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OPINION COMMITTEE



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Texas Medical Board

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September 18, 2017

Via Email: Opinion.committee@texasattorneygeneral.gov

The Honorable Ken Paxton
Attorney General of Texas
Attn: Opinions Committee
P.O. Box 12548
Austin, Texas 78711-2548

Dear Attorney General Paxton:

The Texas Medical Board ("TMB") is seeking an Attorney General Opinion regarding the following issue:

Whether Section 483.102 of the Texas Health and Safety Code authorizes an eligible prescriber to prescribe an opioid antagonist to law enforcement agencies, either directly or by a standing order?

Opioid related overdose deaths, which are increasing at an alarming rate throughout the United States, pose a nationwide public health crisis. This crisis was clearly identified and addressed by the Texas Legislature in its 85th Regular Session, when it declared overdose deaths to be a public health crisis in Senate Bill (SB) 315 (85th Legislative Session).

In response to this crisis, the Texas Legislature, passed several bills addressing the issue of opioid abuse and prevention of opioid overdoses through use of opioid antagonists. An opioid antagonist (i.e. overdose reversal agents) is any drug that binds to opioid receptors and blocks or otherwise inhibits the effects of opioids acting on those receptors. These reversal agents can quickly resuscitate victims of an opioid overdose and restore regular respiration, preventing death.

The 85th Legislature, in SB 315 and SB 584, directed the TMB to develop guidelines for: (1) the prescription of opioid antagonists to patients to whom an opioid medication is also prescribed; and (2) identifying patients at risk of an opioid-related drug overdose and prescribing opioid antagonists to that patient or a person in a position to administer the opioid antagonist to that patient. The direction to the TMB did not extend to creating guidelines related to the prescribing of opioid antagonists to law enforcement agencies.

TMB has received a number of inquiries regarding whether physicians may prescribe opioid antagonists to law enforcement agencies under SB 315 or SB 584. SB 315 and SB 584 are silent

as to the prescribing of opioid antagonists to law enforcement agencies; however, both bills reference Texas Health and Safety Code Section 483. Texas Health and Safety Code Section 483.102 authorizes a “prescriber” to prescribe an opioid antagonist either “directly or by standing order,” to “a family member, friend, or other person in a position to assist a person described by Subdivision (1).”¹ The TMB’s preliminary interpretation of “person in a position to assist a person described by subdivision (1),” is that this language would seem to include individual persons employed as law enforcement officers. By the nature of their job duties, law enforcement officers and other first responders are in a position to frequently encounter victims of opioid abuse and assist them through administration of opioid antagonists. Therefore, Section 483.102 would seem to authorize physicians to prescribe opioid antagonists to law enforcement agencies whose officers are persons in a “position to assist a person described by Subdivision (1).”

In order to be able to issue proper guidance to the physicians of Texas, the TMB requests an opinion from the Attorney General as to whether Texas Health and Safety Code Section 483.102 authorizes a physician to prescribe opioid antagonists to a law enforcement agency, either directly or through standing orders.

Respectfully,

/s/

Sherif Zaafran, M.D.
President
Texas Medical Board

¹ Subdivision 1 refers to “a person at risk of experiencing an opioid related drug overdose.” TEX. HEALTH AND SAFETY CODE §483.102(a)(1)