

By: Williams, et al.

S.B. No. 911

A BILL TO BE ENTITLED

AN ACT

relating to the certification and regulation of pain management clinics.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 3, Occupations Code, is amended by adding Chapter 167 to read as follows:

CHAPTER 167. REGULATION OF PAIN MANAGEMENT CLINICS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 167.001. DEFINITION. In this chapter, "pain management clinic" means a publicly or privately owned facility for which a majority of patients are issued on a monthly basis a prescription for opioids, benzodiazepines, barbiturates, or carisoprodol, but not including suboxone.

Sec. 167.002. EXEMPTIONS. This chapter does not apply to:

(1) a medical or dental school or an outpatient clinic associated with a medical or dental school;

(2) a hospital, including any outpatient facility or clinic of a hospital;

(3) a hospice established under 40 T.A.C. Section 97.403 or defined by 42 C.F.R. Section 418.3;

(4) a facility maintained or operated by this state;

(5) a clinic maintained or operated by the United States;

(6) a health organization certified by the board under

1 Section 162.001; or

2 (7) a clinic owned or operated by a physician who
3 treats patients within the physician's area of specialty and who
4 uses other forms of treatment, including surgery, with the issuance
5 of a prescription for a majority of the patients.

6 [Sections 167.003-167.050 reserved for expansion]

7 SUBCHAPTER B. POWERS AND DUTIES OF BOARD

8 Sec. 167.051. ADOPTION OF RULES. The board shall adopt
9 rules necessary to implement this chapter, including rules to
10 address, for a pain management clinic:

11 (1) the operation of the clinic;

12 (2) personnel requirements for the clinic, including
13 requirements for a physician who practices at a clinic;

14 (3) standards to ensure quality of patient care;

15 (4) certificate application and renewal procedures
16 and requirements;

17 (5) inspections and complaint investigations; and

18 (6) patient billing procedures.

19 Sec. 167.052. INSPECTIONS. The board may inspect a pain
20 management clinic, including the documents of a physician
21 practicing at the clinic, as necessary to ensure compliance with
22 this chapter.

23 Sec. 167.053. COMPLAINTS. The board shall investigate a
24 complaint alleging a violation of this chapter or a rule adopted
25 under this chapter by a pain management clinic certified under this
26 chapter or a physician who owns or operates a clinic in the same
27 manner as other complaints under this subtitle.

1 [Sections 167.054-167.100 reserved for expansion]

2 SUBCHAPTER C. CERTIFICATION OF CLINIC

3 Sec. 167.101. CERTIFICATE REQUIRED. (a) A pain management
4 clinic may not operate in this state unless the clinic is certified
5 under this chapter.

6 (b) A certificate issued under this chapter is not
7 transferable or assignable.

8 Sec. 167.102. CERTIFICATE APPLICATION AND ISSUANCE. (a) A
9 physician who owns or operates a pain management clinic shall apply
10 for a certificate for the clinic under this chapter. A pain
11 management clinic must be owned and operated by a medical director
12 who is a physician who practices in this state under an unrestricted
13 license.

14 (b) An applicant for a certificate under this chapter must
15 submit an application to the board on a form prescribed by the
16 board.

17 (c) The board shall issue a certificate if the board finds
18 that the pain management clinic meets the requirements of this
19 chapter and the standards adopted by the board under this chapter.

20 [Sections 167.103-167.150 reserved for expansion]

21 SUBCHAPTER D. CERTIFICATE RENEWAL

22 Sec. 167.151. EXPIRATION OF CERTIFICATE. (a) A
23 certificate issued under this chapter expires on the second
24 anniversary of the date it is issued.

25 (b) The board shall grant a 180-day grace period from the
26 expiration date of a certificate to renew the certificate.

27 (c) The owner or operator of a pain management clinic for

1 which a certificate has expired may not continue to operate the
2 clinic until the clinic's certificate is renewed.

3 Sec. 167.152. REQUIREMENTS FOR RENEWAL. (a) The owner or
4 operator of a pain management clinic may apply to renew a
5 certificate issued to the clinic under this chapter by:

6 (1) submitting a renewal application to the board on
7 the form prescribed by the board before the expiration of the grace
8 period under Section 167.151; and

9 (2) complying with any other requirements adopted by
10 board rule.

11 (b) If a certificate is not renewed before the expiration of
12 the grace period under Section 167.151, the pain management clinic
13 must reapply for an original certificate to operate the clinic.

14 [Sections 167.153-167.200 reserved for expansion]

15 SUBCHAPTER E. REGULATION OF CLINICS; ENFORCEMENT

16 Sec. 167.201. REGULATION OF PERSON AFFILIATED WITH CLINIC.

17 (a) The owner or operator of a pain management clinic, an employee
18 of the clinic, or a person with whom a clinic contracts for services
19 may not:

20 (1) have been denied, by any jurisdiction, a license
21 under which the person may prescribe, dispense, administer, supply,
22 or sell a controlled substance;

23 (2) have held a license issued by any jurisdiction,
24 under which the person may prescribe, dispense, administer, supply,
25 or sell a controlled substance, that has been restricted; or

26 (3) have been subject to disciplinary action by any
27 licensing entity for conduct that was a result of inappropriately

1 prescribing, dispensing, administering, supplying, or selling a
2 controlled substance.

3 (b) A pain management clinic may not be owned wholly or
4 partly by a person who has been convicted of or pled nolo contendere
5 to, or received deferred adjudication for:

6 (1) an offense that constitutes a felony; or

7 (2) an offense that constitutes a misdemeanor, the
8 facts of which relate to the distribution of illegal prescription
9 drugs or a controlled substance as defined by Section 551.003(11).

10 (c) The owner or operator of a pain management clinic shall:

11 (1) be on-site at the clinic at least 33 percent of the
12 clinic's total number of operating hours; and

13 (2) review at least 33 percent of the total number of
14 patient files of the clinic, including the patient files of a clinic
15 employee or contractor to whom authority for patient care has been
16 delegated by the clinic.

17 Sec. 167.202. DISCIPLINARY ACTION. (a) A violation of
18 this chapter or a rule adopted under this chapter is grounds for
19 disciplinary action against a pain management clinic certified
20 under this chapter or an owner or operator of a clinic certified
21 under this chapter.

22 (b) A violation of this chapter may be enforced in the same
23 manner as any other violation of this subtitle.

24 SECTION 2. (a) Not later than March 1, 2010, the Texas
25 Medical Board shall adopt the rules required by Chapter 167,
26 Occupations Code, as added by this Act.

27 (b) Notwithstanding Section 167.101, Occupations Code, as

1 added by this Act, a pain management clinic must obtain a
2 certificate required by that section not later than September 1,
3 2010.

4 SECTION 3. (a) Except as provided by Subsection (b) of
5 this section, this Act takes effect September 1, 2009.

6 (b) Section 167.101, Occupations Code, as added by this Act,
7 takes effect September 1, 2010.