

1 HB151
2 149923-7
3 By Representative Weaver
4 RFD: Health
5 First Read: 06-FEB-13

1
2 ENROLLED, An Act,

3 To add a new Article 11 consisting of Sections
4 34-24-1001, 34-24-1002, 34-24-1003, 34-24-1004, 34-24-1005,
5 34-24-1006, 34-24-1007, 34-24-1008, 34-24-1009, and 34-24-1010
6 to Chapter 24 of Title 34 of the Code of Alabama 1975,
7 relating to doctors of medicine, osteopathic physicians and
8 all physician certificate holders and licensees of the Alabama
9 Board of Medical Examiners and the Medical Licensure
10 Commission of Alabama so as to provide for additional powers
11 of the board relating to pain management; to provide for the
12 Alabama Pain Management Act; to safeguard the public health,
13 safety, and welfare by requiring the registration and
14 regulation of physicians providing pain management services;
15 to provide for the renewal of pain management registrations;
16 to provide for the requirements in order to become registered
17 under this act; to provide for registration fees; to provide
18 for conducting investigations and inspections; to provide for
19 contracting to assist in the prevention of abuse, misuse, and
20 conversion; to provide for the ability to administer oaths and
21 issue subpoenas; to provide for the adoption of rules and
22 regulations to implement this article; to provide the
23 requirements for holding a registration; to provide for the
24 establishment of a medical director and the duties associated
25 with being a medical director; to provide for disciplinary

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

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

14 Article 11. Alabama Pain Management Act.

15 §34-24-1001. Short title.

16 This article shall be known as and may be cited as
17 the Alabama Pain Management Act.

18 §34-24-1002. Legislative findings.

19 The Legislature finds that the diversion, abuse, and
20 misuse of prescription medications classified as controlled
21 substances under the Alabama Uniform Controlled Substances Act
22 constitute a serious threat to the health, safety, and welfare
23 of the citizens of the State of Alabama. The Legislature
24 further finds that the registration of all physicians
25 providing pain management services, as defined in this

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

9 §34-24-1003.

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

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

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

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

25 (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.

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

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

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

8 (3) CONTROLLED SUBSTANCE. A drug, substance, or
9 immediate precursor identified, defined, or listed in Sections
10 20-2-20 to 20-2-32, inclusive.

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

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

21 (6) PHYSICIAN. A doctor of medicine or an
22 osteopathic physician.

23 (7) REGISTRANT. Any physician issued a registration
24 by the board in its capacity as a certifying board pursuant to
25 this article.

1 §34-24-1005. Annual registration.

2 (a) Beginning January 1, 2014, and continuing each
3 year thereafter:

4 (1) All physicians providing pain management
5 services shall obtain a pain management registration from the
6 board.

7 (2) All physicians who otherwise meet the criteria
8 established by the board shall obtain a pain management
9 registration from the board.

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

12 (1) A completed application on a form prescribed by
13 the board.

14 (2) Proof of a current drug enforcement
15 administration registration.

16 (3) Proof of an Alabama controlled substances
17 certificate.

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

20 (5) The results of a criminal background check. Each
21 applicant shall submit a complete set of fingerprints to the
22 board. The board shall submit the fingerprints provided by
23 each applicant for registration to provide pain management
24 services to the Alabama Bureau of Investigation (ABI). The
25 fingerprints shall be forwarded by the ABI to the Federal

1 Bureau of Investigation (FBI) for a national criminal history
2 record check. Costs associated with conducting a criminal
3 history background check shall be borne by the applicant. The
4 board shall keep information received pursuant to this section
5 confidential, except that such information received and relied
6 upon in denying the registration of a physician to provide
7 pain management services in this state may be disclosed as may
8 be necessary to support the denial.

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

12 (7) The disclosure of any controlled substances
13 certificate or registration denial, restriction, or discipline
14 imposed on the registrant, or any disciplinary act against the
15 license of the registrant.

16 (8) Payment of the initial registration fee as set
17 forth in this section and in the rules of the Alabama Board of
18 Medical Examiners.

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

21 (10) Any other information requested by the board
22 related to the qualifications to, or the provision of,
23 providing pain management services.

24 (c) The applicant shall provide the board with a
25 physical address for each location where he or she provides

1 pain management services and a list of all physicians who work
2 at the practice location, including the name of the physician
3 who will serve as the medical director. For purposes of this
4 subsection, if a practice location is a hospital, the
5 physician applicant is not required to provide the names of
6 physicians at the hospital other than the medical director.

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

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

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

15 (3) The board shall provide individual, entity, and
16 any categorical exemptions as, in its discretion, it deems
17 appropriate.

18 (4) Any physician who is not included in
19 subdivisions (1) and (2) may petition the board for an
20 exemption from the requirements of this section for working at
21 a particular entity. The board shall have the sole discretion
22 in determining whether the requested exemption shall be
23 granted or denied.

24 (e) Fees.

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

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

7 (f) Miscellaneous.

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

11 (2) If an applicant does not complete the initial
12 application process within 90 days of his or her first
13 submission to the board, then the application shall be closed,
14 the application fee shall not be refunded, and the applicant
15 shall be required to reapply for registration.

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

20 (g) Renewal.

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

23 (2) A registrant may renew a current registration
24 prior to its expiration date by submitting the following to
25 the board:

1 a. A renewal application form prescribed by the
2 board.

3 b. The required renewal fee.

4 c. A certification that each location at which the
5 applicant provides pain management service has a medical
6 director.

7 d. If the practice location is not a hospital, an
8 attestation that the practice location is not owned wholly or
9 partly by a person who has been convicted of or pled nolo
10 contendere to any of the following:

11 1. A felony.

12 2. An offense that constitutes a misdemeanor, the
13 facts of which relate to the distribution or illegal
14 prescription of any controlled substance.

15 3. Any applicant who has been convicted of a crime
16 described in paragraph d. may request an interview before the
17 board, after which the board, in its discretion, may approve
18 or deny the registration.

19 e. Any other information requested by the board.

20 §34-24-1006. Ownership and operation.

21 (a) All registrants must provide pain management
22 services at a location that is owned and operated by one of
23 the following:

24 (1) One or more physicians licensed to practice
25 medicine in Alabama.

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

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

6 (b) In order to be registered, a physician shall
7 certify that each practice location is under the direction of
8 a medical director who shall be a physician who possesses a
9 current, unrestricted license to practice medicine or
10 ~~osteopathy in Alabama. The registering physician shall certify~~
11 ~~that all physicians employed at the practice location have~~
12 ~~registered with the Alabama Prescription Drug Monitoring~~
13 ~~Program (PDMP).~~

14 ~~(c) The registering physician shall certify that all~~
15 ~~physicians employed at practice locations other than hospitals~~
16 ~~have registered with the Alabama Prescription Drug Monitoring~~
17 ~~Program (PDMP).~~

18 osteopathy in Alabama.

19 ~~(d)~~ (c) Every registrant providing pain management
20 services is required to obtain access to the Alabama
21 Prescription Drug Monitoring Program (PDMP) maintained by the
22 Alabama Department of Public Health.

23 §34-24-1007. Training requirements.

1 (a) Each physician serving as the medical director
2 at a practice location shall meet at least one of the
3 following requirements:

4 (1) Successful completion of a residency program in
5 physical medicine and rehabilitation, anesthesiology,
6 addiction medicine, neurology, neurosurgery, family practice,
7 preventive medicine, internal medicine, surgery, orthopedics,
8 or psychiatry approved by the Accreditation Council for
9 Graduate Medical Education (ACGME) or the American Osteopathic
10 Association Bureau of Osteopathic Specialists (AOABOS).

11 (2) Board certification in physical medicine and
12 rehabilitation, anesthesiology, addiction medicine, neurology,
13 neurosurgery, family practice, preventive medicine, internal
14 medicine, surgery, orthopedics, or psychiatry approved by the
15 American Board of Medical Specialties (ABMS) or the American
16 Osteopathic Association Bureau of Osteopathic Specialists
17 (AOABOS).

18 (3) Specialty certification in pain management, pain
19 medicine, hospice and palliative medicine, geriatric medicine,
20 rheumatology, hematology, medical oncology, gynecologic
21 oncology, infectious disease, pediatric hematology-oncology,
22 or pediatric rheumatology recognized by the American Board of
23 Medical Specialties or the American Osteopathic Association
24 Bureau of Osteopathic Specialists.

1 (4) Board certification by the American Board of
2 Pain Medicine.

3 (5) Board certification by the American Board of
4 Interventional Pain Physicians.

5 (6) At least one of the following:

6 a. Completion of 40 in-person, live participatory
7 AMA PRA Category 1 Credit or AOA Category 1-A credits in the
8 area of pain management completed within three years of
9 implementation of this article or prior to serving as a
10 medical director for the practice location, whichever of them
11 is most recent.

12 b. Completion of a board approved course of medical
13 education in the area of prescribing controlled substances
14 completed within three years of implementation of this article
15 or prior to serving as medical director for the practice
16 location, whichever of them is most recent, and completion of
17 40 in-person, live participatory AMA PRA Category 1 Credit or
18 AOA Category 1-A credits in the area of pain management within
19 three years of commencement of service as medical director.

20 §34-24-1008. Inspections.

21 (a) Physicians registered under this article shall
22 make all records, notes, and files of the registrant open to
23 inspection. In carrying out the intent of this article, the
24 board shall have all of the power and authority that it
25 currently possesses in its current capacity under Sections

1 34-24-363 to 34-24-365, inclusive. However, all of that
2 authority and power therein may be applied to this article for
3 purposes of this pain management registration.

4 (b) If the board finds that danger to the public
5 health, safety, or welfare requires emergency suspension of a
6 registration and states in writing its reason for that
7 finding, it may proceed without hearing or upon any
8 abbreviated hearing that it finds practicable to suspend the
9 registration under this article. The suspension shall become
10 effective immediately, unless otherwise stated therein. The
11 suspension may be effective for a period of not longer than
12 120 days and shall not be renewable. The board shall not
13 suspend the same registration for the same or a substantially
14 similar emergency within one calendar year from its first
15 suspension unless the board clearly establishes that it could
16 not reasonably be foreseen during the initial 120-day period
17 that such emergency would continue or would likely reoccur
18 during the next nine months. When such summary suspension is
19 ordered, a formal suspension or revocation proceeding under
20 Section 34-24-361 or Section 20-2-53, shall also be promptly
21 instituted and acted upon.

22 §34-24-1009. Investigations.

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

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

9 §34-24-1010. Disciplinary action and sanctions.

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

13 (b) A violation of this article may be enforced in
14 the same manner as any other violation of Sections 20-2-50 to
15 20-2-58, inclusive.

16 (c) Any violation of this article or a rule adopted
17 under this article shall be prosecuted against and in the name
18 of the registrant or registrants participating in the alleged
19 violation.

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

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

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

5 (3) If a practice location has two or more
6 physicians that violate this article within one year, the
7 board shall report the violations to the appropriate licensing
8 agency that regulates the practice location.

9 Section 2. Nothing in this act shall be construed to
10 limit the ability of the Board of Medical Examiners to
11 exercise authority existing prior to the passage of this act.

12 Section 3. The provisions of this act are severable.
13 If any part of this act is declared invalid or
14 unconstitutional, that declaration shall not affect the part
15 which remains.

16 Section 4. This act shall become effective
17 immediately following its passage and approval by the
18 Governor, or its otherwise becoming law.

