

## **BILL ANALYSIS**

Senate Research Center  
86R5594 JSC-D

S.B. 363  
By: Watson  
Health & Human Services  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 363 requires the Department of Public Safety of the State of Texas (DPS) or other law enforcement to have a warrant, subpoena, or other court order in order to access data from the Prescription Monitoring Program. This is necessary to address an issue discovered during the sunset process that revealed DPS has unfettered access to PMP data simply as a relic of the agency's prior administration of the program. Without this change, DPS will continue to be able to access anyone's information within the PMP at will, regardless of an active investigation and without any oversight.

As proposed, S.B. 363 amends current law relating to access to certain controlled substance prescription information.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 481.076(a), (f), (g), and (h), Health and Safety Code, as follows:

(a) Prohibits the Texas State Board of Pharmacy (TSBP) from permitting any person to have access to information submitted to TSBP under Section 481.074(q) (relating to a requirement that each dispensing pharmacist send all required information to the board by electronic transfer) or 481.075 (Official Prescription Program) except:

(1) TSBP, the Texas Medical Board, the Texas Department of Licensing and Regulation with respect to the regulation of podiatrists, rather than 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 investigating a specific license holder; or monitoring for potentially harmful prescribing or dispensing patterns or practices under Section 481.0762;

(2) an 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, rather than an authorized officer or member of the Department of Public safety of the State of Texas (DPS) or authorized employee of the board;

(3) DPS or other law enforcement or prosecutorial official, rather than DPS 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; or

(4)–(7) makes no changes to these subdivisions.

(f) Requires TSBP, if it accesses information, rather than the director of DPS, if the director permits access to information, under Subsection (a)(2) (relating to a person licensed or regulated by an agency listed in Subsection (a)(1)), to notify and cooperate with that agency regarding the disposition of the matter before taking action against the person, unless TSBP, rather than the director of DPS, determines that notification is reasonably likely to interfere with an administrative or criminal investigation or prosecution.

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

(h) Requires TSBP, rather than the director, if TSBP, rather than the director, withholds notification to an agency under Subsection (f), to notify the agency of the disclosure of the information and the reason for withholding notification when TSBP, rather than the director, determines that notification when TSBP determines that notification is no longer likely to interfere with an administrative or criminal investigation or prosecution.

SECTION 2. Repealer: Section 481.076(a-3) (relating to a prohibition of any person other than law enforcement having access to information submitted to TSBP), Health and Safety Code.

Repealer: Section 481.076(a-4) (relating to the prohibition of any person other than a medical examiner conducting an investigation having access to information submitted to the TSBP), Health and Safety Code.

Repealer: Section 481.076(a-5) (relating to accessing information as authorized under the Health Insurance Portability and Accountability Act), Health and Safety Code.

SECTION 3. Provides that 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 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2019.