

By: Dean

H.B. No. 2085

A BILL TO BE ENTITLED

AN ACT

relating to general procedures and requirements for a nonopioid directive.

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

SECTION 1. Chapter 166, Health and Safety Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. NONOPIOID DIRECTIVE

Sec. 166.251. DEFINITIONS. In this subchapter:

(1) "Adult," "agent," and "health care provider" have the meanings assigned by Section 166.151.

(2) "Nonopioid directive" means a directive executed under this subchapter.

(3) "Opioid" means opium and opiate and any salt, compound, derivative, or preparation of opium or opiate.

(4) "Pharmacist" means an individual licensed under Chapter 558, Occupations Code.

Sec. 166.252. EXECUTION. (a) A competent adult, a parent or legal guardian of a minor, or an individual's guardian or agent may at any time execute a nonopioid directive for the adult, minor, or individual, respectively, that prohibits the administration or prescription of opioids.

(b) A nonopioid directive must be in the form prescribed by rules adopted under this subchapter and be available electronically.

1 Sec. 166.253. REVOCATION. An individual executing a
2 nonopioid directive under Section 166.252 may, orally or in
3 writing, at any time revoke the directive.

4 Sec. 166.254. SUBMISSION; DUTIES OF HEALTH CARE PROVIDERS.

5 (a) A competent adult, a parent or legal guardian of a minor, or an
6 individual's guardian or agent may submit the adult's, minor's, or
7 individual's nonopioid directive to a health care provider in
8 accordance with rules adopted under this subchapter.

9 (b) Except as provided by this subchapter, a health care
10 provider receiving a nonopioid directive may not administer or
11 prescribe an opioid to the adult, minor, or individual who is the
12 subject of the directive.

13 Sec. 166.255. LIMITATION OF LIABILITY. (a) A health care
14 provider is not subject to disciplinary action by the appropriate
15 licensing authority for and is not civilly or criminally liable
16 for:

17 (1) failing to administer, prescribe, or dispense an
18 opioid in accordance with a nonopioid directive submitted to the
19 provider; or

20 (2) administering an opioid in violation of a
21 nonopioid directive for which the provider has no knowledge.

22 (b) A prescription presented to a pharmacy is presumed
23 valid. A pharmacist is not subject to disciplinary action by the
24 Texas State Board of Pharmacy and is not civilly or criminally
25 liable for dispensing an opioid in violation of a nonopioid
26 directive and in accordance with a prescription.

27 Sec. 166.256. EXCEPTIONS. This subchapter does not apply

1 to:

2 (1) emergency medical personnel; or

3 (2) a person using an opioid for the treatment of
4 substance abuse or opioid dependence if the person is authorized to
5 provide that treatment.

6 Sec. 166.257. CONSTRUCTION OF SUBCHAPTER. This subchapter
7 may not be construed to:

8 (1) alter an advance directive executed under this
9 chapter;

10 (2) limit the prescribing, administering, or
11 dispensing of an opioid used to treat an overdose; or

12 (3) limit an authorized health care provider or
13 pharmacist from prescribing, administering, or dispensing an
14 opioid for treatment of substance abuse or opioid dependence.

15 Sec. 166.258. RULES. The executive commissioner shall
16 adopt rules to implement this subchapter. The rules must:

17 (1) require a health care provider to verify a
18 nonopioid directive to the extent practicable;

19 (2) require a health care provider to comply with 42
20 U.S.C. Section 290dd-2(b) in obtaining written consent;

21 (3) provide standard procedures for a competent adult,
22 a parent or legal guardian of a minor, or an individual's guardian
23 or agent to submit a nonopioid directive under Section 166.254;

24 (4) provide any necessary procedures for an exemption
25 under Section 16.256; and

26 (5) ensure the confidentiality of a nonopioid
27 directive.

1 Sec. 166.259. ENFORCEMENT. A health care provider who
2 violates this subchapter or a rule adopted under this subchapter is
3 subject to disciplinary action by the appropriate licensing
4 authority.

5 SECTION 2. The executive commissioner of the Health and
6 Human Services Commission shall adopt rules necessary to implement
7 Subchapter F, Chapter 166, Health and Safety Code, as added by this
8 Act, as soon as practicable after the effective date of this Act.

9 SECTION 3. This Act takes effect September 1, 2019.