

By: Paxton

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, 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

1 disease.

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

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

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

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

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

24 Sec. 490.005. PROHIBITED ACTION AGAINST PHYSICIAN'S  
25 LICENSE. Notwithstanding any other law, the Texas Medical Board  
26 may not revoke, fail to renew, suspend, or take any other adverse  
27 action against a physician's license under Subchapter B, Chapter

1 164, Occupations Code, based solely on the physician's prescribing,  
2 administering, or dispensing a prescription drug for off-label use  
3 to treat a patient who is exposed to or diagnosed with COVID-19,  
4 provided the physician's treatment of the patient meets the medical  
5 standard of care.

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