

By: Hall

S.B. No. 90

A BILL TO BE ENTITLED

AN ACT

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

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

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

SECTION 2. Subtitle C, Title 6, Health and Safety Code, is amended by adding Chapter 491 to read as follows:

CHAPTER 491. OFF-LABEL USE OF PRESCRIPTION DRUGS

Sec. 491.001. DEFINITIONS. In this chapter:

(1) "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.

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

Sec. 491.002. 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 other than an abortion-inducing drug as defined by Section 171.061.

Sec. 491.003. 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.

1       Sec. 491.004. NO CAUSE OF ACTION CREATED. This chapter does  
2 not create a private or state cause of action against a manufacturer  
3 of a prescription drug approved by the United States Food and Drug  
4 Administration or against a physician or any other person involved  
5 in the care of a patient for any harm to the patient resulting from  
6 the off-label use of the drug.

7       Sec. 491.005. PROHIBITED ACTION AGAINST PHYSICIAN'S  
8 LICENSE. Notwithstanding any other law, the Texas Medical Board  
9 may not revoke, fail to renew, suspend, or take any other adverse  
10 action against a physician's license under Subchapter B, Chapter  
11 164, Occupations Code, based solely on the physician's prescribing,  
12 administering, or dispensing a prescription drug for off-label use  
13 to treat a patient, provided the physician's treatment of the  
14 patient meets the medical standard of care.

15       SECTION 3. This Act takes effect immediately if it receives  
16 a vote of two-thirds of all the members elected to each house, as  
17 provided by Section 39, Article III, Texas Constitution. If this  
18 Act does not receive the vote necessary for immediate effect, this  
19 Act takes effect September 1, 2025.