

LEGISLATIVE BILL 226

Approved by the Governor March 30, 1999

Introduced by Hilgert, 7; Dw. Pedersen, 39; Chambers, 11; Jensen, 20

AN ACT relating to public health; to provide for pain management; to limit certain disciplinary proceedings and criminal prosecutions; and to provide duties for the Board of Examiners in Medicine and Surgery.

Be it enacted by the people of the State of Nebraska,

Section 1. (1) The Legislature finds that many controlled substances have useful and legitimate medical and scientific purposes and are necessary to maintain the health and general welfare of the people of Nebraska. Principles of quality medical practice dictate that the people of Nebraska have access to appropriate and effective pain relief.

(2) The Legislature finds that the appropriate application of up-to-date knowledge and treatment modalities can serve to improve the quality of life for those patients who suffer from pain. The Legislature therefor encourages physicians to view effective pain management as a part of quality medical practice for all patients with pain, acute or chronic, including those patients who experience pain as a result of terminal illness.

(3) The Legislature finds that a physician should be able to prescribe, dispense, or administer a controlled substance in excess of the recommended dosage for the treatment of pain so long as such dosage is not administered for the purpose of causing, or the purpose of assisting in causing, death for any reason and so long as it conforms to policies and guidelines for the treatment of pain adopted by the Board of Examiners in Medicine and Surgery.

(4) The Legislature finds that a health care facility, hospice, or third-party payor should not forbid or restrict the use of controlled substances appropriately administered for the treatment of pain.

Sec. 2. A physician licensed under the Uniform Licensing Law who prescribes, dispenses, or administers or a nurse licensed under the Nurse Practice Act or pharmacist licensed under the Uniform Licensing Law who administers or dispenses a controlled substance in excess of the recommended dosage for the treatment of pain shall not be subject to discipline under sections 71-147 to 71-161.20 or 71-1,142 to 71-1,147.61 or under the Nurse Practice Act or criminal prosecution under the Uniform Controlled Substances Act when: (1) In the judgment of the physician, appropriate pain management warrants such dosage; (2) the controlled substance is not administered for the purpose of causing, or the purpose of assisting in causing, death for any reason; and (3) the administration of the controlled substance conforms to policies and guidelines for the treatment of pain adopted by the Board of Examiners in Medicine and Surgery.

Sec. 3. The Board of Examiners in Medicine and Surgery shall adopt policies and guidelines for the treatment of pain to ensure that physicians who are engaged in the appropriate treatment of pain are not subject to disciplinary action, and the board shall consider policies and guidelines developed by national organizations with expertise in pain management for this purpose.