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**AS AMENDED**

By: Yen

[ pain management clinics - definitions - register with Board of Medical Licensure and Supervision - exemptions - registration procedures - period of suspension - new registration application - physician responsibilities - facility and physical operations - infection control - health and safety requirements - quality assurance - data collection and reporting - compliance with all requirements - inspection procedures - Board of Medical Licensure and Supervision to promulgate certain rules - penalties - codification - effective date ]

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 2-1000 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in this act:

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

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

5        3. "Pain-management clinic" or "clinic" means any publicly or  
6 privately owned facility:

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

9            b. where in any month a majority of patients are  
10 prescribed opioids, benzodiazepines, barbiturates, or  
11 carisoprodol for the treatment of chronic nonmalignant  
12 pain.

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

16        A. Each pain-management clinic shall register with the Board of  
17 Medical Licensure and Supervision unless:

18            1. The majority of the physicians who provide services in the  
19 clinic primarily provide surgical services;

20            2. The clinic is owned by a publicly held corporation whose  
21 shares are traded on a national exchange or on the over-the-counter  
22 market and whose total assets at the end of the corporation's most  
23 recent fiscal quarter exceeded Fifty Million Dollars  
24 (\$50,000,000.00);

1        3. The clinic is affiliated with an accredited medical school  
2 at which training is provided for medical students, residents or  
3 fellows;

4        4. The clinic does not prescribe controlled dangerous  
5 substances for the treatment of pain;

6        5. The clinic is owned by a corporate entity exempt from  
7 federal taxation under 26 U.S.C., Section 501(c)(3) (1954);

8        6. The clinic is wholly owned and operated by one or more  
9 board-eligible or board-certified anesthesiologists, physiatrists,  
10 rheumatologists or neurologists; or

11       7. The clinic is wholly owned and operated by a physician  
12 multispecialty practice where one or more board-eligible or board-  
13 certified medical specialists, who have also completed fellowships  
14 in pain medicine approved by the Accreditation Council for Graduate  
15 Medical Education or who are also certified in pain medicine by the  
16 American Board of Pain Medicine or a board approved by the American  
17 Board of Medical Specialties, the American Association of Physician  
18 Specialists or the American Osteopathic Association, perform  
19 interventional pain procedures of the type routinely billed using  
20 surgical codes.

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

1 C. As a part of registration, a clinic must designate a  
2 physician who is responsible for complying with all requirements  
3 related to registration and operation of the clinic in compliance  
4 with this act. Within ten (10) calendar days after termination of a  
5 designated physician, the clinic must notify the Board of Medical  
6 Licensure and Supervision of the identity of another designated  
7 physician for that clinic. The designated physician shall have a  
8 full, active and unencumbered license pursuant to Section 480 et  
9 seq. or Section 620 et seq. of Title 59 of the Oklahoma Statutes and  
10 shall practice at the clinic location for which the physician has  
11 assumed responsibility. Failing to have a licensed designated  
12 physician practicing at the location of the registered clinic may be  
13 the basis for a summary suspension of the clinic registration  
14 certificate as described in this section.

15 D. The Board of Medical Licensure and Supervision shall deny  
16 registration to any clinic that is not fully owned by a physician  
17 licensed pursuant to Section 480 et seq. or Section 620 et seq. of  
18 Title 59 of the Oklahoma Statutes or group of physicians, each of  
19 whom is licensed pursuant to Section 480 et seq. or Section 620 et  
20 seq. of Title 59 of the Oklahoma Statutes.

21 E. The Board of Medical Licensure and Supervision shall deny  
22 registration to any pain-management clinic owned by or with any  
23 contractual or employment relationship with a physician:  
24

1        1. Whose Drug Enforcement Administration number has ever been  
2        revoked;

3        2. Whose application for a license to prescribe, dispense or  
4        administer a controlled substance has been denied by any  
5        jurisdiction;

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

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

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

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

12       I. If a pain-management clinic registration is revoked or  
13 suspended, the designated physician of the pain-management clinic,  
14 the 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 pain-management clinic.

17       J. Upon the effective date of the suspension or revocation, the  
18 designated physician of the pain-management clinic shall advise the  
19 Board of Medical Licensure and Supervision of the disposition of the  
20 medicinal drugs located on the premises. The disposition is subject  
21 to the supervision and approval of the Board of Medical Licensure  
22 and Supervision. Medicinal drugs that are purchased or held by a  
23 pain-management clinic that is not registered may be deemed  
24

1 adulterated pursuant to Section 1-1401 et seq. of Title 63 of the  
2 Oklahoma Statutes.

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

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

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

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

17 A. A physician shall not practice medicine in a pain-management  
18 clinic if the clinic is not registered with the Board of Medical  
19 Licensure and Supervision as required by this act. Any physician  
20 who qualifies to practice medicine in a pain-management clinic  
21 pursuant to rules adopted by the Board of Medical Licensure and  
22 Supervision may continue to practice medicine in a pain management  
23 clinic as long as the physician continues to meet the qualifications  
24 set forth in the rules. A physician who violates this subsection is

1 subject to disciplinary action by his or her appropriate medical  
2 regulatory board.

3 B. Only a physician licensed pursuant to Section 480 et seq. or  
4 Section 620 et seq. of Title 59 of the Oklahoma Statutes may  
5 dispense medication or prescribe a controlled dangerous substance on  
6 the premises of a registered pain-management clinic.

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

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

23 E. The designated physician of a pain-management clinic shall  
24 notify the applicable board in writing of the date of termination of



1 employment within ten (10) calendar days after terminating his or  
2 her employment with a pain-management clinic that is required to be  
3 registered pursuant to this act. Each physician practicing in a  
4 pain-management clinic shall advise the Board of Medical Licensure  
5 and Supervision, in writing, within ten (10) calendar days after  
6 beginning or ending his or her practice at a pain-management clinic.

7 F. Each physician practicing in a pain-management clinic is  
8 responsible for ensuring compliance with the following facility and  
9 physical operations requirements:

10 1. A pain-management clinic shall be located and operated at a  
11 publicly accessible fixed location and shall:

- 12 a. display a sign that can be viewed by the public that  
13 contains the clinic name, hours of operations, and a  
14 street address,
- 15 b. have a publicly listed telephone number and a  
16 dedicated phone number to send and receive facsimiles  
17 with a facsimile machine that shall be operational  
18 twenty-four (24) hours per day,
- 19 c. have emergency lighting and communications,
- 20 d. have a reception and waiting area,
- 21 e. provide a restroom,
- 22 f. have an administrative area, including room for  
23 storage of medical records, supplies and equipment,
- 24 g. have private patient examination rooms,

1           h.    have treatment rooms, if treatment is being provided  
2               to the patients, and

3           i.    display a printed sign located in a conspicuous place  
4               in the waiting room viewable by the public with the  
5               name and contact information of the clinic's  
6               designated physician and the names of all physicians  
7               practicing in the clinic; and

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

13          G.    Each physician practicing in a pain-management clinic is  
14           responsible for ensuring compliance with the following infection  
15           control requirements:

16           1.    The clinic shall maintain equipment and supplies to support  
17           infection prevention and control activities;

18           2.    The clinic shall identify infection risks based on the  
19           following:

- 20           a.    geographic location, community and population served,  
21           b.    the care, treatment and services it provides, and  
22           c.    an analysis of its infection surveillance and control  
23           data; and  
24

1        3. The clinic shall maintain written infection prevention  
2 policies and procedures that address the following:

- 3            a. prioritized risks,
- 4            b. limiting unprotected exposure to pathogens,
- 5            c. limiting the transmission of infections associated  
6                with procedures performed in the clinic, and
- 7            d. limiting the transmission of infections associated  
8                with the clinic's use of medical equipment, devices  
9                and supplies.

10        H. Each physician practicing in a pain-management clinic is  
11 responsible for ensuring compliance with the following health and  
12 safety requirements:

13            1. The clinic, including its grounds, buildings, furniture,  
14 appliances and equipment shall be structurally sound, in good  
15 repair, clean and free from health and safety hazards;

16            2. The clinic shall have evacuation procedures in the event of  
17 an emergency, which shall include provisions for the evacuation of  
18 disabled patients and employees;

19            3. The clinic shall have a written facility-specific disaster  
20 plan setting forth actions that will be taken in the event of clinic  
21 closure due to unforeseen disasters and shall include provisions for  
22 the protection of medical records and any controlled dangerous  
23 substances; and  
24

1        4. Each clinic shall have at least one employee on the premises  
2 during patient care hours who is certified in basic life support and  
3 is trained in reacting to accidents and medical emergencies until  
4 emergency medical personnel arrive.

5        I. The designated physician is responsible for ensuring  
6 compliance with the following quality assurance requirements:

7        1. Each pain-management clinic shall have an ongoing quality  
8 assurance program that objectively and systematically:

- 9            a. monitors and evaluates the quality and appropriateness  
10            of patient care,
- 11            b. evaluates methods to improve patient care,
- 12            c. identifies and corrects deficiencies within the  
13            facility,
- 14            d. alerts the designated physician to identify and  
15            resolve recurring problems, and
- 16            e. provides for opportunities to improve the facility's  
17            performance and to enhance and improve the quality of  
18            care provided to the public; and

19        2. The designated physician shall establish a quality assurance  
20 program that includes the following components:

- 21            a. the identification, investigation and analysis of the  
22            frequency and causes of adverse incidents to patients,
- 23            b. the identification of trends or patterns of incidents,

1           c.    the development of measures to correct, reduce,  
2                minimize or eliminate the risk of adverse incidents to  
3                patients, and

4           d.    the documentation of these functions and periodic  
5                review no less than quarterly of such information by  
6                the designated physician.

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

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

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

16               a.   the number of new and repeat patients seen and treated  
17                      at the clinic who are prescribed controlled dangerous  
18                      substance medications for the treatment of chronic,  
19                      nonmalignant pain,

20               b.   the number of patients discharged due to drug abuse,

21               c.   the number of patients discharged due to drug  
22                      diversion, and

23               d.   the number of patients treated at the pain clinic  
24                      whose domicile is located somewhere other than in this

1 state. A patient's domicile is the patient's fixed or  
2 permanent home to which he or she intends to return  
3 even though he or she may temporarily reside  
4 elsewhere.

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

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

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

20 C. Any action taken to correct a violation shall be documented  
21 in writing by the owner or designated physician of the pain-  
22 management clinic and verified by follow up visits by the authorized  
23 representative of the Board of Medical Licensure and Supervision.  
24

SECTION 5. NEW LAW

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

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

B. The Board of Medical Licensure and Supervision shall adopt rules setting forth training requirements for all facility health care practitioners who are not regulated by another board.

SECTION 6. NEW LAW

A new section of law to be codified in the Oklahoma Statutes as Section 2-1005 of Title 63, unless there is created a duplication in numbering, reads as follows:

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

1. The gravity of the violation, including the probability that death or serious physical or emotional harm to a patient has resulted, or could have resulted, from the pain-management clinic's actions or the actions of the physician, the severity of the action

1 or potential harm and the extent to which the provisions of the  
2 applicable laws or rules were violated;

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

5 3. Whether there were any previous violations at the pain-  
6 management clinic; and

7 4. The financial benefits that the pain-management clinic  
8 derived from committing or continuing to commit the violation.

9 B. Each day a violation continues after the date fixed for  
10 termination of the violation as ordered by the Board of Medical  
11 Licensure and Supervision constitutes an additional, separate and  
12 distinct violation.

13 C. The Board of Medical Licensure and Supervision may impose a  
14 fine and, in the case of an owner-operated pain-management clinic,  
15 revoke or deny a pain-management clinic's registration, if the  
16 clinic's designated physician knowingly and intentionally  
17 misrepresents actions taken to correct a violation.

18 D. An owner or designated physician of a pain-management clinic  
19 who concurrently operates an unregistered pain-management clinic is  
20 subject to an administrative fine of Five Thousand Dollars  
21 (\$5,000.00) per day.

22 E. If the owner of a pain-management clinic that requires  
23 registration fails to apply to register the clinic upon a change of  
24



1 ownership and operates the clinic under the new ownership, the owner  
2 is subject to a fine of Five Thousand Dollars (\$5,000.00).

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

4 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES  
5 February 26, 2018 - DO PASS AS AMENDED  
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