

- SUBJECT:** Changing how some controlled substances prescriptions are monitored
- COMMITTEE:** Public Health — committee substitute recommended
- VOTE:** 9 ayes — Kolkhorst, Naishtat, Collier, Cortez, S. Davis, Guerra, S. King, Laubenberg, Zedler
- 1 nay — J.D. Sheffield
- 1 absent — Coleman
- SENATE VOTE:** On final passage, April 25 — 28–0
- WITNESSES:** For — Cathy Dewitt, Texas Association of Business; Graves Owen, Texas Pain Society; (*Registered, but did not testify:* Dan Finch, Texas Medical Association; Karen Reagan, Walgreen Company; Bradford Shields, Texas Federation of Drug Stores)
- Against — None
- On — RenEarl Bowie, Department of Public Safety; Audra Conwell, Alliance of Independent Pharmacists of Texas; Steve Moninger, Department of Public Safety; (*Registered, but did not testify:* Mari Robinson, Texas Medical Board)
- BACKGROUND:** Health and Safety Code, ch. 481, is the Texas Controlled Substances Act. Practitioners who prescribe controlled substances are required to record the prescription on an official form and send the information to the director of the Department of Public Safety (DPS). The director must remove and make irretrievable the patient’s identity within one year after it is entered into the DPS system. It is a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000) to knowingly give, permit, or obtain unauthorized access to any prescription information required by the director, including any information required to complete the Schedule II prescription forms.
- DIGEST:** CSSB 1643 would change the requirements for prescribing certain controlled substances and modify how prescriptions could be accessed.

Required information. The bill would require a pharmacist who was dispensing a schedule II medication to include the method of payment for the prescription on the official prescription form or electronic prescription. If this information was given orally, the dispensing pharmacist would have to note it on the official prescription form or electronic prescription.

Access to information. If proper need was shown, the DPS director could allow a pharmacy technician acting at the direction of a pharmacist or licensed nurse acting at the direction of a practitioner to access information about prescription information for Schedule II, III, IV, or V controlled substances.

Certain authorized individuals could access prescription information through a health information exchange, as long as there were proper security measures to protect against disclosure to unauthorized individuals. Some of the same individuals could include that information in a patient's medical or pharmacy records, but that information would be subject to any applicable state or federal confidentiality or privacy laws. The director would have to remove and make irretrievable the patient's identity within three years after it was entered into the system.

Penalty. It would be a state-jail felony to knowingly give, permit, or obtain unauthorized access to any prescription information required by the director, including any information required to complete the Schedule III through V prescription forms.

Work group. The bill would establish an interagency prescription monitoring work group to evaluate the effectiveness of prescription monitoring laws. The work group would also make recommendations to improve the effectiveness and efficiency of recordkeeping and functions related to dispensing controlled substances. The bill would specify the composition of the work group. The work group would have to meet at least quarterly, comply with open meeting laws, proactively engage stakeholders, and consider public input. By December 1 of each even-numbered year, the work group would have to submit to the Legislature their prescription monitoring recommendations.

Definitions. The bill would define health information exchange. It would amend the definition of a hospital and add a licensed freestanding emergency medical care facility to that definition. It would modify the

definition of patient to include someone to whom a practitioner intends to administer, dispense, deliver, or prescribe a drug.

The bill would take effect September 1, 2013.

**SUPPORTERS
SAY:**

CSSB 1643 would help fight prescription drug abuse by strengthening Texas' prescription monitoring system. Controlled substances, especially Schedule II narcotics, such as oxycodone and morphine, are powerful drugs that are easily abused and cause an increasing number of overdose deaths. Like many states, Texas has struggled to contain the proliferation of "pill mills" — health care providers that inappropriately prescribe and dispense prescription-strength painkillers and other controlled substances.

By requiring additional information, allowing pharmacists and physicians to delegate some tasks, and establishing a work group, the bill would update Texas' prescription monitoring system and improve data collection procedures. Ultimately, this would enhance the efficiency, usability, and effectiveness of the system and help prevent prescription drug abuse.

**OPPONENTS
SAY:**

CSSB 1643 would unfairly handicap smaller pharmacies. It would be cumbersome or cost-prohibitive for some pharmacies to record the method of payment for prescriptions. Many small pharmacies do not have a point-of-sale system that is linked to their prescription dispensation system. According to one estimate, these integrated systems can cost around \$5,000. Without this technology it would be very difficult to record method-of-payment information. By requiring pharmacies to record this information, the bill would force small pharmacies to either invest in expensive technology or accept onerous administrative burdens.

NOTES:

Compared to Senate-engrossed version, the committee substitute would allow some authorized individuals to include prescription information in a patient's medical or pharmacy records, but would specify that the information was subject to any applicable state or federal confidentiality or privacy laws.