

By Senator Aronberg

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1 A bill to be entitled
2 An act relating to pain-management clinics; amending
3 ss. 458.309 and 459.005, F.S.; prohibiting a person
4 from owning or operating a pain-management clinic
5 unless he or she is a physician licensed in this
6 state; requiring a physician's license to be clear and
7 active to own or operate a pain-management clinic;
8 providing that a pain-management clinic may not be
9 owned by or employ a physician who has been
10 disciplined by the Board of Medicine or the Board of
11 Osteopathic Medicine for dependency on drugs or
12 alcohol; providing that a pain-management clinic may
13 not be owned by or employ a person who has been
14 convicted of or who has pled guilty or nolo contendere
15 to a felony; defining the term "controlled substance";
16 prohibiting a person from prescribing or dispensing
17 any medication on the premises of a pain-management
18 clinic unless he or she is a physician licensed under
19 ch. 458 or ch. 459, F.S.; providing an exception for a
20 pharmacist licensed under ch. 465, F.S., to dispense
21 medications on the premises of a pain-management
22 clinic; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Subsections (4) and (5) of section 458.309,
27 Florida Statutes, are amended to read:

28 458.309 Rulemaking authority.—

29 (4) (a) All privately owned pain-management clinics,

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30 facilities, or offices, hereinafter referred to as "clinics,"
31 which advertise in any medium for any type of pain-management
32 services, or employ a physician who is primarily engaged in the
33 treatment of pain by prescribing or dispensing controlled
34 substances ~~substance medications~~, must register with the
35 department by January 4, 2010, unless that clinic is licensed as
36 a facility pursuant to chapter 395. A person may not own or
37 operate a pain-management clinic in this state unless he or she
38 is a physician licensed under this chapter or chapter 459. The
39 status of the physician's license must be clear and active
40 according to the Division of Medical Quality Assurance within
41 the Department of Health in order to own or operate a pain-
42 management clinic. A physician may not practice medicine in a
43 pain-management clinic that is required to but has not
44 registered with the department. Each clinic location shall be
45 registered separately regardless of whether the clinic is
46 operated under the same business name or management as another
47 clinic. If the clinic is licensed as a health care clinic under
48 chapter 400, the medical director is responsible for registering
49 the facility with the department. If the clinic is not
50 registered pursuant to chapter 395 or chapter 400, the clinic
51 shall, upon registration with the department, designate a
52 physician who is responsible for complying with all requirements
53 related to registration of the clinic. The designated physician
54 shall be licensed under this chapter or chapter 459 and shall
55 practice at the office location for which the physician has
56 assumed responsibility. The department shall inspect the clinic
57 annually to ensure that it complies with rules of the Board of
58 Medicine adopted pursuant to this subsection and subsection (5)

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59 unless the office is accredited by a nationally recognized
60 accrediting agency approved by the Board of Medicine. The actual
61 costs for registration and inspection or accreditation shall be
62 paid by the physician seeking to register the clinic.

63 (b) A pain-management clinic may not be owned, either in
64 whole or in part, by or have any contractual relationship,
65 whether through employment or by independent contract, with:

66 1. A physician who during the course of his or her practice
67 has been denied the privilege of prescribing, dispensing,
68 administering, supplying, or selling any controlled substance
69 and who has, during the course of his or her practice, had the
70 board take disciplinary action against his or her medical
71 license as a result of dependency on drugs or alcohol.

72 2. A person who has been convicted of or who has pled
73 guilty or nolo contendere, regardless of whether adjudication
74 was withheld, to an offense that constitutes a felony.

75
76 As used in this section, the term "controlled substance" means a
77 controlled substance listed in Schedule II, Schedule III, or
78 Schedule IV in s. 893.03.

79 (5) The Board of Medicine shall adopt rules setting forth
80 standards of practice for physicians practicing in privately
81 owned pain-management clinics that primarily engage in the
82 treatment of pain by prescribing or dispensing controlled
83 substance medications. Such rules shall address, but need not be
84 limited to, the following subjects:

- 85 (a) Facility operations;
86 (b) Physical operations;
87 (c) Infection control requirements;

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- 88 (d) Health and safety requirements;
89 (e) Quality assurance requirements;
90 (f) Patient records;
91 (g) Training requirements for all facility health care
92 practitioners who are not regulated by another board;
93 (h) Inspections; and
94 (i) Data collection and reporting requirements.
95

96 A person may not prescribe or dispense any medication, including
97 a controlled substance, on the premises of a pain-management
98 clinic unless he or she is a physician licensed under this
99 chapter or chapter 459; however, a pharmacist licensed under
100 chapter 465 may dispense any medication, including a controlled
101 substance, on the premises of a pain-management clinic. A
102 physician is primarily engaged in the treatment of pain by
103 prescribing or dispensing controlled substance medications when
104 the majority of the patients seen are prescribed or dispensed
105 controlled substance medications for the treatment of chronic
106 nonmalignant pain. Chronic nonmalignant pain is pain unrelated
107 to cancer which persists beyond the usual course of the disease
108 or the injury that is the cause of the pain or more than 90 days
109 after surgery.

110 Section 2. Subsections (3) and (4) of section 459.005,
111 Florida Statutes, are amended to read:

112 459.005 Rulemaking authority.—

113 (3) (a) All privately owned pain-management clinics,
114 facilities, or offices, hereinafter referred to as "clinics,"
115 which advertise in any medium for any type of pain-management
116 services, or employ a physician who is licensed under this

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117 chapter and who is primarily engaged in the treatment of pain by
118 prescribing or dispensing controlled substances ~~substance~~
119 ~~medications~~, must register with the department by January 4,
120 2010, unless that clinic is licensed as a facility under chapter
121 395. A person may not own or operate a pain-management clinic in
122 this state unless he or she is a physician licensed under this
123 chapter or chapter 458. The status of the physician's license
124 must be clear and active according to the Division of Medical
125 Quality Assurance within the Department of Health in order to
126 own or operate a pain-management clinic. A physician may not
127 practice osteopathic medicine in a pain-management clinic that
128 is required to but has not registered with the department. Each
129 clinic location shall be registered separately regardless of
130 whether the clinic is operated under the same business name or
131 management as another clinic. If the clinic is licensed as a
132 health care clinic under chapter 400, the medical director is
133 responsible for registering the facility with the department. If
134 the clinic is not registered under chapter 395 or chapter 400,
135 the clinic shall, upon registration with the department,
136 designate a physician who is responsible for complying with all
137 requirements related to registration of the clinic. The
138 designated physician shall be licensed under chapter 458 or this
139 chapter and shall practice at the office location for which the
140 physician has assumed responsibility. The department shall
141 inspect the clinic annually to ensure that it complies with
142 rules of the Board of Osteopathic Medicine adopted pursuant to
143 this subsection and subsection (4) unless the office is
144 accredited by a nationally recognized accrediting agency
145 approved by the Board of Osteopathic Medicine. The actual costs

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146 for registration and inspection or accreditation shall be paid
147 by the physician seeking to register the clinic.

148 (b) A pain-management clinic may not be owned, either in
149 whole or in part, by or have any contractual relationship,
150 whether through employment or by independent contract, with:

151 1. A physician who during the course of his or her practice
152 has been denied the privilege of prescribing, dispensing,
153 administering, supplying, or selling any controlled substance
154 and who has, during the course of his or her practice, had the
155 board take disciplinary action against his or her medical
156 license as a result of dependency on drugs or alcohol.

157 2. A person who has been convicted of or who has pled
158 guilty or nolo contendere, regardless of whether adjudication
159 was withheld, to an offense that constitutes a felony.

160
161 As used in this section, the term "controlled substance" means a
162 controlled substance listed in Schedule II, Schedule III, or
163 Schedule IV in s. 893.03.

164 (4) The Board of Osteopathic Medicine shall adopt rules
165 setting forth standards of practice for physicians who practice
166 in privately owned pain-management clinics that primarily engage
167 in the treatment of pain by prescribing or dispensing controlled
168 substance medications. Such rules shall address, but need not be
169 limited to, the following subjects:

- 170 (a) Facility operations;
171 (b) Physical operations;
172 (c) Infection control requirements;
173 (d) Health and safety requirements;
174 (e) Quality assurance requirements;

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- 175 (f) Patient records;
- 176 (g) Training requirements for all facility health care
177 practitioners who are not regulated by another board;
- 178 (h) Inspections; and
- 179 (i) Data collection and reporting requirements.

180

181 A person may not prescribe or dispense any medication, including
182 a controlled substance, on the premises of a pain-management
183 clinic unless he or she is a physician licensed under this
184 chapter or chapter 458; however, a pharmacist licensed under
185 chapter 465 may dispense any medication, including a controlled
186 substance, on the premises of a pain-management clinic. A
187 physician is primarily engaged in the treatment of pain by
188 prescribing or dispensing controlled substance medications when
189 the majority of the patients seen are prescribed or dispensed
190 controlled substance medications for the treatment of chronic
191 nonmalignant pain. Chronic nonmalignant pain is pain unrelated
192 to cancer which persists beyond the usual course of the disease
193 or the injury that is the cause of the pain or more than 90 days
194 after surgery.

195 Section 3. This act shall take effect July 1, 2010.