

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1124 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Dale Derby

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

PROPOSED
COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1124

By: Yen of the Senate

and

Derby of the House

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to pain-management or addiction clinics; defining terms; requiring clinics to register with State Board of Medical Licensure and Supervision; establishing registration requirements and procedures; specifying procedures for denial, revocation or suspension of registration; limiting period of suspension; requiring new registration application if clinic changes ownership; prohibiting physician and other health care providers from working in an unregistered clinic; prescribing physician and health care provider requirements and responsibilities; specifying clinic and physical operations requirements; listing data collection and reporting requirements; requiring designated physician to ensure compliance with all requirements; mandating quarterly written report by designated physician; establishing annual inspection procedures for clinics; directing Board to adopt certain rules; providing penalties for violation of the act; listing factors for Board to consider in setting amount of penalty; providing for codification; and providing an effective date.

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

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 2-1000 of Title 63, unless there
4 is created a duplication in numbering, reads as follows:

5 As used in this act:

6 1. "Board eligible" means successful completion of an
7 anesthesia, physical medicine and rehabilitation, rheumatology or
8 neurology residency program approved by the Accreditation Council
9 for Graduate Medical Education or the American Osteopathic
10 Association for a period of six (6) years from successful completion
11 of such residency program;

12 2. "Chronic nonmalignant pain" means pain unrelated to cancer
13 which persists beyond the usual course of disease or the injury that
14 is the cause of the pain or more than ninety (90) calendar days
15 after surgery;

16 3. "Group of physicians" means a medical practice comprised of
17 two or more physicians, each of whom is licensed pursuant to the
18 Oklahoma Allopathic Medical and Surgical Licensure and Supervision
19 Act or the Oklahoma Osteopathic Medicine Act;

20 4. "Health care provider" means a person who is licensed,
21 certified or otherwise authorized by the laws of this state to
22 practice a health care or healing arts profession or who administers
23 health care in the ordinary course of business;

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1 5. "Pain-management or addiction clinic" or "clinic" means any
2 facility:

3 a. that advertises in any medium for any type of pain-
4 management services, or

5 b. where in any month a majority of patients are
6 prescribed opioids, benzodiazepines, barbiturates or
7 carisoprodol for the treatment of chronic nonmalignant
8 pain or buprenorphine combined with naloxone to treat
9 narcotic addiction; and

10 6. "Physician" means a medical doctor or doctor of osteopathy
11 licensed pursuant to the Oklahoma Allopathic Medical and Surgical
12 Licensure and Supervision Act or the Oklahoma Osteopathic Medicine
13 Act.

14 SECTION 2. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 2-1001 of Title 63, unless there
16 is created a duplication in numbering, reads as follows:

17 A. Each pain-management or addiction clinic shall register with
18 the State Board of Medical Licensure and Supervision.

19 B. Each clinic location shall be registered separately
20 regardless of whether the clinic is operated under the same business
21 name or management as another clinic.

22 C. As a part of registration, a clinic shall designate a
23 physician who is responsible for complying with all requirements
24 related to registration and operation of the clinic in compliance

1 with this act. Within ten (10) calendar days after termination of a
2 designated physician, the clinic shall notify the State Board of
3 Medical Licensure and Supervision of the identity of another
4 designated physician for that clinic. The designated physician
5 shall have a full, active and unencumbered license pursuant to the
6 Oklahoma Allopathic Medical and Surgical Licensure and Supervision
7 Act or the Oklahoma Osteopathic Medicine Act and shall practice at
8 the clinic location for which the physician has assumed
9 responsibility. Failing to have a licensed designated physician
10 practicing at the location of the registered clinic may be the basis
11 for a summary suspension of the clinic registration certificate as
12 described in this section.

13 D. The State Board of Medical Licensure and Supervision shall
14 deny registration to any clinic that is not fully owned by a
15 physician, group of physicians or a hospital or health care system
16 that includes the provision of hospital services.

17 E. The State Board of Medical Licensure and Supervision shall
18 deny registration to any pain-management or addiction clinic owned
19 by or with any contractual or employment relationship with a
20 physician:

21 1. Whose Drug Enforcement Administration number has ever been
22 revoked;
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1 2. Whose application for a license to prescribe, dispense or
2 administer a controlled substance has been denied by any
3 jurisdiction; or

4 3. Who has been convicted of or pleaded guilty or nolo
5 contendere to, regardless of adjudication, an offense that
6 constitutes a felony for receipt of illicit or diverted drugs,
7 including a controlled substance listed in Schedule I, II, III, IV
8 or V of the Uniform Controlled Dangerous Substances Act, in this
9 state, any other state or the United States.

10 F. If the State Board of Medical Licensure and Supervision
11 finds that a pain-management or addiction clinic does not meet the
12 requirement of subsection D of this act or is owned, directly or
13 indirectly, by a person meeting any criteria listed in subsection E
14 of this act, the State Board of Medical Licensure and Supervision
15 shall revoke the certificate of registration previously issued by
16 the State Board of Medical Licensure and Supervision. As determined
17 by rule, the State Board of Medical Licensure and Supervision may
18 grant an exemption to denying a registration or revoking a
19 previously issued registration if more than ten (10) years have
20 elapsed since adjudication. As used in this section, the term
21 "convicted" includes an adjudication of guilt following a plea of
22 guilty or nolo contendere or the forfeiture of a bond when charged
23 with a crime.

1 G. The State Board of Medical Licensure and Supervision may
2 revoke the clinic's certificate of registration and prohibit all
3 physicians associated with that pain-management or addiction clinic
4 from practicing at that clinic location based upon an annual
5 inspection and evaluation of the factors described in Section 4 of
6 this act.

7 H. If the registration of a pain-management or addiction clinic
8 is revoked or suspended, the designated physician of the clinic, the
9 owner or lessor of the clinic property, the manager and the
10 proprietor shall cease to operate the facility as a clinic as of the
11 effective date of the suspension or revocation.

12 I. If a pain-management or addiction clinic registration is
13 revoked or suspended, the designated physician of the clinic, the
14 owner or lessor of the clinic property, the manager or the
15 proprietor is responsible for removing all signs and symbols
16 identifying the premises as a clinic.

17 J. Upon the effective date of the suspension or revocation, the
18 designated physician of the pain-management or addiction clinic
19 shall advise the State Board of Medical Licensure and Supervision of
20 the disposition of the medicinal drugs located on the premises. The
21 disposition is subject to the supervision and approval of the State
22 Board of Medical Licensure and Supervision. Medicinal drugs that
23 are purchased or held by a clinic that is not registered may be
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1 deemed adulterated pursuant to Section 1-1401 et seq. of Title 63 of
2 the Oklahoma Statutes.

3 K. If the pain-management or addiction clinic's registration is
4 revoked, any person named in the registration documents of the
5 clinic, including persons owning or operating the clinic, shall not,
6 as an individual or as a part of a group, apply to operate a clinic
7 for five (5) years after the date the registration is revoked.

8 L. The period of suspension for the registration of a pain-
9 management or addiction clinic shall be prescribed by the State
10 Board of Medical Licensure and Supervision, but shall not exceed one
11 (1) year.

12 M. A change of ownership of a registered pain-management or
13 addiction clinic requires submission of a new registration
14 application.

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 2-1002 of Title 63, unless there
17 is created a duplication in numbering, reads as follows:

18 A. A physician shall not practice medicine and other health
19 care providers shall not provide services in a pain-management or
20 addiction clinic if the clinic is not registered with the State
21 Board of Medical Licensure and Supervision as required by this act.
22 Any physician or other health care provider who qualifies to provide
23 health care services in a clinic pursuant to rules adopted by the
24 State Board of Medical Licensure and Supervision may continue to

1 provide services at the clinic as long as the physician or other
2 health care provider continues to meet the qualifications set forth
3 in the rules. A physician or other health care provider who
4 violates this subsection is subject to disciplinary action by his or
5 her appropriate medical regulatory or licensure board.

6 B. Only a physician may dispense medication or prescribe a
7 controlled dangerous substance on the premises of a registered pain-
8 management or addiction clinic.

9 C. A physician, a physician assistant or an advanced practice
10 registered nurse shall perform a physical examination of a patient
11 on the same day that the physician prescribes a controlled substance
12 to a patient at a pain-management or addiction clinic. If the
13 physician prescribes more than a seventy-two-hour dose of controlled
14 dangerous substances for the treatment of chronic nonmalignant pain,
15 the physician must document in the patient's record the reason for
16 prescribing that quantity.

17 D. A physician authorized to prescribe controlled dangerous
18 substances who practices at a pain-management or addiction clinic is
19 responsible for maintaining the control and security of his or her
20 prescription pads and any other method used for prescribing
21 controlled dangerous substance pain medication. The physician shall
22 notify, in writing, the State Board of Medical Licensure and
23 Supervision within twenty-four (24) hours following any theft or
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1 loss of a prescription pad or breach of any other method for
2 prescribing controlled dangerous substance pain medication.

3 E. The designated physician of a pain-management or addiction
4 clinic shall notify the applicable board in writing of the date of
5 termination of employment within ten (10) calendar days after
6 terminating his or her employment with a clinic that is required to
7 be registered pursuant to this act. Each physician and health care
8 provider practicing in a clinic shall advise the State Board of
9 Medical Licensure and Supervision, in writing, within ten (10)
10 calendar days after beginning or ending his or her practice at a
11 clinic.

12 F. Each physician and health care provider practicing in a
13 pain-management or addiction clinic is responsible for ensuring
14 compliance with the following facility and physical operations
15 requirements:

16 1. A clinic shall be located and operated at a publicly
17 accessible fixed location and shall:

18 a. display a sign that can be viewed by the public that
19 contains the clinic name, hours of operations and a
20 street address,

21 b. have a publicly listed telephone number and a
22 dedicated phone number to send and receive facsimiles
23 with a facsimile machine that shall be operational
24 twenty-four (24) hours per day,

- c. have emergency lighting and communications,
- d. have a reception and waiting area,
- e. provide a restroom,
- f. have an administrative area, including room for storage of medical records, supplies and equipment,
- g. have private patient examination rooms,
- h. have treatment rooms, if treatment is being provided to the patients, and
- i. display a printed sign located in a conspicuous place in the waiting room viewable by the public with the name and contact information of the clinic's designated physician and the names of all physicians and health care providers practicing in the clinic; and

2. This section does not excuse a physician or health care provider from providing any treatment or performing any medical duty without the proper equipment and materials as required by the standard of care. This section does not supersede the level of care, skill or treatment recognized in general law related to health care licensure.

G. Each physician and health care provider providing services in a pain-management or addiction clinic is responsible for ensuring compliance with the infection control, health and safety and quality

1 assurance requirements established by the State Board of Medical
2 Licensure and Supervision.

3 H. Each pain-management or addiction clinic shall have at least
4 one employee on the premises during patient-care hours who is
5 certified in basic life support and is trained in reacting to
6 accidents and medical emergencies until emergency medical personnel
7 arrive.

8 I. The designated physician is responsible for ensuring
9 compliance with the following data collection and reporting
10 requirements:

11 1. The designated physician for each pain-management or
12 addiction clinic shall report all adverse incidents to the State
13 Board of Medical Licensure and Supervision; and

14 2. The designated physician shall also report to the State
15 Board of Medical Licensure and Supervision, in writing, on a
16 quarterly basis the following data:

- 17 a. the number of new and repeat patients seen and treated
18 at the clinic who are prescribed controlled dangerous
19 substance medications for the treatment of chronic,
20 nonmalignant pain,
- 21 b. the number of patients discharged due to drug abuse,
- 22 c. the number of patients discharged due to drug
23 diversion, and
- 24

1 d. the number of patients treated at the pain clinic
2 whose domicile is located somewhere other than in this
3 state. A patient's domicile is the patient's fixed or
4 permanent home to which he or she intends to return
5 even though he or she may temporarily reside
6 elsewhere.

7 SECTION 4. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 2-1003 of Title 63, unless there
9 is created a duplication in numbering, reads as follows:

10 A. An authorized representative of the State Board of Medical
11 Licensure and Supervision shall inspect all pain-management or
12 addiction clinics annually, including a review of the patient
13 records to ensure they comply with this act and the rules of the
14 State Board of Medical Licensure and Supervision adopted pursuant to
15 Section 5 of this act unless the clinic is accredited by a
16 nationally recognized accrediting agency approved by the State Board
17 of Medical Licensure and Supervision.

18 B. During an onsite inspection, the authorized representative
19 of the State Board of Medical Licensure and Supervision shall make a
20 reasonable attempt to discuss each violation with the owner or
21 designated physician of the pain-management or addiction clinic
22 before issuing a formal written notification.

23 C. Any action taken to correct a violation shall be documented
24 in writing by the owner or designated physician of the pain-

1 management or addiction clinic and verified by follow-up visits by
2 the authorized representative of the State Board of Medical
3 Licensure and Supervision.

4 SECTION 5. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 2-1004 of Title 63, unless there
6 is created a duplication in numbering, reads as follows:

7 A. The State Board of Medical Licensure and Supervision shall
8 adopt rules necessary to administer the registration and inspection
9 of pain-management or addiction clinics which establish the specific
10 requirements, procedures, forms and fees.

11 B. The State Board of Medical Licensure and Supervision shall
12 adopt rules setting forth training requirements for all pain-
13 management or addiction clinic health care practitioners who are not
14 regulated by another board.

15 SECTION 6. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 2-1005 of Title 63, unless there
17 is created a duplication in numbering, reads as follows:

18 A. The State Board of Medical Licensure and Supervision may
19 impose an administrative fine on a pain-management or addiction
20 clinic of up to Five Thousand Dollars (\$5,000.00) per violation for
21 violating the requirements of this act or the rules of the State
22 Board of Medical Licensure and Supervision. In determining whether
23 a penalty is to be imposed, and in fixing the amount of the fine,
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1 the State Board of Medical Licensure and Supervision shall consider
2 the following factors:

3 1. The gravity of the violation, including the probability that
4 death or serious physical or emotional harm to a patient has
5 resulted, or could have resulted, from the clinic's actions or the
6 actions of the physician, the severity of the action or potential
7 harm and the extent to which the provisions of the applicable laws
8 or rules were violated;

9 2. What actions, if any, the owner or designated physician took
10 to correct the violations;

11 3. Whether there were any previous violations at the clinic;
12 and

13 4. The financial benefits that the clinic derived from
14 committing or continuing to commit the violation.

15 B. Each day a violation continues after the date fixed for
16 termination of the violation as ordered by the State Board of
17 Medical Licensure and Supervision constitutes an additional,
18 separate and distinct violation.

19 C. The State Board of Medical Licensure and Supervision may
20 impose a fine and, in the case of an owner-operated pain-management
21 or addiction clinic, revoke or deny a clinic's registration, if the
22 clinic's designated physician knowingly and intentionally
23 misrepresents actions taken to correct a violation.

1 D. An owner or designated physician of a pain-management or
2 addiction clinic who concurrently operates an unregistered clinic is
3 subject to an administrative fine of Five Thousand Dollars
4 (\$5,000.00) per day.

5 E. If the owner of a pain-management or addiction clinic that
6 requires registration fails to apply to register the clinic upon a
7 change of ownership and operates the clinic under the new ownership,
8 the owner is subject to a fine of Five Thousand Dollars (\$5,000.00).

9 SECTION 7. This act shall become effective November 1, 2018.

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11 56-2-10313 EK 04/05/18
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