

By: Representative Straughter

To: Public Health and Human Services

HOUSE BILL NO. 1530

1 AN ACT TO CREATE THE CHRONIC PAIN TREATMENT ACT; TO DEFINE  
2 CERTAIN TERMS OF THE ACT; TO PROVIDE THE DUTIES OF CERTAIN BOARDS  
3 AS THEY RELATE TO ENFORCING THE ACT; TO CREATE THE PAIN MANAGEMENT  
4 REVIEW COMMITTEE AND PROVIDE ITS DUTIES; TO PROVIDE THE SCOPE OF  
5 THE ACT; TO PROVIDE IMMUNITY FROM PROSECUTION FOR HEALTH CARE  
6 PROVIDERS IN CERTAIN SITUATIONS WHEN PROVIDING CARE FOR CHRONIC  
7 PAIN; AND FOR RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** This chapter shall be known and may be cited as  
10 the Chronic Pain Treatment Act.

11 **SECTION 2.** The purpose of this chapter is to inform health  
12 care providers regarding the following:

13 (a) That pain management plays an important role in  
14 good medical practice;

15 (b) That health care providers should recognize the  
16 need to make pain relief accessible to all patients with chronic  
17 pain; and

18 (c) That health care providers should view pain  
19 management as a regular part of their medical practice for all  
20 patients with chronic pain.

21 **SECTION 3.** As used in this chapter, the following words and  
22 phrases shall have the meanings ascribed in this section, unless  
23 the context clearly otherwise requires:

24 (a) "Board" means the Mississippi Board of Medical  
25 Licensure, the Mississippi Board of Nursing, the Mississippi State  
26 Board of Dental Examiners or the Mississippi State Board of  
27 Pharmacy.

28 (b) "Chronic pain" means pain that persists beyond the  
29 usual course of a disease, beyond the expected time for healing

30 from bodily trauma, or pain associated with a long-term incurable  
31 or intractable medical illness or disease.

32 (c) "Controlled substance" means any CFR substance  
33 defined, enumerated or included in federal or state statutes or  
34 regulations such as 21 CFR, Sections 1308.11-15 or Sections  
35 41-29-115 through 41-29-121, or any substance that may hereafter  
36 be designated as a controlled substance by amendment or  
37 supplementation of the regulations and statutes.

38 (d) "Disciplinary action" means any remedial or  
39 punitive sanctions imposed on a licensed health care provider by  
40 the board.

41 (e) "Patient" means a person seeking medical diagnosis  
42 and treatment.

43 (f) "Physician" means a licensee of the State Board of  
44 Medical Licensure.

45 (g) "Nurse" means any nurse licensed by the Mississippi  
46 Board of Nursing, including nurse practitioners or advanced  
47 practice nurses.

48 (h) "Dentist" means any dentist licensed by the  
49 Mississippi State Board of Dental Examiners.

50 (i) "Podiatrist" means any podiatrist licensed by the  
51 State Board of Medical Licensing.

52 (j) "Pharmacist" means any pharmacist licensed by the  
53 Mississippi State Board of Pharmacy.

54 (k) "Health care provider" means a licensed  
55 professional defined in paragraphs (f), (g), (h), (i) or (j) of  
56 this section.

57 **SECTION 4.** (1) A health care provider shall not be subject  
58 to disciplinary action by the State Board of Medical Licensure  
59 solely for prescribing controlled substances for the relief of  
60 chronic pain. The board shall direct the Pain Management Review  
61 Committee to use the criteria under subsections (7) and (8) of  
62 this section to review a health care provider's conduct in regard

63 to prescribing, administering, ordering or dispensing pain  
64 medications and other drugs necessary to treat chronic pain.

65 (2) The board shall have the following duties:

66 (a) To make reasonable efforts to notify health care  
67 providers under its jurisdiction of the existence of this chapter;  
68 and

69 (b) To inform any health care provider licensed by the  
70 board who is investigated regarding the provider's practices in  
71 the management of pain of the existence of this chapter.

72 (3) In a disciplinary hearing, the following evidence and  
73 testimony are to be presented:

74 (a) The board shall present opinion evidence from a  
75 full-time active health care provider in direct patient care who  
76 is knowledgeable in pain management; and

77 (b) The health care provider has the right to present  
78 testimony from a full-time active practice health care provider in  
79 direct patient care who is knowledgeable in pain management.

80 (4) Only if the board finds, after a full hearing, and by  
81 recommendation of the Pain Management Committee, gross and  
82 ignorant malpractice, the board may incrementally impose sanctions  
83 as follows:

84 (a) Monitor prescribing habits of the health care  
85 provider not to exceed six (6) months:

86 (b) Require the health care provider to voluntarily  
87 surrender his or her United States Drug Enforcement Agency  
88 registration to the board for a specified period of time not to  
89 exceed three (3) months;

90 (c) Suspend the health care provider's license, stay  
91 revocation, and require monitoring of the health care provider's  
92 prescribing habits for a specified time;

93 (d) Revoke the health care provider's license, stay  
94 revocation and require monitoring of the health care provider's  
95 prescribing habits for a specified time; and

96 (e) Revoke the health care provider's license for  
97 serious violations of statutes and regulations.

98 (5) With a finding of severe violation of statutes and  
99 regulations, the board may initially impose more severe sanctions.

100 (6) At any level of sanction, the board may require  
101 continuing medical education hours in proper prescribing habits.

102 (7) A health care provider may, based on the evaluation and  
103 the management of a patient's individual needs, do the following:

104 (a) Treat a patient who develops chronic pain with a  
105 controlled substance to relieve the patient's pain;

106 (b) Continue to treat the patient for as long as the  
107 pain persists;

108 (c) Treat the pain by managing it with controlled  
109 substances in amounts or combinations that may not be appropriate  
110 for treating another medical condition;

111 (d) Administer large doses of controlled substances for  
112 pain management if the benefit outweighs the risk of the large  
113 dose; and

114 (e) Administer a large dose of a controlled substance  
115 even if its use may increase the risk of death, if the purpose is  
116 not to cause or assist in a patient's death.

117 (8) A health care provider may not do the following:

118 (a) Prescribe or administer controlled substances  
119 solely to treat a patient for chemical dependency, except when a  
120 patient is being treated for substance abuse;

121 (b) Prescribe or administer controlled substances to a  
122 person for other than legitimate medical purposes; or

123 (c) Cause or assist in causing the suicide, euthanasia  
124 or mercy killing of any individual; however, causing or assisting  
125 in causing the suicide, euthanasia or mercy killing of any  
126 individual does not include prescribing, dispensing or  
127 administering medical treatment for the purpose of alleviating  
128 pain or discomfort, even if that use may increase the risk of

129 death, so long as the treatment is not furnished for the purpose  
130 of causing or assisting in causing the death of an individual.

131 **SECTION 5.** (1) There is created the Pain Management Review  
132 Committee, which shall be appointed by the State Board of Medical  
133 Licensure.

134 (2) The committee shall consist of five (5) full-time active  
135 health care providers in direct patient care members, two (2) of  
136 whom may be board certified pain management specialists and three  
137 (3) of whom may be health care providers with significant pain  
138 management in their practices or with a degree in pharmacy, who  
139 shall be appointed by the board from a list provided by the  
140 Mississippi Osteopathic Medical Association , the Mississippi  
141 Medical Society and the Mississippi Pain Society.

142 (3) In lieu of a disciplinary hearing, the board must refer  
143 a health care provider to the committee for review and  
144 recommendations.

145 (4) The committee shall have the following duties:

146 (a) To develop guidelines for investigations of  
147 complaints regarding conduct in violation of this chapter, in  
148 cooperation with the Mississippi Osteopathic Medical Association,  
149 the Mississippi Medical Society and the Mississippi Pain Society.

150 (b) To review complaints on an individual patient need  
151 basis regarding health care providers treating chronic pain in  
152 violation of this chapter; and

153 (c) To provide an objective critique to the board for  
154 board determination in a timely manner and, if determined, before  
155 the board's disciplinary hearing.

156 **SECTION 6.** This chapter does not condone, authorize or  
157 approve mercy killing or euthanasia, and no treatment authorized  
158 by this chapter may be used for mercy killing or euthanasia.

159 **SECTION 7.** No health care provider shall be subject to  
160 criminal prosecution for prescribing or administering controlled

161 substances under appropriate criteria in the course of treatment  
162 of a person for chronic pain.

163         **SECTION 8.** Sections 1 through 7 of this act shall be  
164 codified as a new chapter in Title 41, Mississippi Code of 1972.

165         **SECTION 9.** This act shall take effect and be in force from  
166 and after July 1, 2004.