

1-1 By: Williams S.B. No. 911
1-2 (In the Senate - Filed February 17, 2009; March 9, 2009,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; April 14, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 April 14, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 911 By: Deuell

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the certification and regulation of pain management
1-11 clinics.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subtitle B, Title 3, Occupations Code, is
1-14 amended by adding Chapter 167 to read as follows:

1-15 CHAPTER 167. REGULATION OF PAIN MANAGEMENT CLINICS

1-16 SUBCHAPTER A. GENERAL PROVISIONS

1-17 Sec. 167.001. DEFINITION. In this chapter, "pain
1-18 management clinic" means a publicly or privately owned facility for
1-19 which a majority of patients are issued on a monthly basis a
1-20 prescription for opioids, benzodiazepines, barbiturates, or
1-21 carisoprodol, but not including suboxone.

1-22 Sec. 167.002. EXEMPTIONS. This chapter does not apply to:

1-23 (1) a medical or dental school or an outpatient clinic
1-24 associated with a medical or dental school;

1-25 (2) a hospital, including any outpatient facility or
1-26 clinic of a hospital;

1-27 (3) a hospice established under 40 T.A.C. Section
1-28 97.403 or defined by 42 C.F.R. Section 418.3;

1-29 (4) a facility maintained or operated by this state;

1-30 (5) a clinic maintained or operated by the United
1-31 States;

1-32 (6) a health organization certified by the board under
1-33 Section 162.001; or

1-34 (7) a clinic owned or operated by a physician who
1-35 treats patients within the physician's area of specialty and who
1-36 uses other forms of treatment, including surgery, with the issuance
1-37 of a prescription for a majority of the patients.

1-38 [Sections 167.003-167.050 reserved for expansion]

1-39 SUBCHAPTER B. POWERS AND DUTIES OF BOARD

1-40 Sec. 167.051. ADOPTION OF RULES. The board shall adopt
1-41 rules necessary to implement this chapter, including rules to
1-42 address, for a pain management clinic:

1-43 (1) the operation of the clinic;

1-44 (2) personnel requirements for the clinic, including
1-45 requirements for a physician who practices at a clinic;

1-46 (3) standards to ensure quality of patient care;

1-47 (4) certificate application and renewal procedures
1-48 and requirements;

1-49 (5) inspections and complaint investigations; and

1-50 (6) patient billing procedures.

1-51 Sec. 167.052. INSPECTIONS. The board may inspect a pain
1-52 management clinic, including the documents of a physician
1-53 practicing at the clinic, as necessary to ensure compliance with
1-54 this chapter.

1-55 Sec. 167.053. COMPLAINTS. The board shall investigate a
1-56 complaint alleging a violation of this chapter or a rule adopted
1-57 under this chapter by a pain management clinic certified under this
1-58 chapter or a physician who owns or operates a clinic in the same
1-59 manner as other complaints under this subtitle.

1-60 [Sections 167.054-167.100 reserved for expansion]

1-61 SUBCHAPTER C. CERTIFICATION OF CLINIC

1-62 Sec. 167.101. CERTIFICATE REQUIRED. (a) A pain management
1-63 clinic may not operate in this state unless the clinic is certified

2-1 under this chapter.

2-2 (b) A certificate issued under this chapter is not
2-3 transferable or assignable.

2-4 Sec. 167.102. CERTIFICATE APPLICATION AND ISSUANCE. (a) A
2-5 physician who owns or operates a pain management clinic shall apply
2-6 for a certificate for the clinic under this chapter. A pain
2-7 management clinic must be owned and operated by a medical director
2-8 who is a physician who practices in this state under an unrestricted
2-9 license.

2-10 (b) An applicant for a certificate under this chapter must
2-11 submit an application to the board on a form prescribed by the
2-12 board.

2-13 (c) The board shall issue a certificate if the board finds
2-14 that the pain management clinic meets the requirements of this
2-15 chapter and the standards adopted by the board under this chapter.

2-16 [Sections 167.103-167.150 reserved for expansion]

2-17 SUBCHAPTER D. CERTIFICATE RENEWAL

2-18 Sec. 167.151. EXPIRATION OF CERTIFICATE. (a) A
2-19 certificate issued under this chapter expires on the second
2-20 anniversary of the date it is issued.

2-21 (b) The board shall grant a 180-day grace period from the
2-22 expiration date of a certificate to renew the certificate.

2-23 (c) The owner or operator of a pain management clinic for
2-24 which a certificate has expired may not continue to operate the
2-25 clinic until the clinic's certificate is renewed.

2-26 Sec. 167.152. REQUIREMENTS FOR RENEWAL. (a) The owner or
2-27 operator of a pain management clinic may apply to renew a
2-28 certificate issued to the clinic under this chapter by:

2-29 (1) submitting a renewal application to the board on
2-30 the form prescribed by the board before the expiration of the grace
2-31 period under Section 167.151; and

2-32 (2) complying with any other requirements adopted by
2-33 board rule.

2-34 (b) If a certificate is not renewed before the expiration of
2-35 the grace period under Section 167.151, the pain management clinic
2-36 must reapply for an original certificate to operate the clinic.

2-37 [Sections 167.153-167.200 reserved for expansion]

2-38 SUBCHAPTER E. REGULATION OF CLINICS; ENFORCEMENT

2-39 Sec. 167.201. REGULATION OF PERSON AFFILIATED WITH CLINIC.

2-40 (a) The owner or operator of a pain management clinic, an employee
2-41 of the clinic, or a person with whom a clinic contracts for services
2-42 may not:

2-43 (1) have been denied, by any jurisdiction, a license
2-44 under which the person may prescribe, dispense, administer, supply,
2-45 or sell a controlled substance;

2-46 (2) have held a license issued by any jurisdiction,
2-47 under which the person may prescribe, dispense, administer, supply,
2-48 or sell a controlled substance, that has been restricted; or

2-49 (3) have been subject to disciplinary action by any
2-50 licensing entity for conduct that was a result of inappropriately
2-51 prescribing, dispensing, administering, supplying, or selling a
2-52 controlled substance.

2-53 (b) A pain management clinic may not be owned wholly or
2-54 partly by a person who has been convicted of or pled nolo contendere
2-55 to:

2-56 (1) an offense that constitutes a felony; or

2-57 (2) an offense that constitutes a misdemeanor, the
2-58 facts of which relate to the distribution of illegal prescription
2-59 drugs or a controlled substance as defined by Section 551.003(11).

2-60 (c) The owner or operator of a pain management clinic shall:

2-61 (1) be on-site at the clinic at least 33 percent of the
2-62 clinic's total number of operating hours; and

2-63 (2) review at least 33 percent of the total number of
2-64 patient files of the clinic, including the patient files of a clinic
2-65 employee or contractor to whom authority for patient care has been
2-66 delegated by the clinic.

2-67 Sec. 167.202. DISCIPLINARY ACTION. (a) A violation of
2-68 this chapter or a rule adopted under this chapter is grounds for
2-69 disciplinary action against a pain management clinic certified

3-1 under this chapter or an owner or operator of a clinic certified
3-2 under this chapter.

3-3 (b) A violation of this chapter may be enforced in the same
3-4 manner as any other violation of this subtitle.

3-5 SECTION 2. (a) Not later than March 1, 2010, the Texas
3-6 Medical Board shall adopt the rules required by Chapter 167,
3-7 Occupations Code, as added by this Act.

3-8 (b) Notwithstanding Section 167.101, Occupations Code, as
3-9 added by this Act, a pain management clinic must obtain a
3-10 certificate required by that section not later than September 1,
3-11 2010.

3-12 SECTION 3. (a) Except as provided by Subsection (b) of
3-13 this section, this Act takes effect September 1, 2009.

3-14 (b) Section 167.101, Occupations Code, as added by this Act,
3-15 takes effect September 1, 2010.

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