**BILL ANALYSIS**

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| Senate Research Center | S.B. 426 |
| 88R1010 KKR-F | By: Paxton |
|  | Health & Human Services |
|  | 3/17/2023 |
|  | As Filed |

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

The proposed legislation allows patients the ability to access medication and treatment from their doctor which would assist in their treatment of and recovery from COVID-19. The ability for patients to obtain care from physicians without outside interference is crucial.

As proposed, S.B. 426 amends current law relating to patient access to prescription drugs for off-label use for COVID-19 treatment.

**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. (a) Requires that this Act be known as the Right to Treat Act.

(b) Provides that the legislature finds that:

(1) the relationship between a physician and patient is valued;

(2) during the COVID-19 pandemic, many patients have been frustrated to learn that their physicians are discouraged from prescribing, administering, or dispensing for off-label use prescription drugs that may aid in the patient's treatment of and recovery from COVID-19; and

(3) this Act is intended to enable a patient to access and a physician to prescribe, administer, and dispense for off-label use prescription drugs that may aid in the patient's treatment of and recovery from COVID-19.

SECTION 2. Amends Subtitle C, Title 6, Health and Safety Code, by adding Chapter 490, as follows:

CHAPTER 490. OFF-LABEL USE OF PRESCRIPTION DRUGS FOR COVID-19 TREATMENT

Sec. 490.001. DEFINITIONS. Defines "COVID-19," "off-label use," and "physician."

Sec. 490.002. APPLICABILITY. Provides that this chapter applies only to the prescribing, administering, and dispensing of a prescription drug the United States Food and Drug Administration has approved for human use.

Sec. 490.003. PROHIBITED STATE INTERFERENCE WITH PATIENT ACCESS TO OFF-LABEL USE OF PRESCRIPTION DRUG. Prohibits an official, employee, or agent of this state from prohibiting or restricting a physician from prescribing, administering, or dispensing for off-label use a prescription drug to treat a patient who is exposed to or diagnosed with COVID-19.

Sec. 490.004. NO CAUSE OF ACTION CREATED. Provides that this chapter does not create a private or state cause of action against a manufacturer of a prescription drug approved by the Federal Drug Administration or against a physician or any other person involved in the care of a patient who is exposed to or diagnosed with COVID-19 for any harm to the patient resulting from the off-label use of the drug in the treatment of COVID-19.

Sec. 490.005. PROHIBITED ACTION AGAINST PHYSICIAN'S LICENSE. Prohibits the Texas Medical Board, notwithstanding any other law, from revoking, failing to renew, suspending, or taking any other adverse action against a physician's license under Subchapter B (License Denial and Disciplinary Actions), Chapter 164, Occupations Code, based solely on the physician's prescribing, administering, or dispensing a prescription drug for off-label use to treat a patient who is exposed to or diagnosed with COVID-19, provided the physician's treatment of the patient meets the medical standard of care.

SECTION 3. Effective date: upon passage or September 1, 2023.