

AN ACT

relating to the enforcement of subpoenas, the regulation of pain management clinics, and the adoption of guidelines for prescribing certain opioids by the Texas Medical Board.

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

SECTION 1. The heading to Section 153.007, Occupations Code, is amended to read as follows:

Sec. 153.007. AUTHORITY TO ISSUE SUBPOENA OR ADMINISTER OATH; SUBPOENA ENFORCEMENT.

SECTION 2. Section 153.007, Occupations Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) If a person fails to comply with a subpoena issued under this section, the board, acting through the attorney general, may file suit to enforce the subpoena in a district court in Travis County or in a county in which a hearing conducted by the board may be held.

(f) On finding that good cause exists for issuing the subpoena, the court shall order the person to comply with the subpoena.

SECTION 3. Subchapter A, Chapter 168, Occupations Code, is amended by adding Section 168.003 to read as follows:

Sec. 168.003. LEGISLATIVE FINDING. The legislature finds that deaths resulting from the use of opioids and other controlled substances constitute a public health crisis and that there is a

1 compelling state interest in the board closely regulating the  
2 prescribing of opioids and other controlled substances by  
3 physicians and their delegates. Accordingly, the legislature finds  
4 that inspections and investigations conducted by the board,  
5 including the board's use of subpoenas for immediate production,  
6 inspection, and copying of medical and billing records, are  
7 necessary to adequately regulate the prescribing of opioids and  
8 other controlled substances in order to protect the public health  
9 and welfare.

10 SECTION 4. Section 168.052, Occupations Code, is amended to  
11 read as follows:

12 Sec. 168.052. INSPECTIONS. (a) The board may inspect a  
13 pain management clinic certified under this chapter, including the  
14 documents of a physician practicing at the clinic, as necessary to  
15 ensure compliance with this chapter.

16 (b) The board may inspect a clinic or facility that is not  
17 certified under this chapter to determine whether the clinic or  
18 facility is required to be certified under Section 168.101. The  
19 board by rule shall establish the grounds for conducting an  
20 inspection under this subsection, including grounds based on:

21 (1) the population of patients served by the clinic or  
22 facility;

23 (2) the volume or combination of drugs prescribed to  
24 patients served by the clinic or facility; and

25 (3) any other criteria the board considers sufficient  
26 to require an inspection of the clinic or facility.

27 SECTION 5. Section 168.201, Occupations Code, is amended by

1 adding Subsection (a-1) to read as follows:

2 (a-1) For the purposes of this section, inappropriate  
3 prescribing includes nontherapeutic prescribing or other conduct  
4 as specified by board rule.

5 SECTION 6. Subtitle B, Title 3, Occupations Code, is  
6 amended by adding Chapter 170 to read as follows:

7 CHAPTER 170. PRESCRIPTION OF OPIOID ANTAGONISTS

8 Sec. 170.001. DEFINITIONS. In this chapter, "opioid  
9 antagonist" and "opioid-related drug overdose" have the meanings  
10 assigned by Section 483.101, Health and Safety Code.

11 Sec. 170.002. GUIDELINES. (a) The board shall adopt  
12 guidelines for the prescription of opioid antagonists.

13 (b) The guidelines must address:

14 (1) prescribing an opioid antagonist to a patient to  
15 whom an opioid medication is also prescribed; and

16 (2) identifying patients at risk of an opioid-related  
17 drug overdose and prescribing an opioid antagonist to that patient  
18 or to a person in a position to administer the opioid antagonist to  
19 that patient.

20 (c) In adopting guidelines under this section, the board:

21 (1) shall consult materials published by the Substance  
22 Abuse and Mental Health Services Administration of the United  
23 States Department of Health and Human Services; and

24 (2) may consult other appropriate materials,  
25 including medical journals subject to peer review and publications  
26 by medical professional associations.

27 Sec. 170.003. LIABILITY FOR ACT OR OMISSION WITH RESPECT TO

1 PRESCRIBING AN OPIOID ANTAGONIST. A physician who acts in good  
2 faith and with reasonable care, regardless of whether the physician  
3 follows the guidelines adopted under this chapter, is not subject  
4 to criminal or civil liability or any professional disciplinary  
5 action for:

6 (1) prescribing or failing to prescribe an opioid  
7 antagonist; or

8 (2) any outcome resulting from the eventual  
9 administration of an opioid antagonist prescribed by the physician.

10 SECTION 7. The change in law made by this Act relating to  
11 Chapter 170, Occupations Code, as added by this Act, and to conduct  
12 that is grounds for imposition of a disciplinary sanction applies  
13 only to conduct that occurs on or after September 1, 2017. Conduct  
14 that occurs before September 1, 2017, is governed by the law in  
15 effect on the date the conduct occurred, and the former law is  
16 continued in effect for that purpose.

17 SECTION 8. The change in law made by this Act relating to  
18 Chapter 170, Occupations Code, as added by this Act, and to conduct  
19 that is the basis for civil liability applies only to conduct that  
20 occurs on or after September 1, 2017. Conduct that occurs before  
21 September 1, 2017, is governed by the law in effect on the date the  
22 conduct occurred, and the former law is continued in effect for that  
23 purpose.

24 SECTION 9. The change in law made by this Act relating to  
25 Chapter 170, Occupations Code, as added by this Act, and to conduct  
26 that constitutes a criminal offense applies only to an offense  
27 committed on or after September 1, 2017. For purposes of this

1 section, an offense is committed before September 1, 2017, if any  
2 element of the offense occurs before that date. An offense  
3 committed before September 1, 2017, is governed by the law in effect  
4 on the date the offense was committed, and the former law is  
5 continued in effect for that purpose.

6 SECTION 10. This Act takes effect September 1, 2017.

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President of the Senate

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Speaker of the House

I hereby certify that S.B. No. 315 passed the Senate on May 10, 2017, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendment on May 26, 2017, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

I hereby certify that S.B. No. 315 passed the House, with amendment, on May 23, 2017, by the following vote: Yeas 129, Nays 16, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor