

OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE A. PROVISIONS APPLYING TO HEALTH PROFESSIONS GENERALLY

CHAPTER 107. INTRACTABLE PAIN TREATMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 107.001. SHORT TITLE. This chapter may be cited as the Intractable Pain Treatment Act.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.002(a), eff. Sept. 1, 2003.

Sec. 107.002. DEFINITIONS. In this chapter:

(1) 'Board' means the Texas State Board of Medical Examiners.

(2) 'Intractable pain' means a state of pain for which:

(A) the cause of the pain cannot be removed or otherwise treated; and

(B) in the generally accepted course of medical practice, relief or cure of the cause of the pain:

(i) is not possible; or

(ii) has not been found after reasonable efforts.

(3) 'Physician' means a physician licensed by the board.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.002(a), eff. Sept. 1, 2003.

Sec. 107.003. NONAPPLICABILITY OF CHAPTER TO CERTAIN CHEMICALLY DEPENDENT PERSONS. Except as provided by Subchapter C, this chapter does not apply to a person being treated by a physician for chemical dependency because of the person's use of a dangerous drug or controlled substance.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.002(a), eff. Sept. 1, 2003.

SUBCHAPTER B. PRESCRIPTION AND ADMINISTRATION OF DANGEROUS DRUGS

AND CONTROLLED SUBSTANCES

Sec. 107.051. AUTHORITY TO PRESCRIBE OR ADMINISTER DANGEROUS DRUG OR CONTROLLED SUBSTANCE. Notwithstanding any other law, a physician may prescribe or administer a dangerous drug or controlled substance to a person in the course of the physician's treatment of the person for intractable pain.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.002(a), eff. Sept. 1, 2003.

Sec. 107.052. LIMITATIONS ON PRESCRIPTION OR ADMINISTRATION OF DANGEROUS DRUG OR CONTROLLED SUBSTANCE. This chapter does not authorize a physician to prescribe or administer to a person a dangerous drug or controlled substance:

(1) for a purpose that is not a legitimate medical purpose as defined by the board; and

(2) if the physician knows or should know the person is using drugs for a nontherapeutic purpose.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.002(a), eff. Sept. 1, 2003.

Sec. 107.053. LIMITATION ON AUTHORITY OF HOSPITAL OR OTHER HEALTH CARE FACILITY REGARDING USE OF DANGEROUS DRUG OR CONTROLLED SUBSTANCE. A hospital or other health care facility may not prohibit or restrict the use of a dangerous drug or controlled substance prescribed or administered by a physician who holds staff privileges at the hospital or facility for a person diagnosed and treated by a physician for intractable pain.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.002(a), eff. Sept. 1, 2003.

SUBCHAPTER C. TREATMENT OF CERTAIN PATIENTS

Sec. 107.101. PATIENT. In this subchapter, "patient" includes a person who:

(1) is currently abusing a dangerous drug or controlled substance;

(2) is not currently abusing such a drug or substance but has a history of such abuse; or

(3) lives in an environment that poses a risk for misuse or diversion to illegitimate use of such a drug or substance. Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.002(a), eff. Sept. 1, 2003.

Sec. 107.102. AUTHORITY TO TREAT. This chapter authorizes a physician to treat a patient with an acute or chronic painful medical condition with a dangerous drug or controlled substance to relieve the patient's pain using appropriate doses, for an appropriate length of time, and for as long as the pain persists. Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.002(a), eff. Sept. 1, 2003.

Sec. 107.103. DUTY TO MONITOR PATIENT. A physician who treats a patient under this subchapter shall monitor the patient to ensure that a prescribed dangerous drug or controlled substance is used only for the treatment of the patient's painful medical condition. Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.002(a), eff. Sept. 1, 2003.

Sec. 107.104. DOCUMENTATION AND CONSULTATION REQUIRED. To ensure that a prescribed dangerous drug or controlled substance is not diverted to another use and to ensure the appropriateness of the treatment of the patient's targeted symptoms, the physician shall:

- (1) specifically document:
 - (A) the understanding between the physician and patient about the patient's prescribed treatment;
 - (B) the name of the drug or substance prescribed;
 - (C) the dosage and method of taking the prescribed drug or substance;
 - (D) the number of dose units prescribed; and
 - (E) the frequency of prescribing and dispensing the drug or substance; and

(2) consult with a psychologist, psychiatrist, expert

in the treatment of addictions, or other health care professional, as appropriate.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.002(a), eff. Sept. 1, 2003.

SUBCHAPTER D. DISCIPLINARY ACTION

Sec. 107.151. DISCIPLINARY ACTION PROHIBITED. A physician is not subject to disciplinary action by the board for prescribing or administering a dangerous drug or controlled substance in the course of treatment of a person for intractable pain.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.002(a), eff. Sept. 1, 2003.

Sec. 107.152. AUTHORITY OF BOARD TO REVOKE OR SUSPEND LICENSE. (a) This chapter does not affect the authority of the board to revoke or suspend the license of a physician who:

(1) prescribes, administers, or dispenses a drug or treatment:

(A) for a purpose that is not a legitimate medical purpose as defined by the board; and

(B) that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed;

(2) fails to keep a complete and accurate record of the purchase and disposal of:

(A) a drug listed in Chapter 481, Health and Safety Code; or

(B) a controlled substance scheduled in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Section 801 et seq.);

(3) writes a false or fictitious prescription for:

(A) a dangerous drug as defined by Chapter 483, Health and Safety Code;

(B) a controlled substance listed in a schedule under Chapter 481, Health and Safety Code; or

(C) a controlled substance scheduled in the

Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Section 801 et seq.); or

(4) prescribes, administers, or dispenses in a manner inconsistent with public health and welfare:

(A) a dangerous drug as defined by Chapter 483, Health and Safety Code;

(B) a controlled substance listed in a schedule under Chapter 481, Health and Safety Code; or

(C) a controlled substance scheduled in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Section 801 et seq.).

(b) For purposes of Subsection (a)(2), the physician's records must include a record of:

(1) the date of purchase;

(2) the sale or disposal of the drug or substance by the physician;

(3) the name and address of the person receiving the drug or substance; and

(4) the reason for the disposal or dispensing of the drug or substance to the person.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.002(a), eff. Sept. 1, 2003.

SUBCHAPTER E. PAIN TREATMENT REVIEW COMMITTEE