

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 1007

By: West (Rick)

4
5
6 AS INTRODUCED

7 An Act relating to controlled dangerous substances;
8 defining terms; requiring pain management clinics to
9 register with State Board of Medical Licensure and
10 Supervision; providing exemptions; stipulating
11 registration procedures; requiring clinics to
12 designate physician; providing for the denial,
13 revocation, or suspension of registration under
14 certain circumstances; defining term; requiring
15 facility operations to cease when registration is
16 revoked or suspended; requiring removal of signage;
17 prohibiting person from applying to operate pain
18 management clinic for certain period of time after
19 revocation; limiting period of suspension; requiring
20 new registration application if clinic changes
21 ownership; prohibiting physicians from practicing
22 medicine in unregistered pain management clinics;
23 providing for disciplinary action for violations;
24 limiting who may prescribe controlled dangerous
substances at registered pain management clinics;
prohibiting the dispensation of controlled dangerous
substances at pain management clinics; specifying
physician responsibilities; providing facility and
physical operations requirements; stipulating certain
infection control requirements; providing safety
requirements for buildings, grounds, and equipment of
clinics; providing certain quality assurance
requirements; stipulating certain data collection and
reporting requirements; providing for the
accessibility of certain data and reports; providing
penalties; directing promulgation of rules; providing
for codification; and providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-1111 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in this act:

5 1. "Board eligible" means successful completion of an
6 anesthesiology, physical medicine and rehabilitation, rheumatology,
7 or neurology residency program approved by the Accreditation Council
8 for Graduate Medical Education or the American Osteopathic
9 Association;

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

14 3. "Pain management clinic" or "clinic" means any publicly or
15 privately owned facility:

16 a. that advertises in any medium for any type of pain
17 management services, and

18 b. where in any month a majority of patients are
19 prescribed opioids, benzodiazepines, barbiturates, or
20 carisoprodol for the treatment of chronic nonmalignant
21 pain.

22 SECTION 2. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 2-1112 of Title 63, unless there
24 is created a duplication in numbering, reads as follows:

1 A. Each pain management clinic shall register with the State
2 Board of Medical Licensure and Supervision unless:

3 1. The majority of the physicians who provide services in the
4 clinic primarily provide surgical services;

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

8 3. The clinic does not prescribe controlled dangerous
9 substances for the treatment of pain;

10 4. The clinic is wholly owned and operated by one or more
11 board-eligible or board-certified anesthesiologists, physiatrists,
12 rheumatologists, or neurologists; or

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

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1 B. Each clinic location shall be registered separately
2 regardless of whether the clinic is operated under the same business
3 name or management as another clinic.

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

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

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

23 2. Whose application for a license to prescribe, dispense, or
24 administer a controlled dangerous substance has been denied for

1 disciplinary action by the appropriate medical regulatory board of
2 the physician; or

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

9 E. If the State Board of Medical Licensure and Supervision
10 finds that a pain management clinic is owned, directly or
11 indirectly, by a person meeting any criteria listed in subsection D
12 of this section, the State Board of Medical Licensure and
13 Supervision shall revoke the certificate of registration previously
14 issued by the State Board of Medical Licensure and Supervision. As
15 determined by rule, the State Board of Medical Licensure and
16 Supervision may grant an exemption to denying a registration or
17 revoking a previously issued registration if more than five (5)
18 years have elapsed since adjudication. As used in this section, the
19 term "convicted" includes an adjudication of guilt following a plea
20 of guilty or nolo contendere or the forfeiture of a bond when
21 charged with a crime.

22 F. If the registration of a pain management clinic is revoked
23 or suspended, the designated physician of the pain management
24 clinic, the owner or lessor of the pain management clinic property,

1 the manager, and the proprietor shall cease to operate the facility
2 as a pain management clinic as of the effective date of the
3 suspension or revocation.

4 G. If a pain management clinic registration is revoked or
5 suspended, the designated physician of the pain management clinic,
6 the owner or lessor of the clinic property, the manager, or the
7 proprietor shall be responsible for removing all signs and symbols
8 identifying the premises as a pain management clinic.

9 H. If the clinic's registration is revoked, any person named in
10 the registration documents of the pain management clinic, including
11 persons owning or operating the pain management clinic, shall not,
12 as an individual or as a part of a group, apply to operate a pain
13 management clinic for one (1) year after the date the registration
14 is revoked.

15 I. The period of suspension for the registration of a pain
16 management clinic shall be prescribed by the State Board of Medical
17 Licensure and Supervision but shall not exceed one (1) year.

18 J. A change of ownership of a registered pain management clinic
19 requires submission of a new registration application.

20 SECTION 3. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2-1113 of Title 63, unless there
22 is created a duplication in numbering, reads as follows:

23 A. A physician shall not practice medicine in a pain management
24 clinic if the clinic is not registered with the State Board of

1 Medical Licensure and Supervision as required by this act. Any
2 physician who qualifies to practice medicine in a pain management
3 clinic pursuant to rules adopted by the appropriate medical
4 regulatory board of the physician may continue to practice medicine
5 in a pain management clinic as long as the physician continues to
6 meet the qualifications prescribed in the rules. A physician who
7 violates this subsection is subject to disciplinary action by the
8 appropriate medical regulatory board of the physician.

9 B. Only a physician licensed pursuant to Section 480 et seq. or
10 Section 620 et seq. of Title 59 of the Oklahoma Statutes may
11 prescribe a controlled dangerous substance on the premises of a
12 registered pain management clinic. No person shall dispense any
13 controlled dangerous substance on the premises of a pain management
14 clinic.

15 C. A physician, a physician assistant, or an Advanced Practice
16 Registered Nurse shall perform a physical examination of a patient
17 on the same day that the physician prescribes a controlled dangerous
18 substance to a patient on the premises of a pain management clinic.

19 D. A physician authorized to prescribe controlled dangerous
20 substances who practices at a pain management clinic is responsible
21 for maintaining the control and security of his or her prescription
22 blanks and any other method used for prescribing a controlled
23 dangerous substance. The physician shall notify, in writing, the
24 State Board of Medical Licensure and Supervision within twenty-four

1 (24) hours following any theft or loss of a prescription blank or
2 breach of any other method for prescribing controlled dangerous
3 substances.

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

13 F. Each physician practicing at a pain management clinic is
14 responsible for ensuring compliance with the facility and physical
15 operations requirements. A pain management clinic shall:

- 16 1. Be located and operated at a publicly accessible fixed
17 location;
- 18 2. Display a sign that can be viewed by the public that
19 contains the clinic name, hours of operation, and a street address;
- 20 3. Have a publicly listed telephone number and a dedicated
21 phone number to send and receive facsimiles;
- 22 4. Have a reception and waiting area;
- 23 5. Provide a restroom;
- 24 6. Have private patient examination rooms;

1 7. Have treatment rooms, if treatment is being provided to the
2 patients; and

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

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

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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 at a pain management clinic is
11 responsible for ensuring that the clinic, including its grounds,
12 buildings, furniture, appliances, and equipment, is structurally
13 sound, in good repair, clean, and free from health and safety
14 hazards.

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

17 1. Each pain management clinic shall have an ongoing quality
18 assurance program that objectively and systematically:

- 19 a. monitors and evaluates the quality and appropriateness
20 of patient care,
- 21 b. evaluates methods to improve patient care,
- 22 c. identifies and corrects deficiencies within the
23 facility,

- d. alerts the designated physician to identify and resolve recurring problems, and
- e. provides opportunities to improve the facility's performance and to enhance and improve the quality of care provided to the public; and

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

- a. the identification, investigation, and analysis of the frequency and causes of adverse incidents to patients,
- b. the identification of trends or patterns of incidents,
- c. the development of measures to correct, reduce, minimize, or eliminate the risk of adverse incidents to patients, and
- d. the documentation of these functions and periodic review of such information by the designated physician on a quarterly basis.

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

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

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

- 4 a. the number of new and repeat patients seen and treated
5 at the clinic who are prescribed controlled dangerous
6 substance medications for the treatment of chronic
7 nonmalignant pain,
- 8 b. the number of patients discharged due to drug abuse,
- 9 c. the number of patients discharged due to drug
10 diversion, and
- 11 d. the number of patients treated at the clinic whose
12 domicile is located somewhere other than in this
13 state. As used in this subparagraph, a patient's
14 domicile is the patient's fixed or permanent home to
15 which he or she intends to return even though he or
16 she may temporarily reside elsewhere.

17 K. The data and reports specified in subsection J of this
18 section shall be accessible to the Oklahoma State Bureau of
19 Narcotics and Dangerous Drugs Control.

20 SECTION 4. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2-1114 of Title 63, unless there
22 is created a duplication in numbering, reads as follows:

23 A. The State Board of Medical Licensure and Supervision may
24 impose an administrative fine on a pain management clinic of up to

1 Five Thousand Dollars (\$5,000.00) per violation for violating the
2 requirements of this act or the rules of the State Board of Medical
3 Licensure and Supervision. In determining whether a penalty is to
4 be imposed, and in fixing the amount of the fine, the State Board of
5 Medical Licensure and Supervision shall consider the following
6 factors:

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

13 2. What actions, if any, the owner or designated physician took
14 to correct the violation;

15 3. Whether there were any previous violations at the pain
16 management clinic; and

17 4. The financial benefits that the pain management clinic
18 derived from committing or continuing to commit the violation.

19 B. Each day a violation continues after the date fixed for
20 termination of the violation as ordered by the State Board of
21 Medical Licensure and Supervision constitutes an additional,
22 separate, and distinct violation.

23 C. The State Board of Medical Licensure and Supervision may
24 impose a fine and, in the case of an owner-operated pain management

1 clinic, revoke or deny a pain management clinic's certificate of
2 registration if the clinic's designated physician knowingly and
3 intentionally misrepresents actions taken to correct a violation.

4 D. An owner or designated physician of a pain management clinic
5 who concurrently operates an unregistered pain management clinic is
6 subject to an administrative fine of Five Thousand Dollars
7 (\$5,000.00) per day.

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

12 SECTION 5. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 2-1115 of Title 63, unless there
14 is created a duplication in numbering, reads as follows:

15 All affected agencies and boards shall promulgate such rules as
16 are necessary to implement the provisions of this act.

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SECTION 6. This act shall become effective November 1, 2023.

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