

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 1133

By: Jolley

4  
5  
6  
7 AS INTRODUCED

8 An Act relating to professions and occupations;  
9 creating the Oklahoma Interventional Pain Management  
10 and Treatment Act; providing short title; defining  
11 terms; prohibiting the practice of interventional pain  
12 management by certain persons; directing the State  
13 Board of Medical Licensure and Supervision to  
14 establish certain guidelines; amending 59 O.S. 2001,  
15 Section 491, as last amended by Section 2, Chapter 358,  
16 O.S.L. 2008 (59 O.S. Supp. 2008, Section 491), which  
17 relates to allopathic medicine; providing for certain  
18 regulations on pain management and treatment;  
19 authorizing the Board to impose certain administrative  
20 penalties; authorizing the Board to initiate certain  
21 proceedings; permitting the Board to apply for certain  
22 relief; exempting certain persons from personal  
23 liability; providing for codification; and declaring  
24 an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in  
the Oklahoma Statutes as Section 650 of Title 59, unless there is  
created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Oklahoma  
Interventional Pain Management and Treatment Act".

1 B. As used in this section:

2 1. "Chronic pain" means a pain state which is subacute,  
3 persistent and intractable;

4 2. "Fluoroscope" means a radiologic instrument equipped with a  
5 fluorescent screen on which opaque internal structures can be viewed  
6 as moving shadow images formed by the differential transmission of x-  
7 rays throughout the body; and

8 3. "Interventional pain management" means the practice of  
9 medicine devoted to the diagnosis and treatment of chronic pain,  
10 through the use of such techniques as:

11 a. ablation of targeted nerves,

12 b. percutaneous precision needle placement with placement  
13 of drugs in targeted areas, such as local anesthetics,  
14 steroids, analgesics, peripheral nerve blocks, epidural  
15 injections and spinal joint injections, and

16 c. surgical techniques, such as laser or endoscopic  
17 diskectomy, intrathecal infusion pumps and spinal cord  
18 stimulators.

19 C. It shall be unlawful to practice or offer to practice  
20 interventional pain management in this state unless such person has  
21 been duly licensed under the provisions of Section 480 et seq. or  
22 Section 620 et seq. of Title 59 of the Oklahoma Statutes.

1 D. The State Board of Medical Licensure and Supervision shall  
2 establish guidelines for the standard of care for interventional pain  
3 management, including the proper use of fluoroscopy in such practice.

4 SECTION 2. AMENDATORY 59 O.S. 2001, Section 491, as last  
5 amended by Section 2, Chapter 358, O.S.L. 2008 (59 O.S. Supp. 2008,  
6 Section 491), is amended to read as follows:

7 Section 491. A. 1. Every person before practicing medicine and  
8 surgery or any of the branches or departments of medicine and surgery,  
9 within the meaning of the Oklahoma Allopathic Medical and Surgical  
10 Licensure and Supervision Act or the Oklahoma Interventional Pain  
11 Management and Treatment Act, within this state, must be in legal  
12 possession of the unrevoked license or certificate issued pursuant to  
13 the Oklahoma Allopathic Medical and Surgical Licensure and  
14 Supervision Act.

15 2. Any person practicing in such manner within this state, who  
16 is not in the legal possession of a license or certificate, shall,  
17 upon conviction, be guilty of a felony, punishable by a fine in an  
18 amount not less than One Thousand Dollars (\$1,000.00) nor more than  
19 Ten Thousand Dollars (\$10,000.00), or by imprisonment in the county  
20 jail for a term of not more than one (1) year or imprisonment in the  
21 custody of the Department of Corrections for a term of not more than  
22 four (4) years, or by both such fine and imprisonment.

23 3. Each day a person is in violation of any provision of this  
24 subsection shall constitute a separate criminal offense and, in

1 addition, the district attorney may file a separate charge of medical  
2 battery for each person who is injured as a result of treatment or  
3 surgery performed in violation of this subsection.

4 4. Any person who practices medicine and surgery or any of the  
5 branches or departments thereof without first complying with the  
6 provisions of the Oklahoma Allopathic Medical and Surgical Licensure  
7 and Supervision Act or the Oklahoma Interventional Pain Management  
8 and Treatment Act shall, in addition to the other penalties provided  
9 therein, receive no compensation for such medical and surgical or  
10 branches or departments thereof services.

11 B. 1. If a license has been revoked or suspended pursuant to  
12 the Oklahoma Allopathic Medical and Surgical Licensure and  
13 Supervision Act whether for disciplinary reasons or for failure to  
14 renew the license, the State Board of Medical Licensure and  
15 Supervision may, subject to rules promulgated by the Board, assess  
16 and collect an administrative fine not to exceed Five Thousand  
17 Dollars (\$5,000.00) for each day after revocation or suspension  
18 whether for disciplinary reasons or for failure to renew such license  
19 that the person practices medicine and surgery or any of the branches  
20 or departments thereof within this state.

21 2. The Board may impose administrative penalties against any  
22 person who violates any of the provisions of the Oklahoma  
23 Interventional Pain Management and Treatment Act or any rule  
24 promulgated pursuant thereto. The Board is authorized to initiate

1 disciplinary, prosecutorial and injunctive proceedings against any  
2 person who has violated any of the provisions of the Oklahoma  
3 Interventional Pain Management and Treatment Act or any rule of the  
4 Board promulgated pursuant thereto. The Board is authorized in the  
5 name of the state to apply for relief by injunction in the  
6 established manner provided in cases of civil procedure, without bond,  
7 to enforce the provisions of the Oklahoma Interventional Pain  
8 Management and Treatment Act, or to restrain any violation thereof.  
9 In such proceedings, it shall not be necessary to allege or prove  
10 either that an adequate remedy at law does not exist or that  
11 substantial or irreparable damage would result from the continued  
12 violation thereof. The members of the Board shall not be personally  
13 liable for proceeding under this section.

14 3. Fines assessed shall be in addition to any criminal penalty  
15 provided pursuant to subsection A of this section.

16 SECTION 3. It being immediately necessary for the preservation  
17 of the public peace, health and safety, an emergency is hereby  
18 declared to exist, by reason whereof this act shall take effect and  
19 be in full force from and after its passage and approval.

20  
21 52-1-291 JM 3/6/2009 1:51:59 AM  
22  
23  
24