeas 144, Nays 0, two present not voting.

______________________________
AAAAChief Clerk of the House

Approved:

______________________________
Date

______________________________
Governor
AN ACT
relating to programs and initiatives to prevent and respond to
opioid addiction, misuse, abuse, and overdose and identify and
treat co-occurring substance use disorders and mental illness.

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

SECTION 1. Subchapter Z, Chapter 51, Education Code, is
amended by adding Section 51.9362 to read as follows:

Sec. 51.9362. OVERDOSE AWARENESS TRAINING FOR RESIDENTIAL
ADVISORS AND STUDENT ORGANIZATION OFFICERS. (a) In this section:

(1) "Public or private institution of higher education" includes an "institution of higher education" and a
"private or independent institution of higher education," as those
terms are defined by Section 61.003.

(2) "Residential advisor" means a student who is employed by a public or private institution of higher education to
serve in an advisory capacity for students living in a residential
facility.

(3) "Residential facility" means a residence used exclusively for housing or boarding students or faculty of a public
or private institution of higher education.

(4) "Student organization" includes any organization that is composed mostly of students enrolled at a public or private
institution of higher education and that:

(A) is registered with the institution;
(B) receives student organization resource fee
revenues or other funding from the institution; or

(C) is otherwise recognized as a student
organization by the institution.

(b) A public or private institution of higher education that
imposes any mandatory training requirements on residential
advisors or officers of student organizations must ensure that
overdose awareness and appropriate response training is included
with that training.

SECTION 2. Subchapter C, Chapter 61, Education Code, is
amended by adding Section 61.08205 to read as follows:

Sec. 61.08205. RESEARCH ON SUBSTANCE USE DISORDERS AND
ADDICTION. The board shall encourage health-related institutions,
as defined by Section 62.161, as added by Chapter 448 (H.B. 7), Acts
of the 84th Legislature, Regular Session, 2015, and the faculty of
those institutions to individually or through collaborative effort
conduct research, for public health purposes, regarding substance
use disorders and addiction issues involving prescription drugs.

SECTION 3. Subchapter B, Chapter 531, Government Code, is
amended by adding Section 531.02253 to read as follows:

Sec. 531.02253. TELEHEALTH TREATMENT FOR SUBSTANCE USE
DISORDERS. The executive commissioner by rule shall establish a
program to increase opportunities and expand access to telehealth
treatment for substance use disorders in this state.

SECTION 4. Subchapter A, Chapter 772, Government Code, is
amended by adding Section 772.0078 to read as follows:

Sec. 772.0078. OPIOID ANTAGONIST GRANT PROGRAM. (a) In
(1) "Criminal justice division" means the criminal justice division established under Section 772.006.

(2) "Opioid antagonist" and "opioid-related drug overdose" have the meanings assigned by Section 483.101, Health and Safety Code.

(b) The criminal justice division shall establish and administer a grant program to provide financial assistance to a law enforcement agency in this state that seeks to provide opioid antagonists to peace officers, evidence technicians, and related personnel who, in the course of performing their duties, are likely to come into contact with opioids or encounter persons suffering from an apparent opioid-related drug overdose.

(c) A law enforcement agency may apply for a grant under this section only if the agency first adopts a policy addressing the usage of an opioid antagonist for a person suffering from an apparent opioid-related drug overdose.

(d) In an application for a grant under this section, the law enforcement agency shall provide information to the criminal justice division about the frequency and nature of:

(1) interactions between peace officers and persons suffering from an apparent opioid-related drug overdose;

(2) calls for assistance based on an apparent opioid-related drug overdose; and

(3) any exposure of peace officers, evidence technicians, or related personnel to opioids or suspected opioids in the course of performing their duties and any reactions by those
persons to those substances.

(e) A law enforcement agency receiving a grant under this section shall, as soon as practicable after receiving the grant, provide to the criminal justice division proof of purchase of the opioid antagonists.

(f) The criminal justice division may use any money available for purposes of this section.

SECTION 5. Subtitle E, Title 2, Health and Safety Code, is amended by adding Chapter 109 to read as follows:

CHAPTER 109. STATEWIDE BEHAVIORAL HEALTH COORDINATING COUNCIL

Sec. 109.001. DEFINITION. In this chapter, "council" means the Statewide Behavioral Health Coordinating Council.

Sec. 109.002. STATEWIDE BEHAVIORAL HEALTH STRATEGIC PLAN. In preparing the statewide behavioral health strategic plan, the council shall incorporate, as a separate part of that plan, strategies regarding substance abuse issues that are developed by the council in cooperation with the Texas Medical Board and the Texas State Board of Pharmacy, including strategies for:

(1) addressing the challenges of existing prevention, intervention, and treatment programs;

(2) evaluating substance use disorder prevalence involving the abuse of opioids;

(3) identifying substance abuse treatment services availability and gaps; and

(4) collaborating with state agencies to expand substance abuse treatment services capacity in this state.

SECTION 6. Subchapter B, Chapter 461A, Health and Safety
Code, is amended by adding Sections 461A.058 and 461A.059 to read as follows:

Sec. 461A.058. OPIOID MISUSE PUBLIC AWARENESS CAMPAIGN.
(a) The executive commissioner by rule shall develop and the department shall operate a statewide public awareness campaign to deliver public service announcements that explain and clarify certain risks related to opioid misuse, including:

   (1) the risk of overdose, addiction, respiratory depression, or over-sedation; and
   (2) risks involved in mixing opioids with alcohol or other medications.

(b) This section and the statewide public awareness campaign developed under this section expire August 31, 2023.

Sec. 461A.059. OPIOID ANTAGONIST PROGRAM. (a) In this section, "opioid antagonist" has the meaning assigned by Section 483.101.

(b) From funds available for that purpose, the executive commissioner shall operate a program to provide opioid antagonists for the prevention of opioid overdoses in a manner determined by the executive commissioner to best accomplish that purpose.

(c) The executive commissioner may provide opioid antagonists under the program to emergency medical services personnel, first responders, public schools, community centers, and other persons likely to be in a position to respond to an opioid overdose.

(d) The commission may accept gifts, grants, and donations to be used in administering this section.
(e) The executive commissioner shall adopt rules as necessary to implement this section.

SECTION 7. Section 481.0764, Health and Safety Code, is amended by adding Subsection (f) to read as follows:

(f) A prescriber or dispenser whose practice includes the prescription or dispensation of opioids shall annually attend at least one hour of continuing education covering best practices, alternative treatment options, and multi-modal approaches to pain management that may include physical therapy, psychotherapy, and other treatments. The board shall adopt rules to establish the content of continuing education described by this subsection. The board may collaborate with private and public institutions of higher education and hospitals in establishing the content of the continuing education. This subsection expires August 31, 2023.

SECTION 8. Chapter 1001, Health and Safety Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. DATA COLLECTION AND ANALYSIS REGARDING OPIOID OVERDOSE DEATHS AND CO-OCCURRING SUBSTANCE USE DISORDERS

Sec. 1001.261. DATA COLLECTION AND ANALYSIS REGARDING OPIOID OVERDOSE DEATHS AND CO-OCCURRING SUBSTANCE USE DISORDERS.

(a) The executive commissioner shall ensure that data is collected by the department regarding opioid overdose deaths and the co-occurrence of substance use disorders and mental illness. The department may use data collected by the vital statistics unit and any other source available to the department.

(b) In analyzing data collected under this section, the department shall evaluate the capacity in this state for the
treatment of co-occurring substance use disorders and mental
illness.

SECTION 9. Subchapter B, Chapter 32, Human Resources Code,
is amended by adding Section 32.03115 to read as follows:

Sec. 32.03115. REIMBURSEMENT FOR MEDICATION-ASSISTED
TREATMENT FOR OPIOID OR SUBSTANCE USE DISORDER. (a) In this
section, "medication-assisted opioid or substance use disorder
treatment" means the use of methadone, buprenorphine, oral
buprenorphine/naloxone, or naltrexone to treat opioid or substance
use disorder.

(b) Notwithstanding Sections 531.072 and 531.073,
Government Code, or any other law and subject to Subsections (c) and
(d), the commission shall provide medical assistance reimbursement
for medication-assisted opioid or substance use disorder treatment
without requiring a recipient of medical assistance or health care
provider to obtain prior authorization or precertification for the
treatment.

(c) The duty to provide medical assistance reimbursement
for medication-assisted opioid or substance use disorder treatment
under Subsection (b) does not apply with respect to:

(1) a prescription for methadone;

(2) a recipient for whom medication-assisted opioid or
substance use disorder treatment is determined to be medically
contraindicated by the recipient's physician; or

(3) a recipient who is subject to an age-related
restriction applicable to medication-assisted opioid or substance
abuse disorder treatment.
(d) The commission may provide medical assistance reimbursement for medication-assisted opioid or substance use disorder treatment only if the treatment is prescribed to a recipient of medical assistance by a licensed health care provider who is authorized to prescribe methadone, buprenorphine, oral buprenorphine/naloxone, or naltrexone.

(e) This section expires August 31, 2023.

SECTION 10. Section 168.002, Occupations Code, is amended to read as follows:

Sec. 168.002. EXEMPTIONS. This chapter does not apply to:

(1) a medical or dental school or an outpatient clinic associated with a medical or dental school;

(2) a hospital, including any outpatient facility or clinic of a hospital;

(3) a hospice established under 40 T.A.C. Section 97.403 or defined by 42 C.F.R. Section 418.3;

(4) a facility maintained or operated by this state;

(5) a clinic maintained or operated by the United States;

(6) a health organization certified by the board under Section 162.001; or

(7) a clinic owned or operated by a physician who treats patients within the physician's area of specialty and who personally uses other forms of treatment, including surgery, with the issuance of a prescription for a majority of the patients;

(8) a clinic owned or operated by an advanced practice nurse licensed in this state who treats patients in the
nurse's area of specialty and who personally uses other forms of
treatment with the issuance of a prescription for a majority of the
patients].

SECTION 11. Subchapter A, Chapter 554, Occupations Code, is
amended by adding Section 554.018 to read as follows:

Sec. 554.018. COMPREHENSIVE SUBSTANCE USE DISORDER
APPROACH. The board shall encourage pharmacists to participate in
a program that provides a comprehensive approach to the delivery of
early intervention and treatment services for persons with
substance use disorders and persons who are at risk of developing
substance use disorders, such as a program promoted by the
Substance Abuse and Mental Health Services Administration within
the United States Department of Health and Human Services.

SECTION 12. Section 51.9362, Education Code, as added by
this Act, applies beginning with training required for the
2019-2020 academic year.

SECTION 13. (a) Not later than December 1, 2019, the
executive commissioner of the Health and Human Services Commission
shall:

(1) develop the opioid misuse public awareness
campaign required by Section 461A.058, Health and Safety Code, as
added by this Act; and

(2) establish the opioid antagonist program required
by Section 461A.059, Health and Safety Code, as added by this Act.

(b) Notwithstanding Subsection (a) of this section, if an
opioid misuse public awareness campaign described by Section
461A.058, Health and Safety Code, as added by this Act, is already
H.B. No. 3285

1 in operation as of the effective date of this Act, the Health and
2 Human Services Commission and the Department of State Health
3 Services may continue to operate that public awareness campaign to
4 satisfy the requirements of that section.

5 (c) Notwithstanding Subsection (a) of this section, if an
6 opioid antagonist program described by Section 461A.059, Health and
7 Safety Code, as added by this Act, is already in operation as of the
8 effective date of this Act, the Health and Human Services
9 Commission may continue to operate that program to satisfy the
10 requirements of that section.
11
12 SECTION 14. A state agency is required to implement a
13 provision of this Act only if the legislature appropriates money
14 specifically for that purpose. If the legislature does not
15 appropriate money specifically for that purpose, the state agency
16 may, but is not required to, implement a provision of this Act using
17 other appropriations available for that purpose.
18
19 SECTION 15. If before implementing any provision of this
20 Act a state agency determines that a waiver or authorization from a
21 federal agency is necessary for implementation of that provision,
22 the agency affected by the provision shall request the waiver or
23 authorization and may delay implementing that provision until the
24 waiver or authorization is granted.
25
26 SECTION 16. This Act takes effect September 1, 2019.
H.B. No. 3285

I certify that H.B. No. 3285 was passed by the House on May 10, 2019, by the following vote: Yeas 119, Nays 18, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3285 on May 24, 2019, by the following vote: Yeas 124, Nays 18, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3285 was passed by the Senate, with amendments, on May 22, 2019, by the following vote: Yeas 29, Nays 2.

Secretary of the Senate

APPROVED: __________________

Date

Governor
AN ACT
relating to the prescribing and dispensing of controlled substances
under the Texas Controlled Substances Act; authorizing a fee;
providing for administrative penalties; creating criminal
offenses.

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

SECTION 1. Section 481.076, Health and Safety Code, is
amended by amending Subsections (a), (f), (g), and (h) and adding
Subsection (a-6) to read as follows:
(a) The board may not permit any person to have access to
information submitted to the board under Section 481.074(q) or
481.075 except:
(1) the board, the Texas Medical Board, the Texas
Department of Licensing and Regulation, with respect to the
regulation of podiatrists [State Board of Podiatric Medical
Examiners], the State Board of Dental Examiners, the State Board of
Veterinary Medical Examiners, the Texas Board of Nursing, or the
Texas Optometry Board for the purpose of:
(A) investigating a specific license holder; or
(B) monitoring for potentially harmful
prescribing or dispensing patterns or practices under Section
481.0762;
(2) an [authorized officer or member of the department
authorized employee of the board engaged in the administration,
investigation, or enforcement of this chapter or another law
governing illicit drugs in this state or another state;

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

(4) a medical examiner conducting an investigation;

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

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

(B) a practitioner who:

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

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

(6) a pharmacist or practitioner who is inquiring
about the person's own dispensing or prescribing activity; ["]
(7) one or more states or an association of states with which the board has an interoperability agreement, as provided by Subsection (j); 

(8) a health care facility certified by the federal Centers for Medicare and Medicaid Services; or 

(9) the patient, the patient's parent or legal guardian, if the patient is a minor, or the patient's legal guardian, if the patient is an incapacitated person, as defined by Section 1002.017, Estates Code, inquiring about the patient's prescription record, including persons who have accessed that record. 

(a-6) A patient, the patient's parent or legal guardian, if the patient is a minor, or the patient's legal guardian, if the patient is an incapacitated person, as defined by Section 1002.017, Estates Code, is entitled to a copy of the patient's prescription record as provided by Subsection (a)(9), including a list of persons who have accessed that record, if a completed patient data request form and any supporting documentation required by the board is submitted to the board. The board may charge a reasonable fee for providing the copy. The board shall adopt rules to implement this subsection, including rules prescribing the patient data request form, listing the documentation required for receiving a copy of the prescription record, and setting the fee. 

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

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

(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.

SECTION 2. Section 481.0766, Health and Safety Code, is
amended by adding Subsection (c) to read as follows:

(c) The board shall make the information reported under
Subsection (a) available to the State Board of Veterinary Medical
Examiners for the purpose of routine inspections and
investigations.

SECTION 3. Subchapter C, Chapter 481, Health and Safety
Code, is amended by adding Sections 481.0767, 481.0768, and
481.0769 to read as follows:

Sec. 481.0767. ADVISORY COMMITTEE. (a) The board shall
establish an advisory committee to make recommendations regarding
information submitted to the board and access to that information under Sections 481.074, 481.075, 481.076, and 481.0761, including recommendations for:

(1) operational improvements to the electronic system that stores the information, including implementing best practices and improvements that address system weaknesses and workflow challenges;

(2) resolutions to identified data concerns;

(3) methods to improve data accuracy, integrity, and security and to reduce technical difficulties; and

(4) the addition of any new data set or service to the information submitted to the board or the access to that information.

(b) The board shall appoint the following members to the advisory committee:

(1) a physician licensed in this state who practices in pain management;

(2) a physician licensed in this state who practices in family medicine;

(3) a physician licensed in this state who performs surgery;

(4) a physician licensed in this state who practices in emergency medicine at a hospital;

(5) a physician licensed in this state who practices in psychiatry;

(6) an oral and maxillofacial surgeon;

(7) a physician assistant or advanced practice
registered nurse to whom a physician has delegated the authority to
prescribe or order a drug;

(8) a pharmacist working at a chain pharmacy;
(9) a pharmacist working at an independent pharmacy;
(10) an academic pharmacist; and
(11) two representatives of the health information
technology industry, at least one of whom is a representative of a
company whose primary line of business is electronic medical
records.

(c) Members of the advisory committee serve three-year
terms. Each member shall serve until the member's replacement has
been appointed.

(d) The advisory committee shall annually elect a presiding
officer from its members.

(e) The advisory committee shall meet at least two times a
year and at the call of the presiding officer or the board.

(f) A member of the advisory committee serves without
compensation but may be reimbursed by the board for actual expenses
incurred in performing the duties of the advisory committee.

Sec. 481.0768. ADMINISTRATIVE PENALTY: DISCLOSURE OR USE
OF INFORMATION. (a) A person authorized to receive information
under Section 481.076(a) may not disclose or use the information in
a manner not authorized by this subchapter or other law.

(b) A regulatory agency that issues a license,
certification, or registration to a prescriber or dispenser shall
periodically update the administrative penalties, or any
applicable disciplinary guidelines concerning the penalties,
assessed by that agency for conduct that violates Subsection (a).

(c) The agency shall set the penalties in an amount sufficient to deter the conduct.

Sec. 481.0769. CRIMINAL OFFENSES RELATED TO PRESCRIPTION INFORMATION. (a) A person authorized to receive information under Section 481.076(a) commits an offense if the person discloses or uses the information in a manner not authorized by this subchapter or other law.

(b) A person requesting information under Section 481.076(a-6) commits an offense if the person makes a material misrepresentation or fails to disclose a material fact in the request for information under that subsection.

(c) An offense under Subsection (a) is a Class A misdemeanor.

(d) An offense under Subsection (b) is a Class C misdemeanor.

SECTION 4. Section 801.307, Occupations Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) The board by rule shall require a veterinarian to complete two hours of continuing education related to opioid abuse and controlled substance diversion, inventory, and security every two years to renew a license to practice veterinary medicine.

SECTION 5. Section 481.003(a), Health and Safety Code, is amended to read as follows:

(a) The director may adopt rules to administer and enforce this chapter, other than Sections 481.073, 481.074, 481.075, 481.076, 481.0761, 481.0762, 481.0763, 481.0764, 481.0765, [and]
481.0766, 481.0767, 481.0768, and 481.0769. The board may adopt
rules to administer Sections 481.073, 481.074, 481.075, 481.076,
481.0761, 481.0762, 481.0763, 481.0764, 481.0765, [and] 481.0766,
481.0767, 481.0768, and 481.0769.

SECTION 6. Section 481.128(a), Health and Safety Code, is
amended to read as follows:
(a) A registrant or dispenser commits an offense if the
registrant or dispenser knowingly:
(1) distributes, delivers, administers, or dispenses
a controlled substance in violation of Subchapter C [Sections
481.070-481.075];
(2) manufactures a controlled substance not
authorized by the person's Federal Drug Enforcement Administration
registration or distributes or dispenses a controlled substance not
authorized by the person's registration to another registrant or
other person;
(3) refuses or fails to make, keep, or furnish a
record, report, notification, order form, statement, invoice, or
information required by this chapter;
(4) prints, manufactures, possesses, or produces an
official prescription form without the approval of the board;
(5) delivers or possesses a counterfeit official
prescription form;
(6) refuses an entry into a premise for an inspection
authorized by this chapter;
(7) refuses or fails to return an official
prescription form as required by Section 481.075(k);
(8) refuses or fails to make, keep, or furnish a record, report, notification, order form, statement, invoice, or information required by a rule adopted by the director or the board; or

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

SECTION 7. Section 481.129(a), Health and Safety Code, is amended to read as follows:

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

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

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

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

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

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

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

(B) through use of a fraudulent prescription
form; [↩]

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

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

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

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

(a-1) The board may adopt rules to administer Sections
481.073, 481.074, 481.075, 481.076, 481.0761, 481.0762, 481.0763,
481.0764, 481.0765, [and] 481.0766, 481.0767, 481.0768, and
481.0769, Health and Safety Code.

SECTION 9. Section 565.003, Occupations Code, is amended to
read as follows:

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

(1) Subchapter C, Chapter 481 [Section 481.074 or
481.075], Health and Safety Code;

(2) Texas substitution requirements regarding:
(A) the practitioner's directions concerning generic substitution; 
(B) the patient's right to refuse generic substitution; or 
(C) notification to the patient of the patient's right to refuse substitution; 
(3) any board rule relating to providing drug information to the patient or the patient's agent in written form or by telephone; or 
(4) any board rule adopted under Section 554.051(a) and determined by the board to be applicable under Section 554.051(b).

SECTION 10. Sections 481.076(a-3), (a-4), and (a-5), Health and Safety Code, are repealed.

SECTION 11. To the extent of any conflict, this Act prevails over another Act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 12. Notwithstanding Section 24, Chapter 485 (H.B. 2561), Acts of the 85th Legislature, Regular Session, 2017, Section 481.0764(a), Health and Safety Code, as added by that Act, applies only to:

(1) a prescriber, other than a veterinarian, who issues a prescription for a controlled substance on or after March 1, 2020; or 
(2) a person authorized by law to dispense a controlled substance, other than a veterinarian, who dispenses a
controlled substance on or after March 1, 2020.

SECTION 13. Section 481.0768(a), Health and Safety Code, as added by this Act, applies only to conduct that occurs on or after the effective date of this Act.

SECTION 14. Section 801.307(a-1), Occupations Code, as added by this Act, applies only to the renewal of a license to practice veterinary medicine on or after September 1, 2020. The renewal of a license before that date is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 15. This Act takes effect September 1, 2019.
I certify that H.B. No. 3284 was passed by the House on May 10, 2019, by the following vote: Yeas 136, Nays 3, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3284 on May 24, 2019, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3284 on May 26, 2019, by the following vote: Yeas 139, Nays 4, 1 present, not voting.
H.B. No. 3284

I certify that H.B. No. 3284 was passed by the Senate, with amendments, on May 22, 2019, by the following vote: Yeas 30, Nays 1; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3284 on May 26, 2019, by the following vote: Yeas 30, Nays 1.

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Secretary of the Senate

APPROVED: _________________

Date

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Governor