

HOUSE BILL No. 2141

By Committee on Health and Human Services

1-24

AN ACT concerning the healing arts; relating to pain management.

Be it enacted by the Legislature of the State of Kansas:

Section 1. As used in this act: (a) "Acute pain" means pain that is the normal, predicted physiological response to an adverse chemical, thermal or mechanical stimulus and is associated with surgery, trauma and acute illness. It is generally time limited and is responsive to opioid therapy, among other therapies.

(b) "Addiction" means the neurobehavioral syndrome that results in psychological or drug dependence on the use of substances for their psychic effects and is characterized by compulsive use despite harm. Physical dependence and tolerance are normal physiological consequences of extended opioid therapy for intractable pain and should not be considered an addiction.

(c) "Analgesic tolerance" means the need to increase the dose of opioid to achieve the same level of analgesia and does not equate with addiction.

(d) "Chronic pain" means a persistent state of pain in which the cause of the pain cannot be removed or otherwise treated. Chronic pain may be associated with a long-term incurable or intractable medical condition or disease.

(e) "Intractable pain" means a pain state in which the cause of the pain cannot be removed or otherwise treated and 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. It includes pain due from cancer as well as other chronic diseases.

(f) "Pain" means an unpleasant sensory and emotional experience associated with actual or potential tissue damage or described in terms of such pain.

(g) "Pseudoaddiction" means a pattern of drug seeking behavior of pain patients who are receiving inadequate pain management that can be mistaken for addiction.

(h) "Substance abuse" means the use of any substance for nontherapeutic purposes or use of a medication for purposes other than those for which it is prescribed.

1 (i) "Tolerance" means a physiologic state resulting from regular use
2 of a drug where a reduced effect is observed at the current prescribed
3 dosage requiring an increase in dosage to produce the same effect.

4 Sec. 2. (a) Controlled substances, including opioid analgesics, may
5 be essential in the treatment of acute pain due to trauma or surgery,
6 intractable pain and chronic pain due to cancer or noncancer origins.
7 Effective pain management as a part of quality medical practice for all
8 patients seeking treatment for acute, chronic or intractable pain, or pain
9 resulting from a terminal illness is a legitimate medical purpose in the
10 usual course of professional practice.

11 (b) For the purpose of this act, a physician may prescribe or admin-
12 ister a controlled substance under the federal and Kansas controlled sub-
13 stances acts to a person in the course of the physician's treatment for
14 acute, chronic or intractable pain as defined in section 1, and amendments
15 thereto.

16 (c) Medical management of pain by a physician should be based on
17 current knowledge and research and should include use of both phar-
18 macologic and nonpharmacologic modalities. When a patient has devel-
19 oped analgesic tolerance and suffers from unrelieved pain, the physician
20 may prescribe increased amounts of analgesic, including opioids, based
21 upon clear documentation of the unrelieved pain and sound clinical
22 ground showing good cause for such deviation.

23 (d) A physician shall keep records of such physician's purchase and
24 disposal of any controlled substance to include the date of purchase, the
25 sale or disposal of the controlled substance, the name and address of the
26 person receiving the controlled substance and the reason for the disposal
27 or dispensing of the controlled substance to a person.

28 (e) No hospital or health care facility may forbid or restrict the use
29 of a controlled substance when prescribed by a physician having staff
30 privileges at that hospital or health care facility for a person diagnosed
31 and treated by a physician for acute, chronic or intractable pain as defined
32 in section 1, and amendments thereto.

33 (f) A prescription for a controlled substance shall only be filled only
34 by a licensed pharmacist acting in the usual course of such pharmacist's
35 professional practice.

36 (g) The health care professional shall discuss the risks and benefits
37 of the increased usage of a controlled substance with the patient or the
38 patient's guardian if the patient is incompetent. Thereafter, an informed
39 consent and agreement for treatment must be signed by the patient, pa-
40 tient's family member or guardian.

41 (h) A health care professional who administers, prescribes or dis-
42 penses medication or procedures to relieve another person's acute,
43 chronic or intractable pain, even if the medication or procedure may

1 hasten or increase the risk of death, does not violate K.S.A. 2000 Supp.
2 21-3406, and amendments thereto, unless the medications or procedures
3 are knowingly administered, prescribed or dispensed with the intent to
4 cause death.

5 (i) No disciplinary action before the board of healing arts for violation
6 of K.S.A. 2000 Supp. 21-3406, and amendments thereto, assisting suicide,
7 shall be brought against the health care professional who complies with
8 this act and the rules and regulations adopted by the board of healing
9 arts concerning this issue.

10 Sec. 3. The board of healing arts, as provided for under this act, shall
11 develop rules and regulations regarding management of acute, chronic
12 and intractable pain as defined in section 1, and amendments thereto, to
13 allow for prompt treatment and adjustment of the quantity and frequency
14 of doses of a controlled substance according to the intensity and duration
15 of the pain.

16 Sec. 4. (a) The provisions of this act shall not be used by a physician
17 to treat a person seeking treatment solely for chemical dependency re-
18 sulting from such person's use of dangerous drugs or controlled
19 substances.

20 (b) The provisions of this act provide no authority to a physician to
21 prescribe or administer dangerous drugs or controlled substances to a
22 person the physician knows or should know to be using drugs for non-
23 therapeutic purposes.

24 (c) The provisions of this act shall not prevent a physician from treat-
25 ing a person who has developed an analgesic tolerance, pseudoaddiction
26 or tolerance as defined in section 1, and amendments thereto, as a result
27 of current pain management efforts.

28 Sec. 5. Nothing in this act shall deny or prevent the board of healing
29 arts from cancelling, revoking or suspending the license of any physician
30 who:

31 (a) Knowingly prescribes, dispenses or administers a drug or treat-
32 ment that is nontherapeutic in nature or manner;

33 (b) fails to keep a complete and accurate record of purchases and
34 disposals of drugs listed in the federal and Kansas controlled substances
35 acts;

36 (c) writes false or fictitious prescriptions for federal or Kansas con-
37 trolled substances; or

38 (d) prescribes, administers or dispenses federal or Kansas controlled
39 substances in a manner not consistent with the goals of public health and
40 welfare.

41 Sec. 6. This act shall be known and cited as the pain management
42 act.

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1 Sec. 7. This act shall take effect and be in force from and after its
2 publication in the statute book.
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