

CALIFORNIA

Pain Patient's Bill of Rights
Health and Safety Code
Effective: October 10, 1997

Existing law, the Intractable Pain Treatment Act, authorizes a physician and surgeon to prescribe or administer controlled substances to a person in the course of treating that person for a diagnosed condition called intractable pain, and prohibits the Medical Board of California from disciplining a physician and surgeon for this action.

This bill would establish the Pain Patient's Bill of Rights and would state legislative findings and declarations regarding the value of opiate drugs to persons suffering from severe chronic intractable pain. It would, among other things, authorize a physician to refuse to prescribe opiate medication for a patient who requests the treatment for severe chronic intractable pain, require the physician to inform the patient that there are physicians who specialize in the treatment of severe chronic intractable pain with methods that include the use of opiates, and authorize a physician who prescribes opiates to prescribe a dosage deemed medically necessary.

TEXT: THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Part 4.5 (commencing with Section 124960) is added to Division 106 of the Health and Safety Code, to read: PART 4.5 PAIN PATIENT'S BILL OF RIGHTS

124960. The Legislature finds and declares all of the following:

- (a) The state has a right and duty to control the illegal use of opiate drugs.
- (b) Inadequate treatment of acute and chronic pain originating from cancer or noncancerous conditions is a significant health problem.
- (c) For some patients, pain management is the single most important treatment a physician can provide.
- (d) A patient suffering from severe chronic intractable pain should have access to proper treatment of his or her pain.
- (e) Due to the complexity of their problems, many patients suffering from severe chronic intractable pain may require referral to a physician with expertise in the treatment of severe chronic intractable pain. In some cases, severe chronic intractable pain is best treated by a team of clinicians in order to address the associated physical, psychological, social, and vocational issues.
- (f) In the hands of knowledgeable, ethical, and experienced pain management practitioners, opiates administered for severe acute and severe chronic intractable pain can be safe.
- (g) Opiates can be an accepted treatment for patients in severe chronic intractable pain who have not obtained relief from any other means of treatment.
- (h) A patient suffering from severe chronic intractable pain has the option to request or reject the use of any or all modalities to relieve his or her severe chronic intractable pain.

(i) A physician treating a patient who suffers from severe chronic intractable pain may prescribe a dosage deemed medically necessary to relieve severe chronic intractable pain as long as the prescribing is in conformance with the provisions of the California Intractable Pain Treatment Act, Section 2241.5 of the Business and Professions Code.

(j) A patient who suffers from severe chronic intractable pain has the option to choose opiate medication for the treatment of severe chronic intractable pain as long as the prescribing is in conformance with the provisions of the California Intractable Pain Treatment Act, Section 2241.5 of the Business and Professions Code.

(k) The patient's physician may refuse to prescribe opiate medication for a patient who requests the treatment for severe chronic intractable pain. However, that physician shall inform the patient that there are physicians who specialize in the treatment of severe chronic intractable pain with methods that include the use of opiates.

124961. Nothing in this section shall be construed to alter any of the provisions set forth in the California Intractable Pain Treatment Act, Section 2241.5 of the Business and Professions Code. This section shall be known as the Pain Patient's Bill of Rights.

(a) A patient suffering from severe chronic intractable pain has the option to request or reject the use of any or all modalities in order to relieve his or her severe chronic intractable pain.

(b) A patient who suffers from severe chronic intractable pain has the option to choose opiate medications to relieve severe chronic intractable pain without first having to submit to an invasive medical procedure, which is defined as surgery, destruction of a nerve or other body tissue by manipulation, or the implantation of a drug delivery system or device, as long as the prescribing physician acts in conformance with the provisions of the California Intractable Pain Treatment Act, Section 2241.5 of the Business and Professions Code.

(c) The patient's physician may refuse to prescribe opiate medication for the patient who requests a treatment for severe chronic intractable pain. However, that physician shall inform the patient that there are physicians who specialize in the treatment of severe chronic intractable pain with methods that include the use of opiates.

(d) A physician who uses opiate therapy to relieve severe chronic intractable pain may prescribe a dosage deemed medically necessary to relieve severe chronic intractable pain, as long as that prescribing is in conformance with the California Intractable Pain Treatment Act, Section 2241.5 of the Business and Professions Code.

(e) A patient may voluntarily request that his or her physician provide an identifying notice of the prescription for purposes of emergency treatment or law enforcement identification.

(f) Nothing in this section shall do either of the following:

(1) Limit any reporting or disciplinary provisions applicable to licensed physicians and surgeons who violate prescribing practices or other provisions set forth in the Medical Practices Act, Chapter 5, (commencing with Section 2000) of Division 2 of the Business and Professions Code, or the regulations adopted thereunder.

(2) Limit the applicability of any federal statute or federal regulation or any of the other statutes or regulations of this state that regulate dangerous drugs or controlled substances.