



We are a diverse group of pain survivors advocating for a Montana Pain Patient's Bill of Rights. Treatment of our chronic intractable pain conditions is a fundamental human right. We endorse Dr. Forest Tennant's position on the opioid controversy. Dr. Forest Tennant is a world renowned expert who specializes in research and treatment of intractable pain.

My position on the opioid controversy is quite simple and I ask all concerned to consider it:

1. We have a long-standing standard known as the World Health Organization 3 Step Analgesic Ladder (1982). Only when non-opioid treatments fail are opioids used because about everyone knows they have complications.
2. There cannot be a cap on dosages as patients vary. The government should certify or recognize the MDs who will prescribe high dose opioids so patients who need high dosages can get the help they need.
3. Patients who are currently on opioids and doing well should be left on them.

Forest Tennant M.D., Dr. P.H.

The World Health Organization:

WHO'S CANCER PAIN LADDER FOR ADULTS

- 1] If pain occurs, there should be prompt oral administration of drugs in the following order: non-opioids (aspirin and paracetamol);
- 2] Then, as necessary, mild opioids (codeine);
- 3] Then strong opioids such as morphine, until the patient is free of pain.

Another Perspective on Montana Prescription Drug Overdoses

1. In 2014 there were 243 completed suicides in Montana:
 - 81% involved Males
 - 25% of the completed suicides involved Veterans
 - Approximately 9% of suicides involved Native Americans
 - Based on completed reports received by the suicide mortality review team, approximately 40 percent of Montana's completed suicides involved people with severe medical problems, including terminal illness or **chronic pain**

Source: http://missoulian.com/news/state-and-regional/percent-of-montana-suicides-in-were-males-nearly-percent-were/article_c5ab2cdf-0b7f-54/

2. In 2013 there were 109 prescription drug related deaths. For comparison purposes, there were 224 deaths caused by car accidents reported by the Montana Highway Patrol in 2013.

Source: http://missoulian.com/news/state-and-regional/percent-of-montana-suicides-in-were-males-nearly-percent-were/article_c5ab2cdf-0b7f-54af-b2fb-73bb2cd3cd0c.html

Number of Deaths each Year in the United States (2013 CDC Statistics)

- Heart disease: 611,105
- Cancer: 584,881
- Chronic lower respiratory diseases: 149,205
- Accidents (unintentional injuries): 130,557
- Stroke (cerebrovascular diseases): 128,978
- Alzheimer's disease: 84,767
- Diabetes: 75,578
- Influenza and Pneumonia: 56,979
- Nephritis, nephrotic syndrome, and nephrosis: 47,112
- **Intentional self-harm (suicide): 41,149**

Source: <http://www.cdc.gov/nchs/fastats/leading-causes-of-death.htm>

NOTE: Preventable Medical Harm, is now the 3rd Leading Cause of Death and kills as many as **440,000** people each year according to a July 2014 Senate Subcommittee on Primary Health and Aging: "Preventable medical errors in hospitals are the 3rd leading cause of death in the United States." The Chairman of this hearing stated: "Medical harm is a major cause of suffering, disability, and death – as well as a huge financial cost to our nation."

STATE OF MONTANA

PAIN PATIENTS BILL OF RIGHTS

The Montana Legislature finds and declares all of the following:

- a) The state has a right and duty to control the illegal use of opiate drugs.
- b) Inadequate treatment of acute and chronic pain originating from cancer or noncancerous conditions is a significant health crisis.
- c) For many patients, pain management is the single most important treatment a medical practitioner can provide.
- d) A patient suffering from severe chronic intractable pain should have unobstructed access to proper treatment of his or her pain within a reasonable time period, understanding that the wellbeing of the patient is at risk if substantial time is permitted to elapse.
- e) Due to the complexity of their problems, many patients suffering from severe chronic intractable pain may require a referral to a medical practitioner with the expertise in the treatment of severe chronic intractable pain. In some cases, severe chronic intractable pain is best treated by a team of clinicians in order to address the associated physical, psychological, social, and vocational issues.
- f) In the hands of knowledgeable, ethical, and experienced medical practitioners, opiates administered for severe acute pain and severe chronic intractable pain can be safe and effective.
- g) Opiates can be an accepted treatment for patients in severe chronic intractable pain who have not obtained relief from any other means of treatment.
- h) A patient suffering from severe chronic intractable pain has the option to request or reject the use of any or all modalities to relieve his or her pain.
- i) A medical practitioner treating a patient who suffers from severe chronic intractable pain may prescribe a dosage deemed medically necessary to relieve pain, in order to put forth every effort for the patient to obtain some measure of "quality of life."
- j) A patient who suffers from severe chronic intractable pain has the option to choose or refuse opiate medication for the treatment of severe chronic intractable pain.
- k) The patient's medical practitioner may refuse to prescribe opiate medication for a patient who requests the treatment for severe chronic intractable pain. However, that practitioner shall inform the patient of those medical practitioners who do treat severe chronic intractable pain with methods that include the use of opiates.

**The following shall be known as
"THE MONTANA PAIN PATIENTS BILL OF RIGHTS "**

- a) A patient who suffers from severe chronic intractable pain has the option to request or reject the use of any or all modalities in order to relieve his or her pain however, initially each patient should be granted the opportunity to consider receiving any and all benefits which may result from ALTERNATIVE OPTIONS. This would include, but is not limited to: Physical Therapies, Prolotherapy, Neuropathic Medicine, Acupuncture, Chiropractic Medicine, Low-Dose Opiates, etc....
- b) A patient who suffers from severe chronic intractable pain has the option to choose opiate medications to relieve the pain without first having to submit to an invasive medical procedure, which is defined as surgery, spinal injections: such as steroid and/or diagnostic injections, neurostimulators, destruction of a nerve or other body tissue by manipulation, or the implantation of a drug delivery system or device. A medical practitioner cannot dismiss a patient from care for their refusal not to submit themselves to such invasive medical procedures.
- c) The patient's medical practitioner may refuse to prescribe opiate medication for the patient who requests a treatment for severe chronic intractable pain. However, that practitioner shall inform the patient which medical practitioners who treat pain and whose methods include the use of opiates; and the patient shall be given a copy of their record(s).
- d) A medical practitioner who uses opiate therapy to relieve severe chronic intractable pain may prescribe a dosage deemed medically therapeutic and necessary to relieve a patient's pain in their endeavor to achieve some measure of "quality of life."
- e) A patient may voluntarily request that his or her medical practitioner provide an "identifying notice" of the prescription for purposes of emergency treatment or law enforcement identification.
- f) Nothing in this section shall do either of the following:
 - 1) Limit any reporting or disciplinary provisions applicable to medical practitioners and surgeons who violate prescribing practices or other provisions.
 - 2) Limit the applicability of any federal statute or federal regulation or any of the other statutes or regulations of this state which regulate dangerous drugs or controlled substances.

Administration of controlled substances to a person experiencing "intractable pain "

- a) Notwithstanding any other provision of law, a medical practitioner and surgeon may prescribe or administer controlled substances to a person in the course of the practitioners and surgeons treatment of that person for a diagnosed condition or conditions causing intractable pain.
- b) "Intractable Pain," as used in this section, means a pain state in which the cause of 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 including, but not limited to, evaluation by the attending medical practitioner and surgeon and one or more practitioners or surgeons specializing in the treatment of the area, system, or organ of the body perceived as the source of the pain.

- c) No medical practitioner or surgeon shall be subject to disciplinary action by the board for prescribing or administering controlled substances in the course of treatment of a person for intractable pain with the understanding that patient records, patient supplying and purchasing records are strictly kept.
- d) This section shall not apply to those persons being treated by a medical practitioner and surgeon for chemical dependency because of their use of drugs or controlled substances.
- e) This section shall not authorize a medical practitioner and surgeon to prescribe or administer controlled substances to a person the practitioner and surgeon knows to be using drugs or substances for non-therapeutic purposes.
- f) This section shall not affect the power of the board to deny, revoke, or suspend the license of any medical practitioner and surgeon who does any of the following:
 - 1) Prescribes or administers a controlled substance or treatment that is non therapeutic in nature or non-therapeutic in the manner the controlled substance or treatment is administered or prescribed or is for a non-therapeutic purpose in a non-therapeutic manner.
 - 2) Fails to keep the complete and accurate records of purchases and disposals pursuant to, the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970. A medical practitioner and surgeon shall keep records of his or her purchases and disposals of the drugs by the practitioner and surgeon, the name and address of the person receiving the drugs, and the reason for the disposal of or the dispensing of the drugs to the person and shall otherwise comply with all state record keeping requirements for controlled substances.
 - 3) Writes false or fictitious prescriptions for controlled substances scheduled in the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970.
 - 4) Prescribes, administered, or dispenses in a manner not consistent with public health and welfare controlled substances scheduled in the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970.
 - 5) A professional office of a healthcare provider is a "public accommodation" covered under Title III of the Americans with Disabilities Act (ADA). 42 U.S.C. § 12182 (7)(F); 28 C.F.R. § 36.104. Accordingly, doctors are obligated to comply with the requirements of title III of the ADA. 28 C.F.R. § 36.104.

Under title III of the ADA, no person who owns or operates a place of public accommodation may discriminate against an individual on the basis of disability in the full and equal enjoyment of goods, services, privileges, advantages, or accommodations, and must provide auxiliary aids and services when necessary to ensure effective communication. 42 U.S.C. §§ 12182(a), 12182(b)(1)(A)(ii), 12182(b)(2)(A)(iii); 28 C.F.R. §§ 36.201(a), 36.202, 36.303. Ensuring that medical care providers do not discriminate on the basis of disability is an issue of general public importance. *The U.S. Department of Justice is authorized to investigate alleged violations of title III of the ADA and to bring a civil action in federal court in any case that involves a pattern or practice of discrimination or that raises issues of general public importance.*

If a doctor is open to receive patients and has been contacted to become the Pain Patient's Primary Care Provider (PCP) and to help with disability-related pain management and treatment but is refused care and the physician failed to consult with the patient, to legitimately determine whether or not any of the doctors could provide the treatment that was sought. In failing to meet and consult with the patient, the doctor denied the patient a full and equal opportunity to participate in and benefit from the goods, services, facilities, privileges, advantages, or accommodations offered by these medical practices within the meaning of 42 U.S.C. §§ 12182(a), 12182(b)(1)(A)(ii), 12182(b)(2)(A)(iii) and 28 C.F.R. §§ 36.202;36.303. Essentially, if when the

doctors learned that the patient received pain management treatment, and that they would be referring him or her to other specialists regarding the disability-related pain, if they immediately denied service or refused to take one in as a patient without any explanation. This is an issue.

The ADA also provides "defenses" to public accommodations when the business, or in this case the doctors, determine that they are unable to provide services or that they must refuse services to a prospective or current patient based on an individual's disability. For example, the doctors would have had to show that treating the patient would have posed a "direct threat" to the health or safety of others (see 42 U.S.C. § 12182(b)(3)). A determination that an individual poses a direct threat to the health or safety of others must be made through an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, not on generalization or stereotypes. 42 U.S.C. §12182(b)(3); 28 C.F.R. § 36.208(b). However, since the pain patient's condition is neither contagious nor of the type that poses a direct threat to others should a doctor elect to provide treatment, the direct threat defense does not apply in this case.

- g) Nothing in this section shall be construed to prohibit the governing body of a hospital from taking disciplinary actions against a medical practitioner or surgeon.

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