

1-1 By: Paxton, Hall S.B. No. 426
1-2 (In the Senate - Filed January 12, 2023; February 15, 2023,
1-3 read first time and referred to Committee on Health & Human
1-4 Services; March 31, 2023, reported favorably by the following
1-5 vote: Yeas 9, Nays 0; March 31, 2023, sent to printer.)

1-6 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-7 | | | | |
| 1-8 | X | | | |
| 1-9 | X | | | |
| 1-10 | X | | | |
| 1-11 | X | | | |
| 1-12 | X | | | |
| 1-13 | X | | | |
| 1-14 | X | | | |
| 1-15 | X | | | |
| 1-16 | X | | | |

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to patient access to prescription drugs for off-label use
1-20 for COVID-19 treatment.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. (a) This Act shall be known as the Right to Treat
1-23 Act.

1-24 (b) The legislature finds that:

1-25 (1) the relationship between a physician and patient
1-26 is valued;

1-27 (2) during the COVID-19 pandemic, many patients have
1-28 been frustrated to learn that their physicians are discouraged from
1-29 prescribing, administering, or dispensing for off-label use
1-30 prescription drugs that may aid in the patient's treatment of and
1-31 recovery from COVID-19; and

1-32 (3) this Act is intended to enable a patient to access
1-33 and a physician to prescribe, administer, and dispense for
1-34 off-label use prescription drugs that may aid in the patient's
1-35 treatment of and recovery from COVID-19.

1-36 SECTION 2. Subtitle C, Title 6, Health and Safety Code, is
1-37 amended by adding Chapter 490 to read as follows:

1-38 CHAPTER 490. OFF-LABEL USE OF PRESCRIPTION DRUGS FOR COVID-19
1-39 TREATMENT

1-40 Sec. 490.001. DEFINITIONS. In this chapter:

1-41 (1) "COVID-19" means the 2019 novel coronavirus
1-42 disease.

1-43 (2) "Off-label use" means the use of a prescription
1-44 drug approved for use by the United States Food and Drug
1-45 Administration in a manner other than the approved use.

1-46 (3) "Physician" means an individual licensed to
1-47 practice medicine in this state.

1-48 Sec. 490.002. APPLICABILITY. This chapter applies only to
1-49 the prescribing, administering, and dispensing of a prescription
1-50 drug the United States Food and Drug Administration has approved
1-51 for human use.

1-52 Sec. 490.003. PROHIBITED STATE INTERFERENCE WITH PATIENT
1-53 ACCESS TO OFF-LABEL USE OF PRESCRIPTION DRUG. An official,
1-54 employee, or agent of this state may not prohibit or restrict a
1-55 physician from prescribing, administering, or dispensing for
1-56 off-label use a prescription drug to treat a patient who is exposed
1-57 to or diagnosed with COVID-19.

1-58 Sec. 490.004. NO CAUSE OF ACTION CREATED. This chapter does
1-59 not create a private or state cause of action against a manufacturer
1-60 of a prescription drug approved by the Federal Drug Administration
1-61 or against a physician or any other person involved in the care of a

2-1 patient who is exposed to or diagnosed with COVID-19 for any harm to
2-2 the patient resulting from the off-label use of the drug in the
2-3 treatment of COVID-19.

2-4 Sec. 490.005. PROHIBITED ACTION AGAINST PHYSICIAN'S
2-5 LICENSE. Notwithstanding any other law, the Texas Medical Board
2-6 may not revoke, fail to renew, suspend, or take any other adverse
2-7 action against a physician's license under Subchapter B, Chapter
2-8 164, Occupations Code, based solely on the physician's prescribing,
2-9 administering, or dispensing a prescription drug for off-label use
2-10 to treat a patient who is exposed to or diagnosed with COVID-19,
2-11 provided the physician's treatment of the patient meets the medical
2-12 standard of care.

2-13 SECTION 3. This Act takes effect immediately if it receives
2-14 a vote of two-thirds of all the members elected to each house, as
2-15 provided by Section 39, Article III, Texas Constitution. If this
2-16 Act does not receive the vote necessary for immediate effect, this
2-17 Act takes effect September 1, 2023.

2-18 * * * * *