

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003

A Bill

SENATE BILL 265

4
5 By: Senator Altes

For An Act To Be Entitled

9 AN ACT TO IMPROVE THE TREATMENT OF CHRONIC
10 INTRACTABLE PAIN; TO INFORM PHYSICIANS ABOUT THE
11 AVAILABLE METHODS FOR TREATING CHRONIC PAIN; AND
12 FOR OTHER PURPOSES.

Subtitle

15 AN ACT TO IMPROVE THE TREATMENT OF
16 CHRONIC INTRACTABLE PAIN.

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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21
22 SECTION 1. Arkansas Code Title 17, Chapter 95, is amended to add an
23 additional subchapter to read as follows:

24 17-95-701. Title.

25 This subchapter shall be known and may be cited as the "Chronic
26 Intractable Pain Treatment Act".

27
28 17-95-702. Findings.

29 The General Assembly finds that:

30 (1) Pain management plays an important role in good medical practice;

31 (2) Physicians should recognize the need to make pain relief
32 accessible to all patients with chronic intractable pain; and

33 (3) Physicians should view pain management as a regular part of their
34 medical practice for all patients with chronic intractable pain.

35
36 17-95-703. Definitions.



1 As used in this subchapter:

2 (1) "Board" means the Arkansas State Medical Board;

3 (2) "Chronic intractable pain" means a pain state for which the cause
 4 of the pain cannot be removed or otherwise treated, and for which no relief
 5 or cure has been found after reasonable efforts by a physician;

6 (3)(A) "Dangerous or controlled drugs" means drugs used for pain
 7 relief, including but not limited to:

8 (i) Opioids; and

9 (ii) Other drugs classified under schedules II, III, IV,
 10 or V by the United States Food and Drug Administration;

11 (B) "Dangerous or controlled drugs" does not include any
 12 substance the prescription of which is illegal under federal law;

13 (4) "Disciplinary action" means any remedial or punitive sanctions
 14 imposed on a licensed physician by the board;

15 (5) "Patient" means a person seeking medical diagnosis and treatment;
 16 and

17 (6) "Physician" means a licensee of the Arkansas State Medical Board.

18
 19 17-95-704. Arkansas State Medical Board -Treatment - Prohibitions.

20 (a)(1) A physician shall not be subject to disciplinary action by the
 21 Arkansas State Medical Board solely for prescribing dangerous or controlled
 22 drugs for the relief of chronic intractable pain.

23 (2) The board shall direct the Pain Management Review Committee
 24 to use the criteria under subsections (c) and (d) of this section to
 25 determine whether a physician's conduct violates the Arkansas Medical
 26 Practices Act, § 17-95-201, et seq., in regard to prescribing, administering,
 27 ordering, or dispensing pain medications and other drugs necessary to address
 28 their side effects.

29 (b) The board shall:

30 (1) Make reasonable efforts to notify health care providers
 31 under its jurisdiction of the existence of the "Chronic Intractable Pain
 32 Treatment Act"; and

33 (2) Inform any health care provider investigated regarding the
 34 provider's practices in the management of pain of the existence of the
 35 "Chronic Pain Intractable Treatment Act".

36 (c) A physician may, based on evaluation and management of a patient's

1 individual needs:

2 (1) Treat a patient who develops chronic intractable pain with a
3 dangerous or controlled drug to relieve the patient's pain;

4 (2) Continue to treat the patient for as long as the pain
5 persists;

6 (3) Treat the pain by managing it with dangerous or controlled
7 drugs in amounts or combinations that may not be appropriate for treating
8 another medical condition;

9 (4) Administer large doses of dangerous or controlled drugs for
10 pain management if the benefit of relief outweighs the risk of the large
11 dose; and

12 (5) Administer a large dose of a dangerous or controlled drug
13 even if its use may increase the risk of death, if the purpose is not to
14 cause or assist in a patient's death.

15 (d) A physician may not:

16 (1) Prescribe or administer dangerous or controlled drugs
17 intended to manage chronic intractable pain to treat a patient for chemical
18 dependency on drugs or controlled substances;

19 (2) Prescribe or administer dangerous or controlled drugs to a
20 person the physician knows to be using drugs for nontherapeutic purposes;

21 (3) Prescribe or administer dangerous or controlled drugs to a
22 person for other than legitimate medical purposes; or

23 (4)(A) Cause or assist in causing the suicide, euthanasia, or
24 mercy killing of any individual.

25 (B) However, causing or assisting in causing the suicide,
26 euthanasia, or mercy killing of any individual does not include prescribing,
27 dispensing, or administering medical treatment for the purpose of alleviating
28 pain or discomfort, even if that use may increase the risk of death, so long
29 as the treatment is not furnished for the purpose of causing or assisting in
30 causing the death of the individual.

31
32 17-95-705. Pain Management Review Committee - Membership - Duties.

33 (a) There is created the Pain Management Review Committee within the
34 Arkansas State Medical Board.

35 (b) The committee shall consist of five (5) members who shall be board
36 certified pain management specialists, appointed by the board from a list

1 provided by the Arkansas Pain Society.

2 (c) The committee shall:

3 (1) In cooperation with the Arkansas Pain Society, develop
4 guidelines for investigations of complaints regarding conduct in violation of
5 this subchapter; and

6 (2) Investigate complaints regarding physicians treating chronic
7 intractable pain in violation of this subchapter.

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9 17-95-706. Hospitals and health care facilities.

10 No hospital or health care facility may forbid or restrict the use of
11 dangerous or controlled drugs for a person diagnosed and treated by a
12 physician for chronic intractable pain if the drugs are prescribed or
13 administered by a physician having staff privileges at that hospital or
14 health care facility.

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16 17-95-707. Scope.

17 This subchapter does not condone, authorize, or approve mercy killing
18 or euthanasia, and no treatment authorized by this subchapter may be used for
19 mercy killing or euthanasia.

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21 17-95-708. Immunity - Criminal prosecution.

22 No physician shall be subject to criminal prosecution for prescribing
23 or administering controlled substances under appropriate criteria in the
24 course of treatment of a person for chronic intractable pain.