

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2166

Introduced by

Senators J. Lee, Kilzer, Mathern

Representatives Delzer, Kreidt

1 A BILL for an Act to amend and reenact subsection 2 of section 19-03.3-01 and sections
2 19-03.3-02, 19-03.3-03, 19-03.3-04, and 19-03.3-05 of the North Dakota Century Code, relating
3 to treatment and care for pain.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

7 2. ~~"Intractable pain~~ Pain" means ~~a pain state in which the cause of the pain cannot~~
8 ~~be removed or otherwise treated and which in the generally accepted course of~~
9 ~~medical practice no relief or cure of the cause of the pain is possible or none has~~
10 ~~been found after reasonable efforts~~ acute pain and chronic pain. Acute pain is the
11 normal, predicted physiological response to a noxious chemical or thermal or
12 mechanical stimulus and typically is associated with invasive procedures, trauma,
13 or disease, and is generally time-limited. Chronic pain is a state that persists
14 beyond the usual course of an acute disease or healing of an injury or that may or
15 may not be associated with an acute or chronic pathologic process that causes
16 continuous or intermittent pain over months or years.

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

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

1 sale or administration by the physician, the name and address of the patient, and the reason for
2 the prescribing or the administering of the substances to the patient.

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

5 **19-03.3-03. Restriction by hospital or health care facility of prescribed drug use**
6 **prohibited.** No hospital or health care facility may forbid or restrict the use of controlled
7 substances when prescribed or administered by a physician having staff privileges at that
8 hospital or health care facility for a patient diagnosed and treated by a physician for ~~intractable~~
9 pain.

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

12 **19-03.3-04. Disciplinary action for prescribing or administering drug treatment**
13 **prohibited.** The board may not discipline a physician for prescribing or administering
14 controlled substances in the course of treatment of a patient for ~~intractable~~ pain under this
15 chapter.

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

18 **19-03.3-05. Application.** This chapter does not apply to a person being treated by a
19 physician for chemical dependency because of the person's use of controlled substances not
20 related to treatment for pain. This chapter does not authorize a physician to prescribe or
21 administer ~~controlled substances to a person the physician knows is using controlled~~
22 ~~substances for nontherapeutic~~ any drug legally classified as a controlled substance or as an
23 addictive or dangerous drug for other than medically accepted therapeutic purposes. A person
24 to whom controlled substances are prescribed or administered for ~~intractable~~ pain is not
25 exempt from section 39-08-01 or 39-20-04.1.