

SENATE BILL 1820

By Bowling

AN ACT to amend Tennessee Code Annotated, Title 39;
Title 53; Title 63 and Title 68, relative to intractable
pain.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-6-1102, is amended by adding the following as a new subdivision (3)

(3) "Controlled substance" means a drug, substance, or immediate precursor identified in schedule I through VI, defined or listed in title 39, chapter 17, part 4;

SECTION 2. Tennessee Code Annotated, Section 63-6-1103, is deleted in its entirety and by substituting instead the following:

The general assembly finds and declares all of the following:

(1) The state has a right and duty to monitor and control the use of controlled substances;

(2) Inadequate treatment of acute and chronic pain originating from cancer or noncancerous conditions is a significant health problem;

(3) For some patients, pain management is the single most important treatment a physician can provide;

(4) A patient suffering from severe chronic intractable pain should have access to proper treatment of such patient's pain;

(5) 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;

(6) Chronic use of a drug classified as a controlled substance carries a risk of abuse, physical dependence, or addiction, therefore the prescribing physician must be knowledgeable, ethical and experienced in chronic pain management. The physician must document informed consent and discussion of the risks and benefits and reasons for prescribing whenever more than a seventy-two-hour supply is prescribed for pain related to a chronic non-malignant condition;

(7) Controlled substances can be an accepted treatment for patients in severe chronic intractable pain who have not obtained relief from any other means of treatment. This is an important option for patients with terminal incurable cancers. When more than a 72-hour supply is prescribed for pain related to a chronic non-malignant condition, the physician must document the reason for chronic use and that the risk of chemical dependency was discussed with the patient; and

(8) The patient's physician may recommend alternative medications for a patient who requests treatment with controlled substances for severe chronic intractable pain. If the physician determines that the risk of potential drug dependence, addiction, or abuse outweighs the benefit, the physician is not required to prescribe a controlled substance, nor is the physician required to refer the patient to someone who will.

SECTION 3. Tennessee Code Annotated, Section 63-6-1104, is deleted in its entirety and by substituting instead the following:

(a) This section shall be known and may be cited as the "Pain Patient's Bill of Rights."

(b) 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 such patient's severe chronic intractable pain.

(c) A patient who suffers from severe chronic intractable pain has the option to choose controlled substances 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 this part.

(d) The patient's physician may recommend alternative medications for the patient who requests medical treatment with controlled substances for severe chronic intractable pain. If the physician determines that the risk of potential drug dependence, addiction, or abuse outweighs the benefit, the physician is not required to prescribe a controlled substance, nor is the physician required to refer the patient to someone who will.

(e) A patient may voluntarily request that such patient's 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 this chapter or the regulations adopted under this chapter; or

(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.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.