Bill as Introduced

3/9/00 3581s

SB 424- AS AMENDED BY THE SENATE

2000 SESSION

00-2681
01/09

SENATE BILL ***424***

AN ACT relative to controlled substances used for pain management.

SPONSORS: Sen. Wheeler, Dist 21; Rep. Wendelboe, Belk 2

COMMITTEE: Public Institutions, Health and Human Services

AMENDED ANALYSIS

This bill clarifies the professional use of controlled substances for pain management.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 424- AS AMENDED BY THE SENATE

3/9/00 3581s

00-2681
01/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand

AN ACT relative to controlled substances used for pain management.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Statement of Purpose. The state of New Hampshire recognizes that principles of quality medical practice dictate that the people of the state of New Hampshire have access to appropriate and effective pain relief. 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 as well as to reduce the morbidity, and costs associated with untreated or inappropriately treated pain. The state of New Hampshire encourages physicians to view effective pain management as a part of quality medical practice for all patients with pain, acute or chronic. It is especially important for patients who experience pain as a result of terminal illness.

2 New Paragraph; Professional Use of Controlled Substances. Amend RSA 318-B:10 by inserting after paragraph VI the following new paragraph:

VI-a. In addition to the provisions of paragraph VI and notwithstanding any other law or rule to the contrary, if, in the judgment of a physician licensed under RSA 329, appropriate pain management warrants a high dosage of controlled drugs and the benefit of the relief expected outweighs the risk of the high dosage, the licensed physician may administer or cause to be administered such a dosage, even if its use may increase the risk of death, so long as it is not furnished for the purpose of causing, or the purpose of assisting in causing, death for any reason and so long as it falls within rules of the board of medicine.

3 New Paragraph; Rulemaking Added. Amend RSA 329:9 by inserting after paragraph XV the following new paragraph:

XV-a. Procedures for appropriate pain management pursuant to RSA 318-B:10, VI-a.

4 Effective Date. This act shall take effect 60 days after its passage.

Amendments

Rep. Rowe, Hills. 14
April 18, 2000
2000-4156h
08/01

Amendment to SB 424

Amend the bill by replacing section 2 with the following:

2 New Paragraph; Professional Use of Controlled Substances. Amend RSA 318-B:10 by inserting after paragraph VIII the following new paragraph:

IX. If, in the judgment of a physician licensed under RSA 329, appropriate pain management warrants a high dosage of controlled drugs and the benefit of the relief expected outweighs the risk of the high dosage, the licensed physician may administer or cause to be administered such a dosage, even if its use may increase the risk of death, so long as it is not furnished for the purpose of causing, or the purpose of assisting in causing, death for any reason and so long as it falls within rules of the board of medicine.

Amend RSA 329:9, XV-a as inserted by section 3 of this act by replacing it with the following:

XV-a. Procedures for appropriate pain management pursuant to RSA 318-B:10, IX.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # SB 434 Date 4/4/2000

Committee Judiciary

**** Please Print All Information ****

Name	Address	Phone	Representing	(check one) Pro	Con
Sen. Katie Wheeler	Durham		Sen. District 21	✓	

Hearing Minutes

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON SB 424

BILL TITLE: (New Title) relative to controlled substances used for pain management.

DATE: April 4, 2000

LOB ROOM: 206 **Time Public Hearing Called to Order:** 10:06

Time Adjourned: 11:45

(please circle if present)

Committee Members: Reps. Mock, Peterson, Jacobson, Kearns, Bergin, Dokmo, L. Jean, Rowe, Ford, Withee, Dudley, Piccoli, Soltani, Woods, Wall, DePecol, J. Pratt, Craig, Lasky, Mitchell, Solow and Wood.

Bill Sponsors: Sen. Wheeler, Rep. Wendelboe

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Wendelboe, sponsor, supporting
-Protection for state if death occurs when pain medication has been administered
-Based on Michigan/Oklahoma laws
-Not a backdoor vehicle for assisted suicide
Rep. Craig – questions drug statute 318
Rep. Mock – referred to Title 30 Ch 318B

Rep. Wheeler – reiterated. This is not related to assisted suicide.
-Purpose is to encourage MD's to administer appropriate pain management
-This is an education vehicle

Question – Rep. Mock – what was the Senate vote – unanimous voice
Question – Rep. Peterson – what about patient in remission? Answer – this is part of patient/doctor relationship.

Atty. Gen. Philip McLaughlin, supporting
-Referred to Civil Rights bill which established the state policy. Regarding SB 424 he related to 2 person experiences. Goal of the state - the suppression of drugs. We need education and treatment. Wants to tell doctors not to worry about the law.

Question – Rep. Craig – regarding doctors liability – should add consent of family on 2nd doctor.
Answer – there are laws dealing w/consents

Question – Rep. Craig – what about controlled drugs?
Answer – Not a concern
Question – Rep. Pratt – what effect will this have on prosecutions
Answer – None
Would state be able to prosecute abuse MD's
Answer – Yes

Rep. Mock questions the senate amendment to line 8 to add "terminal illness"
Answer – address technical concerns in amendments

Seddon Savage, MD, NH Medical Society – supporting

-90% of the pain can be treated effectively. Untreated pain is #1 cause of requests for physician-assisted suicide. There are many types of pain management, not only drugs. MD's fail to use opioids because of fear, there is little evidence of this in New Hampshire

-MD's cannot prescribe illicit drugs under any circumstances – despite this bill

-Opiods rarely hasten death. Pain decreases immune function. This legislation is not happening in a vacuum. Education progress for MD's active project in New Hampshire. New guidelines for MD's.

Rep. Soltani questions the use of crack cocaine, heroin, etc.
Answer – Nothing in the bill allows doctors to prescribe any drugs they are not now allowed to prescribe

Rep. Betty Lasky – concern re: chronic illness that begins at an early age and the use of opiods hastening death
Answer – If managed properly, there is no concern, only suicide or abuse would shorten a young life

Rep. Janet Wall, how are doctors, who are currently practicing, being taught to manage pain and what percent of doctors are being reached
Answer – lectures, programs, etc. public awareness

Rep. Peterson – he has a concern about lines 11 and 12 "notwithstanding" phrase
Answer – would not wish to overturn existing laws
Question – Peterson – no problem with this issue in New Hampshire
Answer – this bill gives positive context for existing practice – public policy statement

Rep. Rowe – does bill promote eliminating pain rather than curing illness?
Answer – bill does doesn't change practice, but makes doctors "more comfortable"

Rep. Craig – requests identification of classes of drugs
Rep. Picconi – should bill require consultation
Answer - that is the current practice

Dr. John Dalco, rep. NH Medical Society

-Supporting

-Not only pain relief but improved function is the result of good pain control.

-Body tolerance increases, so almost impossible to cause death by opiates.

-Second opinions usually do not contradict lst

-Opiods are among least dangerous drugs

Question – Rep. Soltani

Monica Haley, RN, supporting, Northeast Pain Consultants
-Provides education for MDs

Question – Rep. Sandra Keans
-Answer - there are other drugs.

Janet Monahan, NH Medical Society, supporting
Question – Rep. Lasky – is there any other way to deal with undertreatment of pain

Hearing Closed 11:45 p.m.

Respectfully submitted,

Martha Solow

Rep. Martha S. Solow

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON SB 424

BILL TITLE: (New Title) relative to controlled substances used for pain management.

DATE: 04-04-00

LOB ROOM:

Time Public Hearing Called to Order: 10.06

Time Adjourned: 11.45

(please circle if present) at 11:05 absent for most of the testimony returned at 11.15

Committee Members: Reps. (Mock) (Reterson) (Jacobson) (Keans) (Bergin) Dokmo, L. Jean, (Rowe) (Ford) Withee, Dudley, (Piccon) (Soltani) Woods, (Wall) DePecol, J. Pratt, (Craig) (Lasky) (Mitchell) (Solow) ~~and~~ Wood.

Bill Sponsors: Sen Wheeler, Rep. Wendelboe

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

1. Rep Frank Wendelboe
2. Sen Katie Wheeler
3. Phil McLaughlin, atty gen.
*4. Seddon Savage, rep's NH Medical Soc. (see chart)
*5. John C. Dalco, M.D. (see model guidelines re controlled substances) representing NH Medical Soc.
6. Monica Haley RX Ayerswerth representing NorTheast Pain consultants
*7. Janet Monahan rep's NH Med. Soc. referred to resource guide

All testimony in favor

Sub committee
Rowe
Soltani
Ford
Wall
Peterson
Mitchell

JDA

SB 424

04-04-00
Clerk: Solow

10:06 Hrg Opened

Support Whedbee - Bellmon 2
protection for state if death occurs when pain medication has been administered
based on Michigan / OK laws
not a backdoor vehicle for assisted suicide

Craig Q Drug statute 318
Mack ref's to Title 30 Ch 31 & B

Support Wheeler - reiterated: not related to assist. suicide
Purpose is to encourage MDs to administer approp pain mgt.
Educational vehicle

Mack Q Den vote - unan voice

Kern Q

Peterson Q What abt pt in remission?
Ans - part of pt/MD relationship

Support AG McLaughlin
ref to Govt Rs bill w/ established state policy
re 424 related 2 personal experiences
Goal of state = supression of illegal drugs
need education + treatment
wants to tell MDs not to worry abt law
Craig Q re MD liability
shd add consent of family or 3rd MD
Ans - There are laws dealing w/ consents
Craig Q What abt controlled drugs?
Ans, not a concern
Pratt Q What effect via have on prosecutions
Ans none

state be able to prosecute
Would abusive MDs be ~~able to be prosecuted~~
Ans. Yes
Med. board has always exercised restraint
Mock Q Senate amended line 8 to
add "terminal illness"
Ans: address technical concerns in amdts.

~~Dr. Dad~~
Support NH Med. Soc. rep: Seldon Savage MD
90% of pain can be treated effectively
Untreated pain is #1 cause of requests for
MD assisted suicide
There are many types of pain management,
not only drugs
MDs fail to use opioids bec. of fear; There
is little evidence of this in NH
MD cannot prescribe illicit drugs under
any circumstances - despite this bill

Opiods rarely hasten death
Pain decreases immune function
Mock Legislation is not happening in a vacuum
education programs for MDs - active project in NH
new guidelines for MDs

Soltani Q re crack, cocaine, heroin
Ans nothing in the bill allows MDs to
prescribe any drugs they are not now allowed
to prescribe

Lasky Q concern re chronic illness that begins
at early age + use of opioids hastening death
Ans. If managed properly, no concern
Only suicide & abuse will shorten young
life

currently practicing

Wall Q How are MDs being taught to manage pain + what % of MDs being reached
Ans. lectures, programs etc, public awareness

Peterson Q concern re lines 11 & 12 "notwithstanding" phrase
Ans. Ltd not wish to overturn existing laws

Peterson Q no problem w/ this issue in NH.
ans. Bill gives positive context for existing practice - public policy stmt

Rowe Q - Does bill promote eliminating pain rather than curing illness
ans. Bill doesn't change practice, but makes MD's "more comfortable"

* Craig Q requests identification of classes of drugs

Piccoli Q - Did bill require consultation
ans. That's current practice

support Dr John Dalco rep NH Med Soc
Not only pain relief but improved function is result of good pain control
Body tolerance increases, so almost impossible to cause death by opiates
Second opinions usually do not contradict 1st
Opioids are among least dangerous drugs

Soltani Q

Support Monica Haley RN Northeast Pain Consultants
provides educ for MDs

Kenn Q
Ans. There are other orgs

Support Janet Monahan NH Med Soc
Lasky Q Is there any other way to deal with undertreatment of pain

Hrg Closed 11:45 AM

Ans. one has to look at the transaction
No state history of abuse of pts.
Bergin Q If bill passes will MDs be more
apt to use drugs
Ans. Yes new sense of societal expectations
Bergin Q - What abt pressure from family
Ans. Abuses will occur

Lasky Q What it does family have absent
living will
Ans. Determinations are usually made by
consensus MDs don't take direction from fam.
Mitchell Q Will this apply to Hospice care?
Ans. Don't know specifics
Bill establishes context for existing legs.
Wall Q What abt chronic pain
Ans: We practice our trades within established
public standard
Kolsow Q ~~the~~ VIa
Ans. Legis. reviews rules
Rowe Q line 15 weakens law? "even if
it - - increase risk of death" phrase
Ans. It's a question of balance. Emphasis
is on policy stmt.
Rowe Q What abt "overzealous" prosecutors
Ans. Don't be governed by possibility
of abuse
Craig Q Will this allow illicit drugs
for chronic pain
Ans Not worried about abuse by MDs
Peterson Q - Are we opening appor to
prescribe any drug
Ans. We have ~~with~~ structure to deal
with that
Peterson Q 2 bill release from liability
Do lines 14-17 provide protection

Sub-Committee Actions

HOUSE COMMITTEE ON JUDICIARY

SUBCOMMITTEE WORK SESSION ON SB 424

BILL TITLE: (New Title) relative to controlled substances used for pain management.

DATE: April 18, 2000

Subcommittee Members: Reps. Rowe, Wall, Dokmo, Ford, Mitchell
(Rep. Solow sat in)

Comments and Recommendations:
Committee members agreed initially and chose to make minor amendments

Amendments:

Sponsor: Rep. Rowe — OLS Document #:

Sponsor: Rep. — OLS Document #:

Sponsor: Rep. — OLS Document #:

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep. } no motion made, the Chairman simply asked for the vote
Seconded by Rep. }

Vote: unanimous

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep.
Subcommittee ~~Chairman~~/Clerk

Janet G Wall

Sub-Committee Minutes

SUBCOMMITTEE SB 424, (New Title) relative to controlled substances used for pain management.
DATE: April 18, 2000

FILE COPY

Rep. McKim Mitchell – supporting
-severe pain requires appropriate measures with pain medication

Rep. Janet Wall – supporting
-cited studies, history of bills

Rep. Cynthia Dokmo -
-are physicians now prohibited from using these – has more questions

Rep. Ford – questions word "encourages" and wants "reaffirms" or "acknowledges"
Committee decided to keep in the word "encourages" – wants definition of schedule of drugs – Rep. Rowe answered this citing RSA 318:B

Rep. Rowe – spoke with a number of physicians and wants to amend to terminal matters only – feels bill is unnecessary – lessens liability – diminishes quality of life in some instances
-VI-a-added to RSA 318 – only talks about cannbis
-suggests paragraph 3 shouldn't be added to 318:b-10 VI but be new paragraph in b-10 and make it IX inserting after paragraph VIII
-wants to strike "not withstanding any other rule to the contrary"

Committee: - line 6 – strike "encourage"

Dr. Sidden Savage – suggests "acknowledges"

Dokmo – line 13 – asks about cannabis

Dr. Savage – there is one drug related to cannabis and is a controlled prescription drug and is on schedule 3 for those drugs – physicjans may only prescribe from schedules 3-5

Line 11 "not withstanding any other law or rule to the contrary" – does not mean a physician could supersede durable powers of attorney for healthcare

*sponsors agree with eliminating this phrase

line 13 – "high dosage" means that it exceeds customary dosage

Dr. Savage – there is no average dose range, for example, morphine

-in pain management, dosages vary

-board of medicine, would review if dosages of certain medicines were objectionable

No changes in paragraph 1

Paragraph 2 – line 10 – after "paragraph", strike VI and IX and start the paragraph with "in the judgment"

Respectfully submitted,

Rep. Janet G. Wall

State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD

April 18, 2000

SB 424-

Rep. Mitchell - supports

severe pain requires appropriate measures w/ pain med.

Wall- supports - cited studies, history of bills in

Dokmo- are physicians now prohibited from using these? + has more questions

Ford - questions word "encourages" + wants "reaffirms" or "acknowledges"

Committee - decided to keep in the word "encourages"

wants definition of schedule of drugs

Rowe - (RSA 318:B) answered

Rowe - spoke w/ a # of physicians + wants to amend to terminal matters only - feels bill is unnecessary

- lessens liability
- diminishes quality of life in

State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD

some instances

VI-a – added to RSA 318-

only talks about cannabis

– suggests Paragraph I should it be added to 318:b-10 ~~VI~~ –

but be new ~~IX~~ paragraph in b-10 + make it ~~IX~~ inserting after paragraph VIII

see copy of the bill

– wants to strike "not withstanding any other rule to the contrary".

Committee:

– line 6 – strike "encourages"

Dr. Sedden Savage – suggests "acknowledges"

Dokmo – line 13 – asks about cannabis

Dr. Savage – there is one drug related to cannabis + is a controlled ~~substance~~ prescription drug + is on schedule 3 for those drugs

State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD

physicians may only prescribed from schedules 2-5

~~this~~

line 11 - "notwithstanding any other law or rule to the contrary" - does not mean a physician could supersede durable power of atty. for healthcare.

* Sponsors agree with eliminating this phrase

line 13 - "high dosage" means that it exceeds customary dosage

Dr. Savage - there is no average dose range, for example, morphine.
- in pain management, dosages vary
- board of med. would review if dosages of certain medicines were objectionable

State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD

No changes in paragraph I

Paragraph 2 - line 10 - after "paragraph" strike VI and add IX

line 11 - after VI a, add IX and start the paragraph with "On the judgment..."

Testimony

NEW HAMPSHIRE MEDICAL SOCIETY

For the betterment of public health since 1791

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EXECUTIVE VICE PRESIDENT
Palmer P. Jones

FILE COPY

TO: House Judiciary Committee
FR: Janet H. Monahan
DT: April 4, 2000
RE: SB 424 - controlled drugs for pain management

After the public hearing today I spoke with Peter Grasso, Chief Investigator at the NH Board of Pharmacy. He helped me locate the information that the Committee requested about the various classes or schedules of controlled drugs. I have attached a copy of RSA 318-B:1-b which explains each of the five schedules. Mr. Grasso provided me with examples of the types of drugs that are assigned to each of the schedules which I have listed below. Mr. Grasso also said that SB 424 would absolutely **not** allow physicians to prescribe schedule I drugs.

Schedule I - Heroin, crack cocaine

Schedule II - Percocet, Demerol, morphine, Marinol

Schedule III - Tylenol with codeine, Lortab, Vicodin

Schedule IV - Valium, Ativan, Restoril, Halcion

Schedule V - Cough syrup with codeine

TITLE 30
Occupations and Professions

CHAPTER 318B
Controlled Drug Act

SECTION 318-B:1-b

§ 318-B:1-b Schedule Tests. – *I. Schedule I Tests.* The commissioner shall place a substance in schedule I if he finds that the substance:

(a) Has high potential for abuse; and

(b) Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

II. Schedule II Tests. The commissioner shall place a substance in schedule II if he finds that:

(a) The substance has high potential for abuse;

(b) The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and

(c) The abuse of the substance may lead to severe psychic or physical dependence.

III. Schedule III Tests. The commissioner shall place a substance in schedule III if he finds that:

(a) The substance has a potential for abuse less than the substances listed in schedules I and II of the current chapter 21, Code of Federal Regulations;

(b) The substance has currently accepted medical use in treatment in the United States; and

(c) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

IV. Schedule IV Tests. The commissioner shall place a substance in schedule IV if he finds that:

(a) The substance has a low potential for abuse relative to substances listed in schedule III of the current chapter 21, Code of Federal Regulations;

(b) The substance has currently accepted medical use in treatment in the United States; and

(c) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in schedule III of the current chapter 21, Code of Federal Regulations.

V. Schedule V Tests. The commissioner shall place a substance in schedule V if he finds that:

(a) The substance has a low potential for abuse relative to substances listed in schedule IV of the current chapter 21, Code of Federal Regulations;

(b) The substance has currently accepted medical use in treatment in the United States; and

(c) The substance has limited physical dependence liability or psychological dependence liability relative to the substances in schedule IV of the current chapter 21, Code of Federal Regulations.

Source. 1985, 293:3. 1995, 310:183, eff. Nov. 1, 1995.

FILE COPY

THE FEDERATION OF STATE MEDICAL BOARDS OF THE UNITED STATES, INC.

PROPOSED MODEL GUIDELINES FOR THE USE OF CONTROLLED SUBSTANCES IN THE TREATMENT OF PAIN

Section I: Preamble

The (*name of board*) recognizes that principles of quality medical practice dictate that the citizens of the State of (*name of state*) have access to appropriate and effective pain relief. 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 as well as to reduce the morbidity and costs associated with untreated or inappropriately treated pain. The Board encourages physicians to view effective pain management as a part of quality medical practice for all patients with pain, acute or chronic, and it is especially important for patients who experience pain as a result of terminal illness. All physicians should become knowledgeable about effective methods of pain treatment as well as statutory requirements for prescribing controlled substances.

Inadequate pain control may result from physicians' lack of knowledge about pain management or an inadequate understanding of addiction. Fears of investigation or sanction by federal, state, and local regulatory agencies may also result in inappropriate or inadequate treatment of chronic pain patients. Accordingly, these guidelines have been developed to clarify the Board's position on pain control, specifically as related to the use of controlled substances, to alleviate physician uncertainty and to encourage better pain management.

The Board recognizes that controlled substances, including opioid analgesics, are essential in the treatment of acute pain due to trauma, surgery, and chronic pain due to cancer and other progressive diseases. Physicians are referred to the US Agency for Health Care and Research Clinical Practice Guidelines for a sound approach to the management of acute[1] and cancer-related pain.[2]

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[1] Acute Pain Management Guideline Panel. Acute Pain Management: Operative or Medical Procedures and Trauma. Clinical Practice Guideline. AHCPR Publication No. 92-0032. Rockville, MD. Agency for Health Care Policy and Research. US Department of Health and Human Resources, Public Health Service. February 1992.

[2] Jacox A, Carr DB, Payne R, et al. Management of Cancer Pain. Clinical Practice Guideline No. 9. AHCPR Publication No. 94-0592. Rockville, MD. Agency for Health Care Policy and Research, US Department of Health and Human Resources, Public Health Service. March 1994.

The medical management of pain should be based upon current knowledge and research and includes the use of both pharmaceutical and non-pharmaceutical modalities. Pain should be assessed and treated promptly and the quantity and frequency of doses should be adjusted according to the intensity and duration of the pain. Physicians should recognize that tolerance and physical dependence are normal consequences of sustained use of opioid analgesics and are not synonymous with addiction.

The (*state medical board*) is obligated under the laws of the State of (*name of state*) to protect the public health and safety. The Board recognizes that inappropriate prescribing of controlled substances, including opioid analgesics, may lead to drug diversion and abuse by individuals who seek them for other than legitimate medical use. Physicians should be diligent in preventing the diversion of drugs for illegitimate and nonmedical uses.

Physicians should not fear disciplinary action from the Board or other state regulatory or enforcement agency for prescribing, dispensing, or administering controlled substances, including opioid analgesics, for a legitimate medical purpose and in the usual course of professional practice. The Board will consider prescribing, ordering, administering, or dispensing controlled substances for pain to be for a legitimate medical purpose if based on accepted scientific knowledge of the treatment of pain and in compliance of applicable state or federal law.

The Board will judge the validity of prescribing based on the physician's treatment of the patient and on available documentation, rather than on the quantity and chronicity of prescribing. The goal is to treat the patient's pain for its duration while effectively addressing other aspects of the patient's functioning, including physical, psychological, social and work-related factors. The following guidelines are not intended to define complete or best practice, but rather to communicate what the Board considers to be within the boundaries of professional practice.

Section II: Guidelines

The Board has adopted the following guidelines when evaluating the use of controlled substances for pain control:

1. Evaluation of the Patient

A complete medical history and physical examination must be conducted and documented in the medical record. The medical record should document the nature and intensity of the pain, evaluate underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function, and history of substance abuse. The medical record should also document the presence of one or more recognized medical indications for the use of a controlled substance.

2. Treatment Plan

The written treatment plan should state objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and should indicate if any further diagnostic evaluations or other treatments are planned. After treatment begins, the physician should adjust drug therapy to the individual medical needs of each patient. Other treatment modalities or a rehabilitation program may be necessary depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment.

3. Informed Consent and Agreement for Treatment

The physician should discuss the risks and benefits of the use of controlled substances with the patient, significant other(s) or guardian. The patient should receive prescriptions from one physician and one pharmacy where possible. If the patient is determined to be at high risk for medication abuse or have a history of substance abuse, the physician may employ the use of a written agreement between physician and patient outlining patient responsibilities including (1) urine/serum medication levels screening when requested (2) number and frequency of all prescription refills and (3) reasons for which drug therapy may be discontinued (i.e. violation of agreement).

4. Periodic Review

At reasonable intervals based upon the individual circumstance of the patient, the physician should review the course of opioid treatment and any new information about the etiology of the pain. Continuation or modification of opioid therapy should depend on the physician's evaluation of progress toward stated treatment objectives such as improvement in patient's pain intensity and improved physical and/or psychosocial function, such as ability to work, need of health care resources, activities of daily living, and quality of social life. If reasonable treatment goals are not being achieved, despite medication adjustments, the physician should re-evaluate the appropriateness of continued opioid treatment.. The physician should monitor patient compliance in medication usage and related treatment plans.

5. Consultation

The physician should be willing to refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention should be given to those pain patients who are at risk for misusing their medications and those whose living arrangement pose a risk for medication misuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder require extra care, monitoring, documentation and consultation with or referral to an expert in the management of such patients.

6. Medical Records

The physician should keep accurate and complete records to include (1) the medical history and physical examination (2) diagnostic, therapeutic and laboratory results (3) evaluations and consultations (4) treatment objectives (5) discussion of risks and benefits (6) treatments (7) medications (including date, type, dosage, and quantity prescribed) (8) instructions and agreements and (9) periodic reviews. Records should remain current and be maintained in an accessible manner and readily available for review.

7. Compliance with Controlled Substances Laws and Regulations

To prescribe controlled substances, the physician must be licensed in the state, have a valid controlled substances registration and comply with federal and state regulations for issuing controlled substances prescriptions. Physicians are referred to the Physicians Manual of the U.S. Drug Enforcement Administration and (*any relevant documents issued by the state medical board*) for specific rules governing issuance of controlled substances prescriptions as well as applicable state regulations.

Section III: Definitions

For the purposes of these guidelines, the following terms are defined as follows:

Acute pain: Acute pain 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.

Addiction: Addiction is a neurobehavioral syndrome with genetic and environmental influences that results in psychological dependence on the use of substances for their psychic effects and is characterized by compulsive use despite harm. Addiction may also be referred to by terms such as "drug dependence" and "psychological dependence." Physical dependence and tolerance are normal physiological consequences of extended opioid therapy for pain and should not be considered addiction.

Chronic Pain: A pain state that is persistent and 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. Chronic pain may be associated with a long-term incurable or intractable medical condition or disease.

Physical Dependence: Physical dependence is a physiologic state of neuroadaptation to an opioid which is characterized by the emergence of a withdrawal syndrome if the opioid use is stopped or decreased abruptly, or if an antagonist is administered. Withdrawal may be relieved by re-administration of the opioid. Physical dependence

appears to be an inevitable result of opioid use. Physical dependence, by itself, does not equate with addiction.

Substance Abuse: Substance abuse is the use of any substance(s) for non-therapeutic purposes; or use of medication for purposes other than those for which it is prescribed.

Tolerance: Tolerance is a physiologic state resulting from regular use of a drug in which an increased dosage is needed to produce the same effect or a reduced effect is observed with a constant dose. Tolerance occurs to different degrees for various drug effects, including sedation, analgesia and constipation. Analgesic tolerance is the need to increase the dose of opioid to achieve the same level of analgesia. Analgesic tolerance may or may not be evident during opioid treatment and does not equate with addiction.

SB 424
Comments

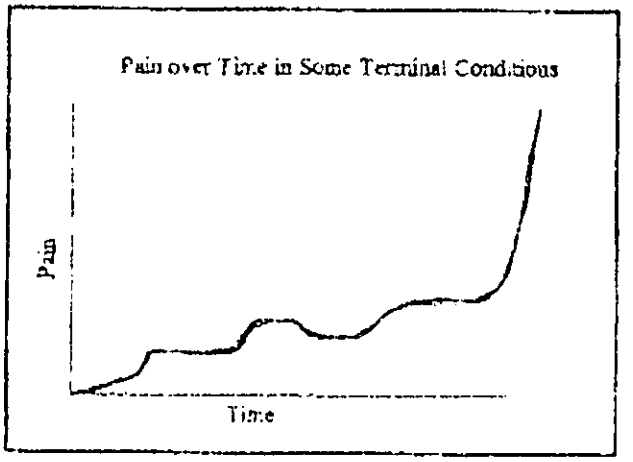
Current N.H. RSAs

- Acknowledge that controlled substances are needed in medical practice
- Permit opioid prescribing for pain
- Permit type and doses of opioids prescribed to be medically determined

SB 424

- Specifically states that effective pain treatment is part of quality medical care
- Addresses physicians concerns regarding misinterpretation of opioid prescribing
- Frames regulations in a way that is supports clinicians efforts to treat pain

- Opioids rarely, if ever, hasten death
- Opioids often prolong life by:
  - Encouraging mobility
  - Improving breathing pattern
  - Relieving pain may improve immune function
  - Preserving will to live
- Tolerance occurs to side effects allowing continuing dose increases
- Language included to allay concerns over uncertainty at very end of life when pain sometimes increases rapidly and major increases in opioid dose may be required



Companion Efforts in Pain Treatment

- Guidelines on the Use of Controlled Substances in the Treatment of Pain
  - New Hampshire Medical Society
  - New Hampshire Board of Registration in Medicine
- N.H. EPEC (Effective Physician End of Life Care)
  - A project of the AMA Committee on Ethics, training physicians to train their physicians in effective end of life care
- End of Life Project, Coalition of Healthy Communities
- N.H. Cancer Pain Initiative
- New England Pain Association
- N.H. Medical Society Task Force on Pain

Seddon R. Savage M.D.
April 4 2000

SB 424
Comments

Undertreatment of Pain

- Cancer-related pain
  - 75% patients have pain as part of the late stage disease
    - 40-50% moderate to severe
    - 20-30% very severe
  - >90% of cancer pain controllable with appropriate care
  - Many patients suffer unnecessarily
  - Undertreated pain (or fear of it) chief cause of requests for euthanasia

Undertreatment of Pain

- Acute pain
  - Due to surgery, injury or illness
  - Pain common, wholly treatable
  - Often undertreated
- Chronic non-cancer related pain
  - Due to chronic, well defined, painful conditions, or to less easily defined causes
  - Often complex requiring multidimensional approach to management
  - Effective regimens often elusive

Pain Treatment Tools

- Physical modalities
  - Heat, cold, TENS, massage, exercise
- Psychological interventions
- Invasive procedures
  - Nerve blocks, spinal cord stimulators, implanted pumps
- Medication
  - Non-opioids
  - Opioids:
    - critical component of treatment of moderate(ly) severe or greater, acute and cancer related pain
    - role in chronic non-cancer related pain as well

Undertreatment of Pain

- Reasons
  - Limited training in pain treatment options
  - Misunderstanding and fears regarding addiction
    - Physical dependency does NOT equal addiction
    - Patients who use opioids for pain control have LOW risk of addiction
  - Concerns regarding physical side effects opioids
    - Respiratory depression
  - Fear of regulatory sanction by physicians

Definitions

- Narcotic
  - Legal: illicit cocaine or heroin like drugs
  - Medical: old term meaning sedating drug
- Opiate
  - Drug derived or synthesized from the opium poppy or: morphine, codeine, oxycodone
- Opioid
  - Drug which has morphine like action mediated through opioid receptors. (includes opiates and others: demerol, fentanyl etc)

Undertreatment of Pain (Remedies)

- Development of pain medicine as a field
  - Increased knowledge through research
  - Evolution of clinical practice standards
- Education of all clinicians in pain medicine
- Policy initiatives
  - Clarification of existing rules and regulations
  - Revision of laws which discourage pain treatment
  - Legislative initiatives supporting pain treatment

Seddon R. Savage M.D.
April 4, 2000

Voting Sheets

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on SB 424

BILL TITLE: **(New Title) relative to controlled substances used for pain management.**

DATE: 4/18/2007

LOB ROOM: 208

Amendments: [redacted]

Sponsor: Rep. Rowe — OLS Document #: 2000-4564 (12-1)

Sponsor: Rep. — OLS Document #:

Sponsor: Rep. — OLS Document #:

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep. Rowe

Seconded by Rep. Wall

Vote: 13-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Loren J. Jean, Clerk

OFFICE OF THE HOUSE CLERK

2000 SESSION

JUDICIARY

Bill #: AB624 **Title:** ~~OTPA~~ 13-0

PH Date: / / **Exec Session Date:** 4 / 18 / 00

Motion: OTPA **Amendment #:**

MEMBER	YEAS	NAYS
Mock, Henry P, Chairman	✓	
Peterson, Andrew R, V Chairman		
Jacobson, Alf E		
Keans, Sandra B	✓	
Bergin, Peter F	✓	
Dokmo, Cynthia J	✓	
Jean, Loren J, Clerk		
Rowe, Robert H	✓	
Ford, Nancy M		
Withee, Dennis J		
Dudley, Terri C	✓	
Picconi, Al J	✓	
Soltani, Tony F		
Woods, Phyllis L	✓	
Wall, Janet G	✓	
DePecol, Benjamin J		
Pratt, John M	✓	
Craig, James W		
Lasky, Bette R	✓	
Mitchell, McKim W	✓	
Solow, Martha S	✓	
Wood, Jane		
TOTAL VOTE:		

Printed: 12/30/1999

Committee Report

COMMITTEE REPORT

COMMITTEE: **Judiciary**

BILL NUMBER: **SB 424**

TITLE: (New Title) relative to controlled substances used for pain management.

DATE: 4/18/00 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

Vote
13-0

Rep.
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

This bill clarifies the professional use of controlled substances for pain management and encourages physicians in the proper application of pain medication. Physicians testified that appropriate pain management greatly aids patients with acute or chronic pain. This bill enhances the quality of life for those who are terminally ill. SB 424 does not provide immunity from liability when drugs are used in an improper manner or for the illegal purpose of causing death.

Henry.
I couldn't read his handwriting, so I typed this w/ Bob Rowe

COMMITTEE REPORT

COMMITTEE: **Judiciary**

BILL NUMBER: **SB 424**

TITLE: (New Title) relative to controlled substances used for pain management.

DATE: April 19, 2000 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

This bill clarifies the professional use of controlled substances for pain management and encourages physicians in the proper application of pain medication. Physicians testified that appropriate pain management greatly aids patients with acute or chronic pain. This bill enhances the quality of life for those who are terminally ill. SB 424 does not provide immunity from liability when drugs are used in an improper manner or for the illegal purpose of causing death.

Vote 13-0.

Rep. Robert H. Rowe
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Judiciary

SB 424, (New Title) relative to controlled substances used for pain management. OUGHT TO PASS WITH AMENDMENT

Rep. Robert H. Rowe for Judiciary: This bill clarifies the professional use of controlled substances for pain management and encourages physicians in the proper application of pain medication. Physicians testified that appropriate pain management greatly aids patients with acute or chronic pain. This bill enhances the quality of life for those who are terminally ill. SB 424 does not provide immunity from liability when drugs are used in an improper manner or for the illegal purpose of causing death. Vote 13-0.