

MINNESOTA

An Act

Relating to health; allowing physicians to prescribe and administer controlled substances in cases of intractable pain; proposing coding for new law in Minnesota Statutes, chapter 152.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. 152.125 INTRACTABLE PAIN.

Subd. 1. DEFINITION. For purposes of this section, "intractable pain" means a pain state in which the cause of the pain cannot be removed or otherwise treated with the consent of the patient and in which, in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible, or none has been found after reasonable efforts. Reasonable efforts for relieving or curing the cause of the pain may be determined on the basis of, but are not limited to, the following:

- (1) when treating a nonterminally ill patient for intractable pain, evaluation by the attending physician and one or more physicians specializing in pain medicine or the treatment of the area, system, or organ of the body perceived as the source of the pain; or
- (2) when treating a terminally ill patient, evaluation by the attending physician who does so in accordance with the level of care, skill, and treatment that would be recognized by a reasonably prudent physician under similar conditions and circumstances.

Subd. 2. PRESCRIPTION AND ADMINISTRATION OF CONTROLLED SUBSTANCES FOR INTRACTABLE PAIN. Notwithstanding any other provision of this chapter, a physician may prescribe or administer a controlled substance in schedules II to V of section 152.02 to an individual in the course of the physician's treatment of the individual for a diagnosed condition causing intractable pain. No physician shall be subject to disciplinary action by the board of medical practice for appropriately prescribing or administering a controlled substance in schedules II to V of section 152.02 in the course of treatment of an individual for intractable pain, provided the physician keeps accurate records of the purpose, use, prescription, and disposal of controlled substances, writes accurate prescriptions, and prescribes medications in conformance with chapter 147.

Subd. 3. LIMITS ON APPLICABILITY. This section does not apply to:

- (1) a physician's treatment of an individual for chemical dependency resulting from the use of controlled substances in schedules II to V of section 152.02;
- (2) the prescription or administration of controlled substances in schedules II to V of section 152.02 to an individual whom the physician knows to be using the controlled substances for nontherapeutic purposes;
- (3) the prescription or administration of controlled substances in schedules II to V of section 152.02 for the purpose of terminating the life of an individual having intractable pain; or
- (4) the prescription or administration of a controlled substance in schedules II to V of section 152.02 that is not a controlled substance approved by the United States Food and Drug Administration for pain relief.

Subd. 4. NOTICE OF RISKS. Prior to treating an individual for intractable pain in accordance with subdivision 2, a physician shall discuss with the individual the risks associated with the controlled substances in schedules II to V of section 152.02 to be prescribed or administered in the course of the physician's treatment of an individual, and document the discussion in the individual's record.

Sec. 2. EFFECTIVE DATE.

Section 1 is effective the day following final enactment.

Presented to the governor May 8, 1997.

Approved May 9, 1997.