

1 STATE OF OKLAHOMA

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

3 SENATE BILL 336

By: Garvin

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5
6 AS INTRODUCED

7 An Act relating to controlled dangerous substances;
8 defining terms; requiring pain management clinics to
9 register with the Oklahoma State Bureau of Narcotics
10 and Dangerous Drugs Control; providing exemptions;
11 stipulating registration procedures; requiring
12 clinics to designate owner or administrator
13 responsible for certain compliance; directing denial
14 of registration for specified reasons; limiting
15 period of suspension; requiring new registration
16 application if clinic changes ownership; specifying
17 responsibilities of licensed prescriber and
18 designated administrator; providing facility and
19 physical operations requirements; stipulating certain
20 infection control requirements; providing certain
21 quality assurance requirements; stipulating certain
22 data collection and reporting requirements; requiring
23 establishment of certain written policy; directing
24 certain investigation by Bureau; providing penalties;
25 directing promulgation of rules; providing for
26 codification; and providing an effective date.

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

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

23 As used in this act:
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1 1. "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;

5 2. "Licensed prescriber" means a prescriber as defined in
6 Section 353.1 of Title 59 of the Oklahoma Statutes other than a
7 veterinarian, who has the authority to prescribe any controlled
8 dangerous substance under Section 2-312 of Title 63 of the Oklahoma
9 Statutes; and

10 3. "Pain management clinic" or "clinic" means any publicly or
11 privately owned facility:

- 12 a. that engages in significant paid advertising in any
13 medium for any type of pain management services, and
14 b. where in any month over sixty percent (60%) of
15 patients who are not being seen for hospice or
16 palliative care are prescribed opioids,
17 benzodiazepines, barbiturates, or carisoprodol for the
18 treatment of chronic nonmalignant pain.

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

22 A. Each pain management clinic shall register with the Oklahoma
23 State Bureau of Narcotics and Dangerous Drugs Control unless:
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1 1. The clinic is affiliated with an accredited medical school
2 at which training is provided for medical students, residents, or
3 fellows;

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

6 3. The clinic primarily treats hospice or palliative care
7 patients; or

8 4. A majority of the patients treated by the clinic are treated
9 for acute pain.

10 B. Each clinic location shall be registered separately
11 regardless of whether the clinic is operated under the same business
12 name or management as another clinic and each clinic location shall
13 be a permanent, fixed, physical address of operation.

14 C. As a part of registration, a clinic shall designate an owner
15 or administrator who is responsible for ensuring compliance with all
16 requirements related to registration and operation of the clinic
17 under this act. Within ten (10) calendar days after termination of
18 a designated administrator, the clinic shall notify the Bureau of
19 the identity of another designated administrator for that clinic.
20 Failing to have a designated administrator at the location of the
21 registered clinic may be the basis for a summary suspension of the
22 clinic registration certificate as described in this section.

1 D. The Bureau shall deny registration to any pain management
2 clinic owned by or with any contractual or employment relationship
3 with a licensed prescriber:

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

6 2. Whose application for a license to prescribe, dispense, or
7 administer a controlled substance has been denied for disciplinary
8 action by the appropriate licensing board; or

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

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

1 F. If the registration of a pain management clinic is revoked
2 or suspended, the designated administrator of the pain management
3 clinic, the owner or lessor of the pain management clinic property,
4 the manager, and the proprietor shall cease to operate the facility
5 as a pain management clinic as of the effective date of the
6 suspension or revocation.

7 G. If a pain management clinic registration is revoked or
8 suspended, the designated administrator of the pain management
9 clinic, the owner or lessor of the clinic property, the manager, or
10 the proprietor is responsible for removing all signs and symbols
11 identifying the premises as a pain management clinic.

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

18 I. The period of suspension for the registration of a pain
19 management clinic shall be prescribed by the Bureau but shall not
20 exceed one (1) year.

21 J. A change of ownership of a registered pain management clinic
22 shall require submission of a new registration application.
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1 SECTION 3. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 2-1113 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. A licensed prescriber shall not be employed or contracted by
5 or otherwise practice in a pain management clinic if the clinic is
6 not licensed by the Oklahoma State Bureau of Narcotics and Dangerous
7 Drugs Control under this act and registered with the Bureau under
8 Section 2-301 et seq. of Title 63 of the Oklahoma Statutes. A
9 licensed prescriber who qualifies to practice in a pain management
10 clinic pursuant to rules adopted by the appropriate licensing board
11 may continue to practice in a pain management clinic as long as the
12 licensed prescriber continues to meet the qualifications prescribed
13 in the rules. A licensed prescriber who violates this subsection is
14 subject to disciplinary action by the appropriate licensing board.

15 B. Only a licensed prescriber licensed in this state and
16 authorized to prescribe controlled dangerous substances under
17 Section 2-312 of Title 63 of the Oklahoma Statutes may prescribe a
18 controlled dangerous substance on the premises of a registered pain
19 management clinic and only to the extent allowed by Section 2-312 of
20 Title 63 of the Oklahoma Statutes. No person shall dispense any
21 controlled dangerous substance on the premises of a pain management
22 clinic. The provisions of this subsection shall not be construed to
23 expand or otherwise modify the prescriptive authority of any
24 licensed prescriber.

1 C. A licensed prescriber shall perform a physical examination
2 of a patient on the same day that the licensed prescriber prescribes
3 a controlled substance to a patient at a pain management clinic.

4 D. A licensed prescriber authorized to prescribe controlled
5 dangerous substances who practices at a pain management clinic is
6 responsible for maintaining the control and security of his or her
7 prescription blanks and any other method used for prescribing
8 controlled dangerous substance pain medication. The licensed
9 prescriber shall notify, in writing, the Bureau within twenty-four
10 (24) hours following any theft or loss of a prescription blank or
11 breach of any other method for prescribing pain medication. The
12 provisions of this subsection shall not be construed to exempt a
13 licensed prescriber from any electronic prescription requirements
14 stipulated in Section 2-309 of Title 63 of the Oklahoma Statutes.

15 E. The designated administrator of a pain management clinic
16 shall notify the Bureau in writing of the date of termination of
17 employment within ten (10) calendar days after terminating his or
18 her employment with a pain management clinic that is required to be
19 registered pursuant to this act.

20 F. The owners of a pain management clinic are jointly
21 responsible for ensuring compliance with the following facility and
22 physical operations requirements:

23 1. A pain management clinic shall be located and operated at a
24 publicly accessible fixed location and shall:

- a. display a sign that can be viewed by the public that contains the clinic name, hours of operation, and a street address,
- b. have a publicly listed telephone number and a dedicated phone number to send and receive facsimiles,
- c. have a reception and waiting area,
- d. provide a restroom,
- e. have private patient examination rooms,
- f. have treatment rooms, if treatment is being provided to the patients, and
- g. 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 administrator and the names of all licensed prescribers practicing in the clinic; and

2. This section does not excuse a licensed prescriber 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 owner or designated administrator of a pain management clinic is responsible for ensuring compliance with infection

1 prevention and control requirements stipulated by the Occupational
2 Safety and Health Administration.

3 H. The designated administrator shall establish a quality
4 assurance program that includes the identification, investigation,
5 and analysis of the frequency and causes of adverse incidents to
6 patients. The designated administrator is responsible for ensuring
7 compliance with the quality assurance requirements.

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

11 1. The designated administrator for each pain management clinic
12 shall report all significant adverse incidents to the Bureau; and

13 2. The designated administrator shall also report to the
14 Bureau, in writing, on a quarterly basis the following data:

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

19 b. the number of patients diagnosed with substance use
20 disorder,

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

23 d. the number of patients treated at the clinic whose
24 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 J. The data and reports specified in subsection I of this
6 section shall be accessible to each appropriate licensing board.

7 K. Each pain management clinic shall establish a written policy
8 and administrative process for transferring care of patients
9 diagnosed with a substance use disorder where appropriate for their
10 continued treatment. Each appropriate licensing board shall issue
11 guidance on best practices to ensure appropriate referral and
12 treatment of patients with a substance use disorder.

13 L. Upon referral by the appropriate licensing board, the Bureau
14 shall investigate suspected instances of drug diversion involving a
15 pain management clinic. Nothing in this act shall be construed to
16 restrict the appropriate licensing board from conducting its own
17 investigation into instances of suspected drug diversion.

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

21 A. The Oklahoma State Bureau of Narcotics and Dangerous Drugs
22 Control may impose an administrative fine on a clinic of up to One
23 Thousand Dollars (\$1,000.00) per violation for violating the
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1 requirements of this act or the rules promulgated by the Bureau to
2 enforce this act.

3 B. Each day a violation continues after the date fixed for
4 termination of the violation as ordered by the Bureau constitutes an
5 additional, separate, and distinct violation.

6 C. The Bureau may impose a fine and, in the case of an owner-
7 operated pain management clinic, revoke or deny a pain management
8 clinic's registration if the clinic's owner or designated
9 administrator knowingly and intentionally misrepresents actions
10 taken to correct a violation.

11 D. An owner or designated administrator of a pain management
12 clinic who concurrently operates an unregistered pain management
13 clinic is subject to an administrative fine of One Thousand Dollars
14 (\$1,000.00) per day.

15 E. If the owner of a pain management clinic that requires
16 registration fails to apply to register the clinic upon a change of
17 ownership and operates the clinic under the new ownership, the owner
18 is subject to a fine of One Thousand Dollars (\$1,000.00).

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

22 The Oklahoma State Bureau of Narcotics and Dangerous Drugs
23 Control and all appropriate licensing boards shall promulgate such
24 rules as are necessary to implement the provisions of this act.

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

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