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HEALTH AND SAFETY CODE - HSC

DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850] (

Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

PART 4.5. PAIN PATIENT'S BILL OF RIGHTS [124960 - 124962] (Part 4.5 added by Stats. 1997, Ch. 839, Sec. 1.)

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 pain 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 pain.
- (i) A physician treating a patient who suffers from severe chronic intractable pain may prescribe a dosage deemed medically necessary to relieve pain as long as the prescribing is in conformance with 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 the severe chronic intractable pain as long as the prescribing is in conformance with 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 treat severe chronic intractable pain with methods that include the use of opiates.

(Amended by Stats. 2011, Ch. 396, Sec. 2. (AB 507) Effective January 1, 2012.)

124961. Nothing in this section shall be construed to alter any of the provisions set forth in 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 who suffers 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 pain.
- (b) A patient who suffers from severe chronic intractable pain has the option to choose opiate medications to relieve that 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 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 treat pain and whose methods 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 the patient's pain, as long as that prescribing is in conformance with 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 Practice 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.

(Amended by Stats. 2011, Ch. 396, Sec. 3. (AB 507) Effective January 1, 2012.)

124962. The Legislature finds and declares all of the following:

(a) Nonpharmacological therapies for pain management have been proven effective for treatment of chronic pain and their use should be promoted just as are pharmacological analgesic therapies.

(b) The United States Department of Health and Human Services' Pain Management Best Practices Inter-Agency Task Force identified barriers to accessing nonpharmacological therapies for pain management related to health care providers that include underestimation of patients' reported level of pain, including unconscious biases, workforce shortages, especially among behavioral and pain management specialists, lack of research on or lack of awareness of novel and effective approaches to pain care, and cost and reimbursement issues specific to the health care system. For patients, cost, time, and transportation barriers, as well as lack of coverage or lack of knowledge and awareness of nonpharmacological options have been identified.

(c) A multimodal and patient-centered approach to treating and managing acute or chronic pain has been recommended by the task force.

(d) Restorative, interventional, behavioral, complementary, and integrative health approaches have been identified as nonpharmacological therapies for pain management.

(e) The federal Food and Drug Administration has approved behavioral or instrument-based and nonpharmacological immersive therapeutics indicated to manage or treat pain.

(f) "Nonpharmacological pain management treatment" is pain management treatment without the use of medication, including behavioral therapy, instrument-based therapy, or immersive therapeutics approved by the federal Food and Drug Administration indicated for the use of managing or treating pain.

(g) Medical devices are an important option for the treatment and management of pain and prevention of opioid use disorders. With a shift in how pain is treated, there is a greater need for ensuring appropriate coverage and payment policies for effective emerging technologies.

(h) The health care system, including health care providers, health care service plans, and health insurers, should encourage the use of evidence-based nonpharmacological therapies for pain management.

(Added by Stats. 2022, Ch. 160, Sec. 1. (AB 2585) Effective January 1, 2023.)