

By: Davis of Dallas

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 pain with abrupt onset that is caused by an injury or other process that is not ongoing.

(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 Subsection (d); and

(B) any history of substance abuse;

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

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

(4) comply with the requirements of Section 481.0764.

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

- 5 (1) physical therapies;
- 6 (2) occupational therapies;
- 7 (3) chiropractic treatment;
- 8 (4) physical medicine and rehabilitation; or
- 9 (5) osteopathic manipulation.

10 (e) This section does not apply to:

- 11 (1) patients with pain related to:
 - 12 (A) progressive functional neurological deficit;
 - 13 (B) fracture;
 - 14 (C) tumor;
 - 15 (D) infection; or
 - 16 (E) immediate postsurgical recovery;
- 17 (2) patients with chronic pain that, based on the
18 prescriber's clinical judgment, is caused by a disease, illness, or
19 injury that would not improve under the therapies and treatments
20 described by Subsection (d); or

- 21 (3) patients receiving:
 - 22 (A) treatment for cancer;
 - 23 (B) emergency or trauma care;
 - 24 (C) hospice care;
 - 25 (D) palliative care;
 - 26 (E) long-term care; or
 - 27 (F) treatment for substance abuse or opioid

1 dependence.

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

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

7 (a) The director may adopt rules to administer and enforce
8 this chapter, other than Sections 481.073, 481.074, 481.075,
9 481.076, 481.0761, 481.0762, 481.0763, 481.07635, 481.0764,
10 481.0765, and 481.0766. The board may adopt rules to administer
11 Sections 481.073, 481.074, 481.075, 481.076, 481.0761, 481.0762,
12 481.0763, 481.07635, 481.0764, 481.0765, and 481.0766.

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

15 (a-1) The board may adopt rules to administer Sections
16 481.073, 481.074, 481.075, 481.076, 481.0761, 481.0762, 481.0763,
17 481.07635, 481.0764, 481.0765, and 481.0766, Health and Safety
18 Code.

19 SECTION 4. Section 565.003, Occupations Code, is amended to
20 read as follows:

21 Sec. 565.003. ADDITIONAL GROUNDS FOR DISCIPLINE REGARDING
22 APPLICANT FOR OR HOLDER OF NONRESIDENT PHARMACY LICENSE. Unless
23 compliance would violate the pharmacy or drug statutes or rules in
24 the state in which the pharmacy is located, the board may discipline
25 an applicant for or the holder of a nonresident pharmacy license if
26 the board finds that the applicant or license holder has failed to
27 comply with:

1 (1) Section 481.073, 481.074, [or] 481.075, 481.076,
2 481.0761, 481.0762, 481.0763, 481.07635, 481.0764, 481.0765, or
3 481.0766, Health and Safety Code;

4 (2) Texas substitution requirements regarding:

5 (A) the practitioner's directions concerning
6 generic substitution;

7 (B) the patient's right to refuse generic
8 substitution; or

9 (C) notification to the patient of the patient's
10 right to refuse substitution;

11 (3) any board rule relating to providing drug
12 information to the patient or the patient's agent in written form or
13 by telephone; or

14 (4) any board rule adopted under Section 554.051(a)
15 and determined by the board to be applicable under Section
16 554.051(b).

17 SECTION 5. Section 481.07635, Health and Safety Code, as
18 added by this Act, applies only to a prescription issued on or after
19 the effective date of this Act. A prescription issued before the
20 effective date of this Act is governed by the law in effect on the
21 date the prescription is issued, and the former law is continued in
22 effect for that purpose.

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