

BILL ANALYSIS

Senate Research Center

H.B. 120
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Health & Human Services
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Engrossed

DIGEST

Currently, physicians do not have the authority to prescribe or administer dangerous drugs or controlled substances to a person that the physician knows or should know is using drugs for recreational or nontherapeutic purposes. Even though Article 4495(c), V.T.C.S., the Intractable Pain Treatment Act, was adopted to allow a physician to prescribe or administer drugs to a person with chronic, incurable pain, it can be argued that physicians are reluctant to properly treat severe pain of conditions such as AIDS or cancer in patients who are or were drug abusers. This bill would allow physicians to treat pain from an acute or chronic medical condition with a dangerous drug or controlled substance in order to relieve a patient's pain.

PURPOSE

As proposed, H.B. 120 authorizes a physician to treat a patient who develops an acute or chronic painful medical condition with a dangerous drug or a controlled substance to relieve the patient's pain.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 6, Article 4495c, V.T.C.S. (Intractable Pain Treatment Act), to provide that the provisions of this Act provide no authority to a physician to prescribe or administer dangerous drugs or controlled substances for other than legitimate medical purposes as defined by the Texas State Board of Medical Examiners (board) and who the physician knows or should know to be using drugs for nontherapeutic purposes. Provides that the provisions of this Act authorize a physician to treat a patient who develops an acute or chronic painful medical condition with a dangerous drug or a 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. Provides that a patient under this subsection includes certain persons. Requires a physician who treats a patient under Subsection (c) of this section to monitor the patient to ensure the prescribed dangerous drug or controlled substance is used only for the treatment of the patient's painful medical condition. Requires the physician to perform certain actions in order to ensure that the prescribed dangerous drug or controlled substance is not being diverted to another use and the appropriateness of the treatment of the patient's targeted symptoms. Makes a conforming change.

SECTION 2. Amends Section 7, Article 4495c, V.T.C.S., to provide that nothing in this Act shall deny the right of the board to cancel, revoke, or suspend the license of any physician who, among other actions, dispenses a drug or treatment for other than legitimate medical purposes as defined by the board and that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed. Makes a nonsubstantive change.

SECTION 3. Amends Article 4495c, V.T.C.S., by adding Section 8, as follows:

Sec. 8. **ILLEGAL SUBSTANCES.** Provides that this Act is not intended nor shall it be interpreted to allow for the prescription of any illegal substance to any patient or person at any time in violation of federal law.

SECTION 4. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 5. Emergency clause.