

By: Davis of Dallas

H.B. No. 1866

Substitute the following for H.B. No. 1866:

By: Price

C.S.H.B. No. 1866

A BILL TO BE ENTITLED

AN ACT

relating to the prescribing of opioids for acute pain.

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

SECTION 1. Subchapter C, Chapter 481, Health and Safety Code, is amended by adding Section 481.07635 to read as follows:

Sec. 481.07635. PRESCRIPTIONS OF OPIOIDS FOR ACUTE PAIN.

(a) In this section, "acute pain" means the normal, predicted, physiological response to a stimulus such as trauma, disease, and operative procedures. Acute pain is time-limited. The term does not include:

(1) chronic pain;

(2) pain being treated as part of cancer care;

(3) pain being treated as part of hospice or other end-of-life care; or

(4) pain being treated as part of palliative care.

(b) For the initial treatment of acute pain, a prescriber may not issue a prescription for an opioid in an amount that exceeds a seven-day supply.

(c) Before issuing an initial opioid prescription for acute pain, a prescriber shall:

(1) take and document the results of a thorough medical history, including:

(A) the patient's experience with medication other than opioids and pain management approaches described by

1 Subsection (d); and

2 (B) any history of substance abuse;

3 (2) conduct and document the results of a physical  
4 examination, as appropriate;

5 (3) develop a treatment plan focused on determining  
6 the cause of the patient's pain; and

7 (4) comply with the requirements of Section 481.0764.

8 (d) A prescriber may refer or prescribe any of the following  
9 pain management services to a patient, based on the prescriber's  
10 clinical judgment and the availability of the treatment, when  
11 issuing an opioid prescription for acute pain:

12 (1) physical therapies;

13 (2) occupational therapies;

14 (3) chiropractic treatment;

15 (4) physical medicine and rehabilitation; or

16 (5) osteopathic manipulation.

17 (e) This section does not apply to:

18 (1) patients:

19 (A) with pain related to:

20 (i) progressive functional neurological  
21 deficit;

22 (ii) fracture;

23 (iii) tumor;

24 (iv) infection; or

25 (v) immediate postsurgical recovery;

26 (B) with chronic pain that, based on the  
27 prescriber's clinical judgment, is caused by a disease, illness, or

1 injury that would not improve under the therapies and treatments  
2 described by Subsection (d); or

3 (C) receiving:

4 (i) treatment for cancer;

5 (ii) emergency or trauma care;

6 (iii) hospice care;

7 (iv) palliative care;

8 (v) long-term care; or

9 (vi) treatment for substance abuse or  
10 opioid dependence; or

11 (2) a prescriber who is a veterinarian.

12 (f) This section does not require that all of the treatments  
13 under Subsection (d) be exhausted before the patient may receive a  
14 prescription for an opioid.

15 (g) A dispenser is not subject to disciplinary action, civil  
16 liability, or criminal, civil, or administrative penalties for  
17 dispensing or refusing to dispense a controlled substance under an  
18 otherwise valid prescription that exceeds the limits provided by  
19 Subsection (b).

20 SECTION 2. Section 481.003(a), Health and Safety Code, is  
21 amended to read as follows:

22 (a) The director may adopt rules to administer and enforce  
23 this chapter, other than Sections 481.073, 481.074, 481.075,  
24 481.076, 481.0761, 481.0762, 481.0763, 481.07635, 481.0764,  
25 481.0765, and 481.0766. The board may adopt rules to administer  
26 Sections 481.073, 481.074, 481.075, 481.076, 481.0761, 481.0762,  
27 481.0763, 481.07635, 481.0764, 481.0765, and 481.0766.

1 SECTION 3. Section 554.051(a-1), Occupations Code, is  
2 amended to read as follows:

3 (a-1) The board may adopt rules to administer Sections  
4 481.073, 481.074, 481.075, 481.076, 481.0761, 481.0762, 481.0763,  
5 481.07635, 481.0764, 481.0765, and 481.0766, Health and Safety  
6 Code.

7 SECTION 4. Section 565.003, Occupations Code, is amended to  
8 read as follows:

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

16 (1) Section 481.073, 481.074, ~~481.075~~, 481.076,  
17 481.0761, 481.0762, 481.0763, 481.07635, 481.0764, 481.0765, or  
18 481.0766, Health and Safety Code;

19 (2) Texas substitution requirements regarding:  
20 (A) the practitioner's directions concerning  
21 generic substitution;  
22 (B) the patient's right to refuse generic  
23 substitution; or

24 (C) notification to the patient of the patient's  
25 right to refuse substitution;

26 (3) any board rule relating to providing drug  
27 information to the patient or the patient's agent in written form or

1 by telephone; or

2 (4) any board rule adopted under Section 554.051(a)  
3 and determined by the board to be applicable under Section  
4 554.051(b).

5 SECTION 5. Section 481.07635, Health and Safety Code, as  
6 added by this Act, applies only to a prescription issued on or after  
7 the effective date of this Act. A prescription issued before the  
8 effective date of this Act is governed by the law in effect on the  
9 date the prescription is issued, and the former law is continued in  
10 effect for that purpose.

11 SECTION 6. This Act takes effect September 1, 2019.