

1 HB151  
2 149923-4  
3 By Representative Weaver  
4 RFD: Health  
5 First Read: 06-FEB-13

1 ENGROSSED

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3  
4 A BILL  
5 TO BE ENTITLED  
6 AN ACT  
7

8 To add a new Article 11 consisting of Sections  
9 34-24-1001, 34-24-1002, 34-24-1003, 34-24-1004, 34-24-1005,  
10 34-24-1006, 34-24-1007, 34-24-1008, 34-24-1009, and 34-24-1010  
11 to Chapter 24 of Title 34 of the Code of Alabama 1975,  
12 relating to doctors of medicine, osteopathic physicians and  
13 all physician certificate holders and licensees of the Alabama  
14 Board of Medical Examiners and the Medical Licensure  
15 Commission of Alabama so as to provide for additional powers  
16 of the board relating to pain management; to provide for the  
17 Alabama Pain Management Act; to safeguard the public health,  
18 safety, and welfare by requiring the registration and  
19 regulation of physicians providing pain management services;  
20 to provide for the renewal of pain management registrations;  
21 to provide for the requirements in order to become registered  
22 under this act; to provide for registration fees; to provide  
23 for conducting investigations and inspections; to provide for  
24 contracting to assist in the prevention of abuse, misuse, and  
25 conversion; to provide for the ability to administer oaths and  
26 issue subpoenas; to provide for the adoption of rules and  
27 regulations to implement this article; to provide the

1 requirements for holding a registration; to provide for the  
2 establishment of a medical director and the duties associated  
3 with being a medical director; to provide for disciplinary  
4 actions, sanctions, and punishments for the violation of the  
5 act, including civil monetary penalties; to provide the board  
6 with the authority to suspend the registration of a physician  
7 when he or she poses an immediate danger to public health,  
8 safety, or welfare; jurisdiction to carry out the intent of  
9 this act; and to provide for related matters and for other  
10 purposes.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. A new Article 11 is added to Chapter 24  
13 of Title 34 of the Code of Alabama 1975, consisting of  
14 Sections 34-24-1001, 34-24-1002, 34-24-1003, 34-24-1004,  
15 34-24-1005, 34-24-1006, 34-24-1007, 34-24-1008, 34-24-1009,  
16 and 34-24-1010 to read as follows:

17 Article 11. Alabama Pain Management Act.

18 §34-24-1001. Short title.

19 This article shall be known as and may be cited as  
20 the Alabama Pain Management Act.

21 §34-24-1002. Legislative findings.

22 The Legislature finds that the diversion, abuse, and  
23 misuse of prescription medications classified as controlled  
24 substances under the Alabama Uniform Controlled Substances Act  
25 constitute a serious threat to the health, safety, and welfare  
26 of the citizens of the State of Alabama. The Legislature  
27 further finds that the registration of all physicians

1 providing pain management services, as defined in this  
2 article, will assist the Alabama Board of Medical Examiners in  
3 preventing the diversion, abuse, and misuse of controlled  
4 substances by regulating these registrants. The Legislature  
5 further finds that it is in the best interests of the public  
6 safety to give the Board of Medical Examiners the authority it  
7 needs to suspend the registration of these physicians  
8 providing pain management services when the public health,  
9 safety, or welfare requires immediate action.

10 §34-24-1003.

11 (a) Authority. The Alabama Board of Medical  
12 Examiners shall have the jurisdiction and authority necessary  
13 to carry out the provisions and intent of this article.

14 (b) Intent. The article is intended to require  
15 physicians to register under the provisions of this article,  
16 and to provide the Alabama Board of Medical Examiners the  
17 following powers and duties with respect to all registrants of  
18 the Board of Medical Examiners, in addition to its existing  
19 authority as a certifying board pursuant to the Alabama  
20 Uniform Controlled Substances Act:

21 (1) To adopt, amend, and repeal such rules and  
22 regulations in accordance with the Alabama Pain Management Act  
23 for the proper administration and enforcement of this article.

24 (2) To establish rules regarding the registration of  
25 all physicians providing pain management services.

26 (3) To set reasonable registration and renewal fees.

1           (4) To renew registrations and set renewal and  
2 expiration dates and other deadlines.

3           (5) To initiate investigations for the purposes of  
4 discovering violations of this article.

5           (6) To administer oaths, subpoena witnesses and  
6 documents, including medical records, and take testimony in  
7 all matters relating to the board's duties.

8           (7) To conduct investigative interviews.

9           (8) To regulate physicians providing pain management  
10 services.

11           (9) To revoke, suspend, reprimand, place on  
12 probation, issue terms and conditions, limit practice, fine,  
13 require additional training, or otherwise sanction physicians  
14 providing pain management services.

15           (10) To immediately suspend registrations from  
16 physicians providing pain management services when they pose  
17 an immediate danger to the public health.

18           (c) In order to prevent abuse, misuse, and  
19 conversion of controlled substances, and further administer  
20 this article, the board may contract with the Alabama  
21 Physician Wellness Committee, or any other nonprofit  
22 professional organization or nonprofit society that in its  
23 discretion it deems appropriate.

24           §34-24-1004. Definitions.

25           (a) Unless otherwise indicated from the context, the  
26 terms set out below, as used in this article shall have the  
27 following meanings:

1 (1) APPLICANT. A person who has submitted or that is  
2 in the process of submitting a registration under this  
3 article.

4 (2) BOARD. The Alabama Board of Medical Examiners.

5 (3) CONTROLLED SUBSTANCE. A drug, substance, or  
6 immediate precursor identified, defined, or listed in Sections  
7 20-2-20 to 20-2-32, inclusive.

8 (4) HOSPITAL. A health care institution licensed by  
9 the Alabama Department of Public Health and has the same  
10 definition as provided in Chapter 420-5-7 of the Alabama  
11 Administrative Code. The term shall include any outpatient  
12 facility or clinic that is separated from the hospital that is  
13 owned, operated, or controlled by the hospital.

14 (5) PAIN MANAGEMENT SERVICES. Those medical services  
15 that involve the prescription of controlled substances in  
16 order to treat chronic nonmalignant pain by a physician who  
17 treats pain.

18 (6) PHYSICIAN. A doctor of medicine or an  
19 osteopathic physician.

20 (7) REGISTRANT. Any physician issued a registration  
21 by the board in its capacity as a certifying board pursuant to  
22 this article.

23 §34-24-1005. Annual registration.

24 (a) Beginning January 1, 2014, and continuing each  
25 year thereafter:

1                   (1) All physicians providing pain management  
2 services shall obtain a pain management registration from the  
3 board.

4                   (2) All physicians who otherwise meet the criteria  
5 established by the board shall obtain a pain management  
6 registration from the board.

7                   (b) To register, a physician applicant shall submit  
8 the following to the board:

9                   (1) A completed application on a form prescribed by  
10 the board.

11                   (2) Proof of a current drug enforcement  
12 administration registration.

13                   (3) Proof of an Alabama controlled substances  
14 certificate.

15                   (4) Proof of a current registration with the Alabama  
16 Prescription Drug Monitoring Program (PDMP).

17                   (5) The results of a criminal background check. Each  
18 applicant shall submit a complete set of fingerprints to the  
19 board. The board shall submit the fingerprints provided by  
20 each applicant for registration to provide pain management  
21 services to the Alabama Bureau of Investigation (ABI). The  
22 fingerprints shall be forwarded by the ABI to the Federal  
23 Bureau of Investigation (FBI) for a national criminal history  
24 record check. Costs associated with conducting a criminal  
25 history background check shall be borne by the applicant. The  
26 board shall keep information received pursuant to this section  
27 confidential, except that such information received and relied

1 upon in denying the registration of a physician to provide  
2 pain management services in this state may be disclosed as may  
3 be necessary to support the denial.

4 (6) A list of all registrants who own, co-own,  
5 operate, or provide pain management services in the practice  
6 location.

7 (7) The disclosure of any controlled substances  
8 certificate or registration denial, restriction, or discipline  
9 imposed on the registrant, or any disciplinary act against the  
10 license of the registrant.

11 (8) Payment of the initial registration fee as set  
12 forth in this section and in the rules of the Alabama Board of  
13 Medical Examiners.

14 (9) A certification listing the current name of the  
15 physician who will serve as the medical director.

16 (10) Any other information requested by the board  
17 related to the qualifications to, or the provision of,  
18 providing pain management services.

19 (c) The applicant shall provide the board with a  
20 physical address for each location where he or she provides  
21 pain management services and a list of all physicians who work  
22 at the practice location, including the name of the physician  
23 who will serve as the medical director. For purposes of this  
24 subsection, if a practice location is a hospital, the  
25 physician applicant is not required to provide the names of  
26 physicians at the hospital other than the medical director.

1 (d) Exemptions. The provisions of this article shall  
2 not apply to any of the following:

3 (1) A hospice program licensed by the Alabama  
4 Department of Public Health, or any physicians while  
5 performing work for that program.

6 (2) A facility maintained or operated by the United  
7 States or any of its departments, offices, or agencies, or any  
8 physicians while performing work for that facility.

9 (3) The board shall provide individual, entity, and  
10 any categorical exemptions as, in its discretion, it deems  
11 appropriate.

12 (4) Any physician who is not included in  
13 subdivisions (1) and (2) may petition the board for an  
14 exemption from the requirements of this section for working at  
15 a particular entity. The board shall have the sole discretion  
16 in determining whether the requested exemption shall be  
17 granted or denied.

18 (e) Fees.

19 (1) An initial registration fee is provided in an  
20 amount set by the board in its rules not to exceed three  
21 hundred dollars (\$300).

22 (2) Renewal fee. A renewal fee is provided in an  
23 amount set by the board in its rules not to exceed three  
24 hundred dollars (\$300).

25 (f) Miscellaneous.

1           (1) An applicant practicing in more than one  
2 location shall submit a separate registration fee for each  
3 practice.

4           (2) If an applicant does not complete the initial  
5 application process within 90 days of his or her first  
6 submission to the board, then the application shall be closed,  
7 the application fee shall not be refunded, and the applicant  
8 shall be required to reapply for registration.

9           (3) An application which is submitted to the board  
10 may be withdrawn at any time prior to the granting or denial  
11 of registration; provided, however, that the application fee  
12 shall not be refunded.

13           (g) Renewal.

14           (1) A registration by a physician under this article  
15 shall expire on December 31 of each year.

16           (2) A registrant may renew a current registration  
17 prior to its expiration date by submitting the following to  
18 the board:

19           a. A renewal application form prescribed by the  
20 board.

21           b. The required renewal fee.

22           c. A certification that each location at which the  
23 applicant provides pain management service has a medical  
24 director.

25           d. If the practice location is not a hospital, an  
26 attestation that the practice location is not owned wholly or

1 partly by a person who has been convicted of or pled nolo  
2 contendere to any of the following:

3 1. A felony.

4 2. An offense that constitutes a misdemeanor, the  
5 facts of which relate to the distribution or illegal  
6 prescription of any controlled substance.

7 3. Any applicant who has been convicted of a crime  
8 described in paragraph d. may request an interview before the  
9 board, after which the board, in its discretion, may approve  
10 or deny the registration.

11 e. Any other information requested by the board.

12 §34-24-1006. Ownership and operation.

13 (a) All registrants must provide pain management  
14 services at a location that is owned and operated by one of  
15 the following:

16 (1) One or more physicians licensed to practice  
17 medicine in Alabama.

18 (2) A business entity registered with the Secretary  
19 of State.

20 (3) A governmental entity or body, or political  
21 subdivision, or any combination thereof, including state  
22 universities and schools.

23 (b) In order to be registered, a physician shall  
24 certify that each practice location is under the direction of  
25 a medical director who shall be a physician who possesses a  
26 current, unrestricted license to practice medicine or  
27 ~~osteopathy in Alabama. The registering physician shall certify~~

1 ~~that all physicians employed at the practice location have~~  
2 ~~registered with the Alabama Prescription Drug Monitoring~~  
3 ~~Program (PDMP).~~

4 ~~(c) The registering physician shall certify that all~~  
5 ~~physicians employed at practice locations other than hospitals~~  
6 ~~have registered with the Alabama Prescription Drug Monitoring~~  
7 ~~Program (PDMP).~~

8 osteopathy in Alabama.

9 ~~(d)~~ (c) Every registrant providing pain management  
10 services is required to obtain access to the Alabama  
11 Prescription Drug Monitoring Program (PDMP) maintained by the  
12 Alabama Department of Public Health.

13 §34-24-1007. Training requirements.

14 (a) Each physician serving as the medical director  
15 at a practice location shall meet at least one of the  
16 following requirements:

17 (1) Successful completion of a residency program in  
18 physical medicine and rehabilitation, anesthesiology,  
19 addiction medicine, neurology, neurosurgery, family practice,  
20 preventive medicine, internal medicine, surgery, orthopedics,  
21 or psychiatry approved by the Accreditation Council for  
22 Graduate Medical Education (ACGME) or the American Osteopathic  
23 Association Bureau of Osteopathic Specialists (AOABOS).

24 (2) Board certification in physical medicine and  
25 rehabilitation, anesthesiology, addiction medicine, neurology,  
26 neurosurgery, family practice, preventive medicine, internal  
27 medicine, surgery, orthopedics, or psychiatry approved by the

1 American Board of Medical Specialties (ABMS) or the American  
2 Osteopathic Association Bureau of Osteopathic Specialists  
3 (AOABOS).

4 (3) Specialty certification in pain management, pain  
5 medicine, hospice and palliative medicine, geriatric medicine,  
6 rheumatology, hematology, medical oncology, gynecologic  
7 oncology, infectious disease, pediatric hematology-oncology,  
8 or pediatric rheumatology recognized by the American Board of  
9 Medical Specialties or the American Osteopathic Association  
10 Bureau of Osteopathic Specialists.

11 (4) Board certification by the American Board of  
12 Pain Medicine.

13 (5) Board certification by the American Board of  
14 Interventional Pain Physicians.

15 (6) At least one of the following:

16 a. Completion of 40 in-person, live participatory  
17 AMA PRA Category 1 Credit or AOA Category 1-A credits in the  
18 area of pain management completed within three years of  
19 implementation of this article or prior to serving as a  
20 medical director for the practice location, whichever of them  
21 is most recent.

22 b. Completion of a board approved course of medical  
23 education in the area of prescribing controlled substances  
24 completed within three years of implementation of this article  
25 or prior to serving as medical director for the practice  
26 location, whichever of them is most recent, and completion of  
27 40 in-person, live participatory AMA PRA Category 1 Credit or

1 AOA Category 1-A credits in the area of pain management within  
2 three years of commencement of service as medical director.

3 §34-24-1008. Inspections.

4 (a) Physicians registered under this article shall  
5 make all records, notes, and files of the registrant open to  
6 inspection. In carrying out the intent of this article, the  
7 board shall have all of the power and authority that it  
8 currently possesses in its current capacity under Sections  
9 34-24-363 to 34-24-365, inclusive. However, all of that  
10 authority and power therein may be applied to this article for  
11 purposes of this pain management registration.

12 (b) If the board finds that danger to the public  
13 health, safety, or welfare requires emergency suspension of a  
14 registration and states in writing its reason for that  
15 finding, it may proceed without hearing or upon any  
16 abbreviated hearing that it finds practicable to suspend the  
17 registration under this article. The suspension shall become  
18 effective immediately, unless otherwise stated therein. The  
19 suspension may be effective for a period of not longer than  
20 120 days and shall not be renewable. The board shall not  
21 suspend the same registration for the same or a substantially  
22 similar emergency within one calendar year from its first  
23 suspension unless the board clearly establishes that it could  
24 not reasonably be foreseen during the initial 120-day period  
25 that such emergency would continue or would likely reoccur  
26 during the next nine months. When such summary suspension is  
27 ordered, a formal suspension or revocation proceeding under

1 Section 34-24-361 or Section 20-2-53, shall also be promptly  
2 instituted and acted upon.

3 §34-24-1009. Investigations.

4 (a) The board or its agents, on its own motion or in  
5 response to a written complaint, may investigate known or  
6 suspected violations of this article, and may issue subpoenas.

7 (b) In addition to the powers granted under this  
8 article, the board or its agents are further authorized to  
9 conduct any investigations pursuant to its authority in  
10 Section 34-24-361, including, but not limited to, the  
11 conducting of formal interviews with a physician, the filing  
12 of a written administrative complaint and the request for the  
13 temporary emergency suspension of the license of a physician  
14 by the Medical Licensure Commission of Alabama.

15 §34-24-1010. Disciplinary action and sanctions.

16 (a) A violation of this article or a rule adopted  
17 under this article is grounds for disciplinary action and  
18 sanctions against a registrant as provided in this section.

19 (b) A violation of this article may be enforced in  
20 the same manner as any other violation of Sections 20-2-50 to  
21 20-2-58, inclusive.

22 (c) Any violation of this article or a rule adopted  
23 under this article shall be prosecuted against and in the name  
24 of the registrant or registrants participating in the alleged  
25 violation.

1 (d) In addition to the requirements, sanctions, and  
2 punishment provided by Sections 20-2-50 to 20-2-58, inclusive,  
3 the board may impose the following sanctions:

4 (1) The failure to register shall be punishable by a  
5 fine up to ten thousand dollars (\$10,000) per violation, or  
6 the revocation of the registration, or both.

7 (2) A violation of any other requirements under this  
8 article by a physician, including a medical director, shall be  
9 punishable by a fine up to one thousand dollars (\$1,000) per  
10 violation, or the revocation of the registration, or both.

11 (3) If a practice location has two or more  
12 physicians that violate this article within one year, the  
13 board shall report the violations to the appropriate licensing  
14 agency that regulates the practice location.

15 Section 2. Nothing in this act shall be construed to  
16 limit the ability of the Board of Medical Examiners to  
17 exercise authority existing prior to the passage of this act.

18 Section 3. The provisions of this act are severable.  
19 If any part of this act is declared invalid or  
20 unconstitutional, that declaration shall not affect the part  
21 which remains.

22 Section 4. This act shall become effective  
23 immediately following its passage and approval by the  
24 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Health ..... 06-FEB-13

Read for the second time and placed  
on the calendar with 1 substitute  
and 1 amendment..... 07-MAR-13

Read for the third time and passed  
as amended..... 09-APR-13

Yeas 93, Nays 0, Abstains 1

Jeff Woodard  
Clerk