By:  Paxton, Hall S.B. No. 426

(In the Senate - Filed January 12, 2023; February 15, 2023, read first time and referred to Committee on Health & Human Services; March 31, 2023, reported favorably by the following vote: Yeas 9, Nays 0; March 31, 2023, sent to printer.)

COMMITTEE VOTE

                 Yea Nay Absent  PNV

Kolkhorst         X

Perry             X

Blanco            X

Hall              X

Hancock           X

Hughes            X

LaMantia          X

Miles             X

Sparks            X

A BILL TO BE ENTITLED

AN ACT

relating to patient access to prescription drugs for off-label use for COVID-19 treatment.

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

SECTION 1.  (a) This Act shall be known as the Right to Treat Act.

(b)  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.  Subtitle C, Title 6, Health and Safety Code, is amended by adding Chapter 490 to read as follows:

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

Sec. 490.001.  DEFINITIONS. In this chapter:

(1)  "COVID-19" means the 2019 novel coronavirus disease.

(2)  "Off-label use" means the use of a prescription drug approved for use by the United States Food and Drug Administration in a manner other than the approved use.

(3)  "Physician" means an individual licensed to practice medicine in this state.

Sec. 490.002.  APPLICABILITY. 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. An official, employee, or agent of this state may not prohibit or restrict 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. 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. Notwithstanding any other law, the Texas Medical Board may not revoke, fail to renew, suspend, or take any other adverse action against a physician's license under Subchapter B, 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.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.

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