

By Mr. Antonioni (by request), a petition (accompanied by bill, Senate, No. 2424) of Jeff Mankiewicz for legislation to regulate the medical treatment of chronic intractable pain. Public Health.

The Commonwealth of Massachusetts

In the Year Two Thousand and Six.

AN ACT TO REGULATE THE MEDICAL TREATMENT OF CHRONIC INTRACTABLE PAIN.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 94C of the General Laws, as appearing in  
2 the 2000 Official Edition, is hereby amended in section 1 by  
3 adding the following definitions after the words “or its successor  
4 agency” in line 17:

5 “Chronic intractable pain” a pain state which has been present  
6 on a daily basis for six consecutive months or more and in which  
7 the cause of pain cannot be removed or otherwise treated and for  
8 which, in the generally accepted course of medical practice, no  
9 relief or cure of the cause of the pain has been found after reason-  
10 able efforts, including but not limited to evaluation by one or  
11 more physicians.

12 “Chronic intractable pain patient” a patient who has been deter-  
13 mined by a physician to suffer from chronic intractable pain.

1 SECTION 2. Chapter 94C of the General Laws, as appearing in  
2 the 1998 Official Edition, is further amended after section 9 by  
3 adding the following new sections:

4 Section 9½. (a) Notwithstanding the provisions of section 9, a  
5 physician licensed to practice medicine may prescribe or admin-  
6 ister controlled substances to relief to a person in the course of the  
7 physician’s treatment of that person for a diagnosed condition  
8 causing chronic intractable pain. A physician shall not be subject  
9 to prosecution or to disciplinary action by any state or federal

10 agency for prescribing or administering controlled substances in  
11 the course of treatment of a chronic intractable pain patient. This  
12 section shall not apply to :

13 (1) a physician's treatment of a patient for chronic dependency  
14 resulting from the misuse of controlled substances used for non-  
15 therapeutic purposes, or who is diverting the substances for per-  
16 sonal profit, as required by federal law;

17 (2) a physician who prescribes controlled substances without a  
18 legitimate purpose;

19 (3) a physician who falsifies a prescription or diagnostic infor-  
20 mation. (b) Any person who knowingly attempts to intimidate or  
21 falsely prosecute a physician engaged in the legitimate treatment  
22 of chronic intractable pain shall be guilty of a felony and subject  
23 to a fine of no less than \$50,000 and a term of no less than five  
24 years in the house of correction for each offense.