

SUBJECT: Controlled substances prescriptions and monitoring

COMMITTEE: Public Health — committee substitute recommended

VOTE: 5 ayes — Berlanga, Hirschi, Glaze, Janek, Maxey
0 nays
3 absent — Coleman, Davila, Delisi

WITNESSES: For — David Robton, Texas Pain Society; Chuck Courtney, Texas Retailers Association/Texas Federation of Drug Stores; Karen Kinney Reagan, Texas Pharmacy Association

Against — None

On — Gay Dodson, Texas State Board of Pharmacy; David M. Boatright, Johnny R. Hatcher, Department of Public Safety

BACKGROUND : The use of Department of Public Safety-issued, paper triplicate prescription forms is statutorily required for the dispensing of Schedule II controlled substances. Schedule II controlled substances are drugs classified by the commissioner of health or the federal government as being legal and having legitimate medical purposes but also potentially highly abusable. Schedule II controlled substances generally refer to strong analgesics and pain killers, such as cocaine, Darvon and Tylenol III with codeine.

The practitioner writes a prescription on a triplicate prescription form for a patient, keeps one of the forms for record keeping and gives the patient the other two forms. The pharmacy takes the two forms from the patient, keeps one for its records and sends the original form to the DPS for data entry.

A person can not manufacture, distribute, analyze or dispense a controlled substance without registration.

DIGEST:

CSHB 2219 would replace requirements that practitioners use triplicate forms for the prescription of Schedule II controlled substances with provisions that would require 1) pharmacists who dispense Schedule II drugs to transmit information to DPS, and 2) pharmacists to dispense Schedule II drugs only upon receipt of an official prescription form that provides specified information and a DPS-issued provider identification sticker.

The prescription stickers would be sequentially numbered and nonremovable once affixed. The DPS would charge providers a fee that would cover the actual cost of printing, processing and mailing the stickers.

The bill also would authorize DPS to adopt rules to enforce the dispensing provisions, to charge a registration fees up to \$25, and to remove or add controlled substances to the official prescription form program. Provisions affecting the placement or removal of controlled substances in the official prescription form program would take effect September 1, 1997.

Other provisions in the bill would take effect September 1, 1999, and would not affect the retention, use or destruction of information obtained through the use of triplicate forms written before that date. Offenses committed before September 1, 1999, would be covered by law in effect on the date the offense was committed.

Prescription form management. Pharmacists would have to retain the official forms and the required patient identification for at least two years. Each prescription form used to prescribe a Schedule II controlled substance would have to include:

- the date the controlled substance was prescribed;
- the quantity of controlled substance prescribed;
- the intended use of the drug;
- the name, address and federal drug enforcement administration number of the prescribing practitioner;
- the signatures of the dispensing pharmacist and prescribing practitioner; and
- the name, address, date of birth and patient identification number of the person for whom the controlled substance was dispensed.

Patient identification number would refer to a patient's driver's license number, voter's registration number, social security number, passport number or other unique number assigned by the U.S. government.

Use of information. Pharmacists would have to send all information required by the DPS director by electronic transfer, a pharmacy universal claim form, or other approved method. The director would have to consider the economic impact of the rule on practitioners and pharmacists in adopting rules relating to electronic transfer.

The director would have to consult with the Texas State Board of Pharmacy and establish by rule a standardized database format that could be used by a pharmacy to transmit the information required. The director could authorize a contract between the department and another agency to ensure the effective operation of the prescription program.

Access to the information would be limited to:

- investigators of the boards of medical examiners, podiatry examiners, dental examiners, veterinary examiners or pharmacy;
- authorized DPS officers engaged in the investigation of suspected criminal violations; or
- law enforcement or prosecutorial officials engaged in the enforcement of illegal drug laws;
- a pharmacist or practitioner who is inquiring about the recent Schedule II prescription history of a patient or their own dispensing or prescribing activity.

Other provisions. The DPS director would have to consult with the Texas Department of Health, the State Board of Pharmacy and the State Board of Medical Examiners, and could by rule remove a controlled substance listed in Schedule II from the official prescription program if the burden imposed by the program outweighed the risk of diversion or return a substance previously removed from the program if diversion risk increases.

NOTES:

The major change made by the committee substitute was the addition of requirements relating to the use of sequentially numbered prescription stickers in the official prescription form program.

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HB 226 by Hirschi, as amended on the House floor, is virtually identical to CSHB 2319. HB 226 passed by the House on May 5 and has been referred to the Senate Health and Human Services Committee.

The companion bill to HB 2319, SB 1245 by Madla, passed the Senate on the Local and Uncontested Calendar on April 28 and was referred to the House Public Health Committee.