



**House  
Legislative  
Analysis  
Section**

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**PAIN MANAGEMENT**

**House Bills 5939 and 5942**

**Sponsor: Rep. Penny Crissman**

**House Bill 5940**

**Sponsor: Rep. Michael Griffin**

**House Bill 5941**

**Sponsor: Rep. Kirk Profit**

**House Bill 5943**

**Sponsor: Rep. Beverly Hammerstrom**

**House Bill 5944**

**Sponsor: Rep. Gerald Law**

**Committee: Health Policy**

**Complete to 8-27-96**

House Bills 5939-5944 (8-27-96)

**A SUMMARY OF HOUSE BILLS 5939-5944 AS INTRODUCED 6-6-96**

The package of bills would amend various acts to, among other things, require insurance companies and health maintenance organizations (HMOs) to provide coverage for the evaluation and treatment of intractable pain; exclude certain treatments for intractable pain from being classified as experimental; require a treating physician to advise a patient with intractable pain on referral options to centers for advanced care; and create the Michigan Commission on Pain within the Department of Community Health.

"Intractable pain" would be defined under House Bill 5944 as severe, persistent, or recurring pain that was disabling and accompanied by various degrees of suffering; impaired the activities of daily living; was attributed to a number of causes that would include cancer, trauma, migraine, and other disease states; and was incapable of being significantly reduced or ameliorated, despite reasonable treatment during a period of six or more months. A "center for advanced care" would be a hospital or health care facility that would be accredited by the Joint Commission on Accreditation of Health Care Organizations (JCAHO) or the Commission on Accreditation of Rehabilitation Facilities (CARF); retain a full-time medical director certified in pain medicine by the American Board of Medical Specialists or the American Board of Pain Medicine; perform research on pain-related issues and publish the findings at least once annually in a commission-approved publication; and provide community pain-management educational services and pain-management education for physicians. More specifically, the bills would do the following:

House Bill 5939 would amend the Public Health Code (MCL 333.18903) to state that the "legislature recognizes that the treatment and evaluation of intractable pain is a fundamental

component of medical care which requires coverage under health care contracts, plans, certificates, and policies” and that as controlled substances are used in the medical treatment of certain forms of intractable pain, that efforts to control illegal and unauthorized use or improper administration should not interfere with the appropriate use of those substances to relieve pain and suffering.

The bill would also specify that the evaluation and treatment of intractable pain consistent with medical care provided by centers for advanced care or other specialized centers of pain management and approved by the Michigan Commission of Pain would not be considered experimental.

House Bill 5940 would amend the Public Health Code (MCL 333.17016 and 333.17516) to require a physician treating a patient who had been diagnosed with intractable pain to, in addition to other treatment provided, advise the patient to consider being referred to a center for advanced care or consulting such a center on his or her own. In addition, the bill would exempt a physician from administrative, civil, and criminal liability for prescribing to a patient being treated for intractable pain a controlled substance included in schedules two to five of Part 72 of the code and that is a narcotic if the prescription were for a legitimate and professionally recognized therapeutic purpose and were within the physician’s scope of practice.

House Bills 5941-5943 would require insurers, subject to dollar limits, deductibles, and co-insurance provisions that were at least as favorable as those for physical illness generally, to provide coverage for and access to evaluation and treatment of intractable pain at centers for advanced care or other specialized centers of pain management approved by the Michigan Commission on Pain. House Bill 5941 would amend the Insurance Code (MCL 500.3406f), which regulates commercial insurance companies; House Bill 5942 would amend the Public Health Code (MCL 333.2105y), which regulates health maintenance organizations; and House Bill 5943 would amend the Non-profit Health Care Corporation Act (MCL 550.1101), which regulates Blue Cross and Blue Shield of Michigan.

House Bill 5944 would amend the Public Health Code to create Part 189 (MCL 333.18901 et al.) entitled “Pain Management.” The bill would add new definitions and would create the Michigan Commission on Pain within the Department of Community Health. The commission would advise and consult with the director of the department and with the legislature on intractable pain treatment policies, and would make recommendations on pain management priorities and short-term and long-term pain management programs and policies. Writings prepared, owned, used, in the possession of, or retained by the commission in the performance of official functions would be available to the public under the Freedom of Information Act (MCL 15.231 et al).

The commission would consist of 22 voting members appointed by the governor with the advice and consent of the Senate and three non-voting members, including one member appointed by the Senate majority leader, one by the speaker of the House of Representatives, and the director of the department who would serve as an ex officio member. The 22 members appointed by the governor would consist of the following:

- \* four licensed physicians who were certified in pain management by the American Board of Medical Specialists or the American Board of Pain Management;

- \* 11 individuals representing professions licensed under the code, including at least one licensed person from each of the following practices:

- medicine
- osteopathic medicine
- chiropractic
- counseling
- dentistry
- nursing
- pharmacy
- physical therapy, and
- psychology;

- \* four individuals from the insurance and managed care industries;

- \* one person representing voluntary health groups; and

- \* two people representing the general public.

Members would have to be appointed within 60 days of the effective date of the bill. Voting members would serve for a term of three years or until a successor were appointed; however, for the first appointees, seven would serve for one year, seven for two years, and eight for three years. The non-voting members appointed by the Speaker and the Majority Leader would serve for one year, but could be reappointed. Vacancies would be appointed by the commission. The commission could remove members for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or other good cause. Members would serve without pay, but could be compensated for actual and necessary expenses incurred in performing their duties.

A chairperson and other officers would be appointed at the first meeting of the commission, which would be called by the director of the department. Subsequent meetings would be quarterly or more frequently at the call of the chairperson or if requested by at least two members. All official actions of the commission would require a majority of the members present, and a majority of the members would constitute a quorum for the transaction of business. All business transacted would have to be conducted at public meetings in compliance with the Open Meetings Act (MCL 15.261 et al).

House Bills 5939-5943 are tie-barred to House Bill 5944.

Analyst: S. Stutzky

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.