

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

SENATE BILL NO. 2166
(Senators J. Lee, Kilzer, Mathern)
(Representatives Delzer, Kreidt)

AN ACT to amend and reenact subsection 2 of section 19-03.3-01 and sections 19-03.3-02, 19-03.3-03, 19-03.3-04, and 19-03.3-05 of the North Dakota Century Code, relating to treatment and care for pain.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 19-03.3-01 of the North Dakota Century Code is amended and reenacted as follows:

2. ~~"Intractable pain 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~~ acute pain and chronic pain. Acute pain is the normal, predicted physiological response to a noxious chemical or thermal or mechanical stimulus and typically is associated with invasive procedures, trauma, or disease, and is generally time-limited. Chronic pain is a state that persists beyond the usual course of an acute disease or healing of an injury or that may or may not be associated with an acute or chronic pathologic process that causes continuous or intermittent pain over months or years.

SECTION 2. AMENDMENT. Section 19-03.3-02 of the North Dakota Century Code is amended and reenacted as follows:

19-03.3-02. Prescription or administration of drugs by physician. Notwithstanding any other provision of law, a physician may prescribe or administer controlled substances to a patient in the course of the physician's treatment of the patient for ~~intractable~~ pain. A physician shall keep records of purchases and disposals of controlled substances prescribed or administered under this section. The records must include the date of purchase, the date of sale or administration by the physician, the name and address of the patient, and the reason for the prescribing or the administering of the substances to the patient.

SECTION 3. AMENDMENT. Section 19-03.3-03 of the North Dakota Century Code is amended and reenacted as follows:

19-03.3-03. Restriction by hospital or health care facility of prescribed drug use prohibited. No hospital or health care facility may forbid or restrict the use of controlled substances when prescribed or administered by a physician having staff privileges at that hospital or health care facility for a patient diagnosed and treated by a physician for ~~intractable~~ pain.

SECTION 4. AMENDMENT. Section 19-03.3-04 of the North Dakota Century Code is amended and reenacted as follows:

19-03.3-04. Disciplinary action for prescribing or administering drug treatment prohibited. The board may not discipline a physician for prescribing or administering controlled substances in the course of treatment of a patient for ~~intractable~~ pain under this chapter.

SECTION 5. AMENDMENT. Section 19-03.3-05 of the North Dakota Century Code is amended and reenacted as follows:

19-03.3-05. Application. This chapter does not apply to a person being treated by a physician for chemical dependency because of the person's use of controlled substances not related to treatment for pain. This chapter does not authorize a physician to prescribe or administer ~~controlled substances to a person the physician knows is using controlled substances for nontherapeutic~~ any drug legally classified as a controlled substance or as an addictive or dangerous drug for other than medically accepted therapeutic purposes. A person to whom controlled substances are prescribed or administered for ~~intractable~~ pain is not exempt from section 39-08-01 or 39-20-04.1.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2166.

Senate Vote: Yeas 45 Nays 0 Absent 2

House Vote: Yeas 84 Nays 0 Absent 10

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State