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**By: Senator Hollinger**

Introduced and read first time: January 31, 1997

Assigned to: Economic and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **Physicians - Intractable Pain - Prescribing or Administering Controlled Dangerous**  
3 **Substances**

4 FOR the purpose of authorizing a physician to prescribe or administer controlled  
5 dangerous substances to individuals for treatment of intractable pain under certain  
6 circumstances; prohibiting the Board of Physician Quality Assurance from taking  
7 certain disciplinary action against a physician who prescribes or administers  
8 controlled dangerous substances to an individual for the treatment of intractable  
9 pain; specifying the application of this Act; specifying that this Act does not affect  
10 the power of the Board to take certain disciplinary actions against a physician under  
11 certain circumstances; specifying that this Act may not be construed to affect the  
12 power of a governing body of a hospital from taking certain disciplinary action  
13 against a physician; defining certain terms; and generally relating to authorizing a  
14 physician to prescribe or administer controlled dangerous substances to individuals  
15 for the treatment of intractable pain under certain circumstances.

16 BY adding to

17 Article - Health Occupations  
18 Section 14-510  
19 Annotated Code of Maryland  
20 (1994 Replacement Volume and 1996 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article - Health Occupations**

24 14-510.

25 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
26 INDICATED.

27 (2) "CONTROLLED DANGEROUS SUBSTANCE" HAS THE MEANING  
28 STATED IN ARTICLE 27, § 277 OF THE CODE.

29 (3) "DRUG" HAS THE MEANING STATED IN ARTICLE 27, § 277 OF THE  
30 CODE.

1 (4) "INTRACTABLE PAIN" MEANS A STATE OF PAIN IN WHICH THE  
2 CAUSE OF THE PAIN CANNOT BE REMOVED OR OTHERWISE TREATED AND WHICH,  
3 IN THE GENERALLY ACCEPTED COURSE OF MEDICAL PRACTICE, NO RELIEF OR  
4 CURE OF THE CAUSE OF THE PAIN IS POSSIBLE OR NONE HAS BEEN FOUND AFTER  
5 REASONABLE EFFORTS, INCLUDING EVALUATION BY AN INDIVIDUAL'S ATTENDING  
6 PHYSICIAN AND ONE OR MORE PHYSICIANS THAT SPECIALIZE IN THE TREATMENT  
7 OF THE AREA, SYSTEM, OR ORGAN OF THE BODY PERCEIVED AS THE SOURCE OF  
8 THE PAIN.

9 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PHYSICIAN MAY  
10 PRESCRIBE OR ADMINISTER A CONTROLLED DANGEROUS SUBSTANCE TO AN  
11 INDIVIDUAL IN THE COURSE OF THE PHYSICIAN'S TREATMENT OF THE INDIVIDUAL  
12 FOR A DIAGNOSED CONDITION CAUSING INTRACTABLE PAIN.

13 (C) THE BOARD MAY NOT SUBJECT A PHYSICIAN TO DISCIPLINARY ACTION  
14 FOR PRESCRIBING OR ADMINISTERING A CONTROLLED DANGEROUS SUBSTANCE IN  
15 THE COURSE OF THE PHYSICIAN'S TREATMENT OF AN INDIVIDUAL FOR  
16 INTRACTABLE PAIN.

17 (D) THIS SECTION DOES NOT AUTHORIZE A PHYSICIAN TO PRESCRIBE OR  
18 ADMINISTER CONTROLLED DANGEROUS SUBSTANCES TO THOSE PERSONS BEING  
19 TREATED BY THE PHYSICIAN FOR CHEMICAL DEPENDENCY BECAUSE OF THEIR USE  
20 OF DRUGS OR CONTROLLED DANGEROUS SUBSTANCES.

21 (E) THIS SECTION DOES NOT AUTHORIZE A PHYSICIAN TO PRESCRIBE OR  
22 ADMINISTER A CONTROLLED DANGEROUS SUBSTANCE TO AN INDIVIDUAL WHOM  
23 THE PHYSICIAN KNOWS IS USING DRUGS OR CONTROLLED DANGEROUS  
24 SUBSTANCES FOR NONTHERAPEUTIC PURPOSES.

25 (F) THIS SECTION DOES NOT AFFECT THE POWER OF:

26 (1) THE BOARD TO REPRIMAND A PHYSICIAN, PLACE A PHYSICIAN ON  
27 PROBATION, OR REVOKE OR SUSPEND THE LICENSE OF A PHYSICIAN ON  
28 PROBATION, OR REVOKE OR SUSPEND THE LICENSE OF A PHYSICIAN UNDER § 14-404  
29 OF THIS TITLE; OR

30 (2) A HOSPITAL FROM TAKING DISCIPLINARY ACTION AGAINST A  
31 PHYSICIAN AS A RESULT OF THE PROVISIONS OF § 19-319(E) OF THE HEALTH -  
32 GENERAL ARTICLE FOR A PHYSICIAN WHO DOES ANY OF THE FOLLOWING:

33 (I) FAILS TO KEEP COMPLETE AND ACCURATE RECORDS OF  
34 PURCHASES AND DISPOSALS OF CONTROLLED DANGEROUS SUBSTANCES  
35 SCHEDULED IN ARTICLE 27, § 279 OF THE CODE IN ACCORDANCE WITH ARTICLE 27, §  
36 283 OF THE CODE;

37 (II) WRITES FALSE OR FICTITIOUS PRESCRIPTIONS FOR  
38 CONTROLLED DANGEROUS SUBSTANCES SCHEDULED IN ARTICLE 27, § 279 OF THE  
39 CODE;

40 (III) PRESCRIBES, ADMINISTERS, OR DISPENSES IN VIOLATION OF  
41 ARTICLE 27, § 281, § 282, § 283, § 284, § 285, OR § 286 OF THE CODE.

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1 (G) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT THE GOVERNING  
2 BODY OF A HOSPITAL FROM TAKING DISCIPLINARY ACTION AGAINST A PHYSICIAN  
3 AS A RESULT OF THE PROVISIONS OF § 19-319(E) OF THE HEALTH - GENERAL  
4 ARTICLE.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 1997.