

Date of Hearing: April 26, 2011

ASSEMBLY COMMITTEE ON HEALTH
William W. Monning, Chair
AB 507 (Hayashi) – As Amended: April 13, 2011

SUBJECT: Pain management.

SUMMARY: Repeals provisions in existing law which permit the Department of Justice (DOJ) to employ a physician to interview and examine any patient in connection with the prescription possession or use of a controlled substance, require the patient to submit to the interview and examination, and permit the physician to testify in prescribed administrative proceedings. Makes technical and conforming changes to existing law related to severe chronic intractable pain and to the California Intractable Pain Treatment Act (CIPT Act).

EXISTING LAW:

- 1) Permits DOJ to employ a physician to interview and examine any patient in connection with the prescription possession or use of a controlled substance, requires the patient to submit to the interview and examination, and permits the physician to testify in prescribed administrative proceedings.
- 2) Permits a physician and surgeon to prescribe for, or dispense or administer to, a person under their treatment for a medical condition, drugs or prescription controlled substances for the treatment of pain or a condition causing pain, including, but not limited to, intractable pain.

FISCAL EFFECT: This bill has not been analyzed by a fiscal committee.

COMMENTS:

- 1) PURPOSE OF THIS BILL. According to the author, pain is the most common reason Americans access the health care system and is a leading contributor to health care costs. The costs of pain and suffering, both emotional and financial, are enormous. Unrelieved pain is the second leading cause of medically-related work absenteeism and causes over \$61 billion dollars in lost productivity annually. According to the National Center for Health Statistics, in 2006, 76.2 million people suffered from pain in the United States. In a recent California HealthCare Foundation survey, pain topped the list of concerns people face when they think about dying. The author states that California has led the nation in making many important legislative and regulatory changes related to pain management. These previous reforms made great strides to improve the legal and regulatory landscape for pain management by promulgating the idea of balance between the legitimate need to protect public safety and public health through efforts to reduce drug abuse and diversion, and the imperative to address the public health problem of unrelieved pain. However, the author states that some ambiguities and inconsistencies remain in the law surrounding pain practice, and that these outdated practice standards, as identified by the Pain and Policy Studies Group (PPSG), can unduly restrict healthcare practice and interfere with patient access to effective pain treatment. The author states that this bill will remove remaining legal barriers to optimal pain management for patients with cancer, HIV/AIDs and other diseases or conditions causing pain by eliminating ambiguities and inconsistencies in the CIPT Act that negatively affect appropriate clinical interpretation.

PLAINTIFF TRIAL
EXHIBIT
P-24070_00001

P-24070 _ 00001

- 2) PAIN AND POLICY STUDY GROUP. According to the sponsor of this bill, the American Cancer Society (ACS), the changes to statute that this bill proposes were identified by PPSG, which reviewed every state's adherence to this principle of balance using a peer reviewed evaluation. PPSG collaborates with organizations such as the Alliance of State Pain Initiatives, the American Academy of Pain Medicine, the ACS Cancer Action Network, the American Pain Foundation, the American Pain Society, the American Society of Addiction Medicine, the Federation of State Medical Boards, the National Association of Attorney's General, and the U.S. Drug Enforcement Administration. According to PPSG, its U.S. program is primarily involved in the collection and evaluation of state policies that govern pain management, especially prescribing controlled substances to treat chronic moderate to severe pain. PPSG identified potential barriers to adequate patient pain care, as well as language that promotes safe and effective treatment.

- 3) PREVIOUS LEGISLATION. AB 2198 (Houston), Chapter 350, Statutes of 2006, revises the laws governing the use of drugs to treat pain to clarify that health care professionals that have a medical basis, including the treatment of pain, for prescribing, furnishing, dispensing, or administering dangerous drugs or prescription controlled substances, are permitted to do so without being subject to disciplinary action or prosecution.

AB 487 (Aroner), Chapter 518, Statutes of 2001, requires all physicians to complete a mandatory continuing education course in the subjects of pain management and the treatment of terminally ill and dying patients. AB 487 also requires the Board of Pharmacy to develop standards by June 1, 2002, to assure the competent review in cases concerning the management, including, but not limited to, the under-treatment, under-medication, and overmedication of a patient's pain; and permitted the Board of Pharmacy to consult with specified entities to develop the standards utilizing, to the extent they are applicable, current authoritative clinical practice guidelines.

- 4) SUPPORT. ACS writes that California's policy landscape is fairly good in looking at this balance, but there are few remaining components in the codes that are inconsistent with current best practices in pain management and may impede the appropriate treatment of pain and that this bill removes or amends the offending language. ACS states that removing these last remaining components of policy that could erect barriers to needed pain treatment will allow the field to focus on other reasons that pain is under-treated.

- 5) DOUBLE REFERRED. This bill is double referred. Should it pass out of this committee, it will be referred to the Assembly Committee on Business, Professions & Consumer Protection.

REGISTERED SUPPORT / OPPOSITION:

Support

American Cancer Society (sponsor)
California Academy of Physician Assistants

Opposition

None on file.

Analysis Prepared by: Melanie Moreno / HEALTH / (916) 319-2097