

By: Paxton, Hall

S.B. No. 426

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 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 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.

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

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

6           Sec. 490.002. APPLICABILITY. This chapter applies only to  
7 the prescribing of a prescription drug the United States Food and  
8 Drug Administration has approved for human use.

9           Sec. 490.003. PROHIBITED STATE INTERFERENCE WITH PATIENT  
10 ACCESS TO OFF-LABEL USE OF PRESCRIPTION DRUG. An official,  
11 employee, or agent of this state may not prohibit or restrict a  
12 physician from prescribing for off-label use a prescription drug to  
13 treat a patient who is exposed to or diagnosed with COVID-19.

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

21           Sec. 490.005. PROHIBITED ACTION AGAINST PHYSICIAN'S  
22 LICENSE. Notwithstanding any other law, the Texas Medical Board  
23 may not revoke, fail to renew, suspend, or take any other adverse  
24 action against a physician's license under Subchapter B, Chapter  
25 164, Occupations Code, based solely on the physician's prescribing  
26 a prescription drug for off-label use to treat a patient who is  
27 exposed to or diagnosed with COVID-19, provided the physician's

1 treatment of the patient meets the medical standard of care.

2 SECTION 3. This Act takes effect immediately if it receives  
3 a vote of two-thirds of all the members elected to each house, as  
4 provided by Section 39, Article III, Texas Constitution. If this  
5 Act does not receive the vote necessary for immediate effect, this  
6 Act takes effect September 1, 2023.