S.B. No. 315

AN ACT
relating to the enforcement of subpoenas, the regulation of pain
management clinics, and the adoption of guidelines for prescribing
certain opioids by the Texas Medical Board.

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

SECTION 1. The heading to Section 153.007, Occupations
Code, is amended to read as follows:

Sec. 153.007. AUTHORITY TO ISSUE SUBPOENA OR ADMINISTER
OATH; SUBPOENA ENFORCEMENT.

SECTION 2. Section 153.007, Occupations Code, is amended by
adding Subsections (e) and (f) to read as follows:

(e) If a person fails to comply with a subpoena issued under
this section, the board, acting through the attorney general, may
file suit to enforce the subpoena in a district court in Travis
County or in a county in which a hearing conducted by the board may
be held.

(f) On finding that good cause exists for issuing the
subpoena, the court shall order the person to comply with the
subpoena.

SECTION 3. Subchapter A, Chapter 168, Occupations Code, is
amended by adding Section 168.003 to read as follows:

Sec. 168.003. LEGISLATIVE FINDING. The legislature finds
that deaths resulting from the use of opioids and other controlled
substances constitute a public health crisis and that there is a
compelling state interest in the board closely regulating the prescribing of opioids and other controlled substances by physicians and their delegates. Accordingly, the legislature finds that inspections and investigations conducted by the board, including the board's use of subpoenas for immediate production, inspection, and copying of medical and billing records, are necessary to adequately regulate the prescribing of opioids and other controlled substances in order to protect the public health and welfare.

SECTION 4. Section 168.052, Occupations Code, is amended to read as follows:

Sec. 168.052. INSPECTIONS. (a) The board may inspect a pain management clinic certified under this chapter, including the documents of a physician practicing at the clinic, as necessary to ensure compliance with this chapter.

(b) The board may inspect a clinic or facility that is not certified under this chapter to determine whether the clinic or facility is required to be certified under Section 168.101. The board by rule shall establish the grounds for conducting an inspection under this subsection, including grounds based on:

(1) the population of patients served by the clinic or facility;

(2) the volume or combination of drugs prescribed to patients served by the clinic or facility; and

(3) any other criteria the board considers sufficient to require an inspection of the clinic or facility.

SECTION 5. Section 168.201, Occupations Code, is amended by
adding Subsection (a-1) to read as follows:

(a-1) For the purposes of this section, inappropriate prescribing includes nontherapeutic prescribing or other conduct as specified by board rule.

SECTION 6. Subtitle B, Title 3, Occupations Code, is amended by adding Chapter 170 to read as follows:

CHAPTER 170. PRESCRIPTION OF OPIOID ANTAGONISTS

Sec. 170.001. DEFINITIONS. In this chapter, "opioid antagonist" and "opioid-related drug overdose" have the meanings assigned by Section 483.101, Health and Safety Code.

Sec. 170.002. GUIDELINES. (a) The board shall adopt guidelines for the prescription of opioid antagonists.

(b) The guidelines must address:

(1) prescribing an opioid antagonist to a patient to whom an opioid medication is also prescribed; and

(2) identifying patients at risk of an opioid-related drug overdose and prescribing an opioid antagonist to that patient or to a person in a position to administer the opioid antagonist to that patient.

(c) In adopting guidelines under this section, the board:

(1) shall consult materials published by the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services; and

(2) may consult other appropriate materials, including medical journals subject to peer review and publications by medical professional associations.

Sec. 170.003. LIABILITY FOR ACT OR OMISSION WITH RESPECT TO
PRESCRIBING AN OPIOID ANTAGONIST. A physician who acts in good faith and with reasonable care, regardless of whether the physician follows the guidelines adopted under this chapter, is not subject to criminal or civil liability or any professional disciplinary action for:

(1) prescribing or failing to prescribe an opioid antagonist; or

(2) any outcome resulting from the eventual administration of an opioid antagonist prescribed by the physician.

SECTION 7. The change in law made by this Act relating to Chapter 170, Occupations Code, as added by this Act, and to conduct that is grounds for imposition of a disciplinary sanction applies only to conduct that occurs on or after September 1, 2017. Conduct that occurs before September 1, 2017, is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 8. The change in law made by this Act relating to Chapter 170, Occupations Code, as added by this Act, and to conduct that is the basis for civil liability applies only to conduct that occurs on or after September 1, 2017. Conduct that occurs before September 1, 2017, is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 9. The change in law made by this Act relating to Chapter 170, Occupations Code, as added by this Act, and to conduct that constitutes a criminal offense applies only to an offense committed on or after September 1, 2017. For purposes of this
section, an offense is committed before September 1, 2017, if any element of the offense occurs before that date. An offense committed before September 1, 2017, is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose.

SECTION 10. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 315 passed the Senate on May 10, 2017, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendment on May 26, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 315 passed the House, with amendment, on May 23, 2017, by the following vote: Yeas 129, Nays 16, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor