

Tex. Occ. Code § 107.001

§ 107.001. Short Title

This chapter may be cited as the Intractable Pain Treatment Act.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.