

1 A bill to be entitled
2 An act relating to pain-management clinics; amending ss.
3 458.309 and 459.005, F.S.; deleting provisions related to
4 pain-management clinics; creating ss. 458.3265 and
5 459.0137, F.S.; requiring privately owned pain-management
6 clinics to be registered with the Department of Health by
7 a specified date; prohibiting a physician from practicing
8 in a pain-management clinic that is not registered with
9 the department; requiring that the Department of Health
10 refuse to issue a certificate of registration to or revoke
11 the registration of certain pain-management clinics that
12 are owned, directly or indirectly, by a person who has
13 been convicted of a felony; defining the term "convicted"
14 for purposes of this provision; designating persons who
15 are responsible for registering a clinic; providing
16 requirements for a physician who registers a clinic;
17 requiring the department to annually inspect a registered
18 clinic; providing for the automatic expiration of a
19 registration; requiring payment of costs for registration
20 and inspection or accreditation; requiring the Board of
21 Medicine and the Board of Osteopathic Medicine to adopt
22 rules setting forth standards of practice in privately
23 owned pain-management clinics; providing criteria for
24 physicians that practice pain-management; defining the
25 term "chronic nonmalignant pain"; providing that certain
26 pain-management clinics are exempt from registration
27 requirements under certain conditions; defining the term
28 "parties affiliated with a pain-management clinic";

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29 providing requirements for registering a pain-management
30 clinic; requiring the Department of Health to submit
31 fingerprints of an applicant for initial registration or
32 renewal of a registration to the Department of Law
33 Enforcement and the Federal Bureau of Investigation for a
34 criminal record check; providing that applicants are not
35 required to submit a set of fingerprints to the Department
36 of Health for a criminal record check under certain
37 conditions; providing an effective date.

38
39 Be It Enacted by the Legislature of the State of Florida:

40
41 Section 1. Section 458.309, Florida Statutes, is amended
42 to read:

43 458.309 Rulemaking authority.—

44 (1) The board may ~~has authority to~~ adopt rules pursuant to
45 ss. 120.536(1) and 120.54 to implement the provisions of this
46 chapter conferring duties upon it.

47 (2) (a) Any rules which the board adopts relating to the
48 classroom phase of medical education shall not apply to any
49 person who is enrolled in the classroom phase of medical
50 education or has graduated prior to or at the time the rule
51 becomes effective, so long as such person does not interrupt his
52 or her medical education.

53 (b) 1. Any rules which the board adopts relating to the
54 clinical clerkship phase of medical education shall not apply to
55 any person who is enrolled in the clinical clerkship phase of
56 medical education prior to or at the time the rule becomes

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57 | effective, so long as such person does not interrupt his or her
58 | medical education.

59 | 2. Rules adopted by the Florida Board of Medical Examiners
60 | prior to October 1, 1986, and relating to clinical clerkships
61 | for graduates of foreign medical schools do not apply to any
62 | such graduate who:

63 | a. Had completed a clinical clerkship prior to the
64 | effective date of the rule; or

65 | b. Had begun a clinical clerkship but had not completed
66 | the clinical clerkship prior to the effective date of the rule,
67 | so long as the clinical clerkship took no longer than 3 years to
68 | complete.

69 | (c) Any rules which the board adopts relating to residency
70 | shall not apply to any person who has begun his or her residency
71 | prior to or at the time the rule becomes effective, so long as
72 | such person does not interrupt the residency.

73 | (3) All physicians who perform level 2 procedures lasting
74 | more than 5 minutes and all level 3 surgical procedures in an
75 | office setting must register the office with the department
76 | unless that office is licensed as a facility pursuant to chapter
77 | 395. The department shall inspect the physician's office
78 | annually unless the office is accredited by a nationally
79 | recognized accrediting agency or an accrediting organization
80 | subsequently approved by the Board of Medicine. The actual costs
81 | for registration and inspection or accreditation shall be paid
82 | by the person seeking to register and operate the office setting
83 | in which office surgery is performed.

84 | ~~(4) All privately owned pain management clinics,~~

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85 ~~facilities, or offices, hereinafter referred to as "clinics,"~~
86 ~~which advertise in any medium for any type of pain management~~
87 ~~services, or employ a physician who is primarily engaged in the~~
88 ~~treatment of pain by prescribing or dispensing controlled~~
89 ~~substance medications, must register with the department by~~
90 ~~January 4, 2010, unless that clinic is licensed as a facility~~
91 ~~pursuant to chapter 395. A physician may not practice medicine~~
92 ~~in a pain-management clinic that is required to but has not~~
93 ~~registered with the department. Each clinic location shall be~~
94 ~~registered separately regardless of whether the clinic is~~
95 ~~operated under the same business name or management as another~~
96 ~~clinic. If the clinic is licensed as a health care clinic under~~
97 ~~chapter 400, the medical director is responsible for registering~~
98 ~~the facility with the department. If the clinic is not~~
99 ~~registered pursuant to chapter 395 or chapter 400, the clinic~~
100 ~~shall, upon registration with the department, designate a~~
101 ~~physician who is responsible for complying with all requirements~~
102 ~~related to registration of the clinic. The designated physician~~
103 ~~shall be licensed under this chapter or chapter 459 and shall~~
104 ~~practice at the office location for which the physician has~~
105 ~~assumed responsibility. The department shall inspect the clinic~~
106 ~~annually to ensure that it complies with rules of the Board of~~
107 ~~Medicine adopted pursuant to this subsection and subsection (5)~~
108 ~~unless the office is accredited by a nationally recognized~~
109 ~~accrediting agency approved by the Board of Medicine. The actual~~
110 ~~costs for registration and inspection or accreditation shall be~~
111 ~~paid by the physician seeking to register the clinic.~~
112 ~~(5) The Board of Medicine shall adopt rules setting forth~~

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113 ~~standards of practice for physicians practicing in privately~~
114 ~~owned pain management clinics that primarily engage in the~~
115 ~~treatment of pain by prescribing or dispensing controlled~~
116 ~~substance medications. Such rules shall address, but need not be~~
117 ~~limited to, the following subjects:~~

- 118 ~~(a) Facility operations;~~
119 ~~(b) Physical operations;~~
120 ~~(c) Infection control requirements;~~
121 ~~(d) Health and safety requirements;~~
122 ~~(e) Quality assurance requirements;~~
123 ~~(f) Patient records;~~
124 ~~(g) Training requirements for all facility health care~~
125 ~~practitioners who are not regulated by another board;~~
126 ~~(h) Inspections; and~~
127 ~~(i) Data collection and reporting requirements.~~

128
129 ~~A physician is primarily engaged in the treatment of pain by~~
130 ~~prescribing or dispensing controlled substance medications when~~
131 ~~the majority of the patients seen are prescribed or dispensed~~
132 ~~controlled substance medications for the treatment of chronic~~
133 ~~nonmalignant pain. Chronic nonmalignant pain is pain unrelated~~
134 ~~to cancer which persists beyond the usual course of the disease~~
135 ~~or the injury that is the cause of the pain or more than 90 days~~
136 ~~after surgery.~~

137 ~~(6) A privately owned clinic, facility, or office that~~
138 ~~advertises in any medium for any type of pain management~~
139 ~~services or employs one or more physicians who are primarily~~
140 ~~engaged in the treatment of pain by prescribing or dispensing~~

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141 ~~controlled substances is exempt from the registration provisions~~
 142 ~~in subsection (4) if the majority of the physicians who provide~~
 143 ~~services in the clinic, facility, or office primarily provide~~
 144 ~~surgical services.~~

145 Section 2. Section 459.005, Florida Statutes, is amended
 146 to read:

147 459.005 Rulemaking authority.—

148 (1) The board may ~~has authority to~~ adopt rules pursuant to
 149 ss. 120.536(1) and 120.54 to implement the provisions of this
 150 chapter conferring duties upon it.

151 (2) All physicians who perform level 2 procedures lasting
 152 more than 5 minutes and all level 3 surgical procedures in an
 153 office setting must register the office with the department
 154 unless that office is licensed as a facility pursuant to chapter
 155 395. The department shall inspect the physician's office
 156 annually unless the office is accredited by a nationally
 157 recognized accrediting agency or an accrediting organization
 158 subsequently approved by the Board of Osteopathic Medicine. The
 159 actual costs for registration and inspection or accreditation
 160 shall be paid by the person seeking to register and operate the
 161 office setting in which office surgery is performed.

162 ~~(3) All privately owned pain-management clinics,~~
 163 ~~facilities, or offices, hereinafter referred to as "clinics,"~~
 164 ~~which advertise in any medium for any type of pain-management~~
 165 ~~services, or employ a physician who is licensed under this~~
 166 ~~chapter and who is primarily engaged in the treatment of pain by~~
 167 ~~prescribing or dispensing controlled substance medications, must~~
 168 ~~register with the department by January 4, 2010, unless that~~

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169 ~~elinic is licensed as a facility under chapter 395. A physician~~
170 ~~may not practice osteopathic medicine in a pain-management~~
171 ~~elinic that is required to but has not registered with the~~
172 ~~department. Each clinic location shall be registered separately~~
173 ~~regardless of whether the clinic is operated under the same~~
174 ~~business name or management as another clinic. If the clinic is~~
175 ~~licensed as a health care clinic under chapter 400, the medical~~
176 ~~director is responsible for registering the facility with the~~
177 ~~department. If the clinic is not registered under chapter 395 or~~
178 ~~chapter 400, the clinic shall, upon registration with the~~
179 ~~department, designate a physician who is responsible for~~
180 ~~complying with all requirements related to registration of the~~
181 ~~elinic. The designated physician shall be licensed under chapter~~
182 ~~458 or this chapter and shall practice at the office location~~
183 ~~for which the physician has assumed responsibility. The~~
184 ~~department shall inspect the clinic annually to ensure that it~~
185 ~~complies with rules of the Board of Osteopathic Medicine adopted~~
186 ~~pursuant to this subsection and subsection (4) unless the office~~
187 ~~is accredited by a nationally recognized accrediting agency~~
188 ~~approved by the Board of Osteopathic Medicine. The actual costs~~
189 ~~for registration and inspection or accreditation shall be paid~~
190 ~~by the physician seeking to register the clinic.~~

191 ~~(4) The Board of Osteopathic Medicine shall adopt rules~~
192 ~~setting forth standards of practice for physicians who practice~~
193 ~~in privately owned pain-management clinics that primarily engage~~
194 ~~in the treatment of pain by prescribing or dispensing controlled~~
195 ~~substance medications. Such rules shall address, but need not be~~
196 ~~limited to, the following subjects:~~

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CODING: Words **stricken** are deletions; words **underlined** are additions.

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- 197 ~~(a) Facility operations;~~
- 198 ~~(b) Physical operations;~~
- 199 ~~(c) Infection control requirements;~~
- 200 ~~(d) Health and safety requirements;~~
- 201 ~~(e) Quality assurance requirements;~~
- 202 ~~(f) Patient records;~~
- 203 ~~(g) Training requirements for all facility health care~~
- 204 ~~practitioners who are not regulated by another board;~~
- 205 ~~(h) Inspections; and~~
- 206 ~~(i) Data collection and reporting requirements.~~

207

208 ~~A physician is primarily engaged in the treatment of pain by~~

209 ~~prescribing or dispensing controlled substance medications when~~

210 ~~the majority of the patients seen are prescribed or dispensed~~

211 ~~controlled substance medications for the treatment of chronic~~

212 ~~nonmalignant pain. Chronic nonmalignant pain is pain unrelated~~

213 ~~to cancer which persists beyond the usual course of the disease~~

214 ~~or the injury that is the cause of the pain or more than 90 days~~

215 ~~after surgery.~~

216 ~~(5) A privately owned clinic, facility, or office that~~

217 ~~advertises in any medium for any type of pain management~~

218 ~~services or employs one or more physicians who are primarily~~

219 ~~engaged in the treatment of pain by prescribing or dispensing~~

220 ~~controlled substances is exempt from the registration provisions~~

221 ~~in subsection (3) if the majority of the physicians who provide~~

222 ~~services in the clinic, facility, or office primarily provide~~

223 ~~surgical services.~~

224 Section 3. Section 458.3265, Florida Statutes, is created

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225 to read:

226 458.3265 Pain-management clinics.—

227 (1) With the exception of facilities licensed under
228 chapter 395, all privately owned pain-management clinics,
229 facilities, or offices that are primarily engaged in the
230 treatment of pain by prescribing or dispensing controlled
231 substance medications, referred to as "clinics" in this section,
232 and advertise in any medium for any type of pain-management
233 services, or that employ a physician who is primarily engaged in
234 the treatment of pain by prescribing or dispensing controlled
235 substance medications, must register with the department by
236 January 4, 2010. A physician may not practice medicine in a
237 pain-management clinic that is not registered with the
238 department as required in this section. If the department finds
239 that a privately owned pain-management clinic is owned, directly
240 or indirectly, by a person who has been convicted of any felony
241 in this state or any other state or the United States, the
242 department shall refuse to issue a certificate of registration
243 to the clinic or shall revoke a certificate of registration
244 previously issued by the department. As used in this subsection,
245 the term "convicted" includes an adjudication of guilt on a plea
246 of guilty or nolo contendere, or the forfeiture of a bond when
247 charged with a crime. Each clinic location shall be registered
248 separately regardless of whether the clinic is operated under
249 the same business name or management as another clinic. If the
250 clinic is licensed as a health care clinic under chapter 400,
251 the medical director is responsible for registering the facility
252 with the department. If the clinic is not registered pursuant to

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253 chapter 395 or chapter 400, the clinic shall, upon registration
254 with the department, designate a physician who is responsible
255 for complying with all requirements related to registration of
256 the clinic. The designated physician shall be licensed under
257 this chapter or chapter 459 and shall practice at the office
258 location for which the physician has assumed responsibility. The
259 department shall inspect the clinic annually to ensure that it
260 complies with rules of the board adopted pursuant to this
261 subsection and subsection (2) unless the clinic is accredited by
262 a nationally recognized accrediting agency approved by the
263 board. Registration under this section automatically expires
264 after 2 years without further action by the board or the
265 department unless an application for renewal is approved by the
266 board. The actual costs for registration and inspection or
267 accreditation shall be paid by the physician seeking to register
268 the clinic.

269 (2) The board shall adopt rules setting forth standards of
270 practice for physicians practicing in privately owned pain-
271 management clinics that primarily engage in the treatment of
272 pain by prescribing or dispensing controlled substance
273 medications. Such rules shall address, but need not be limited
274 to, the following:

- 275 (a) Facility operations;
276 (b) Physical operations;
277 (c) Infection control requirements;
278 (d) Health and safety requirements;
279 (e) Quality assurance requirements;
280 (f) Patient records;

281 (g) Training requirements for all facility health care
 282 practitioners who are not regulated by another board;

283 (h) Inspections; and

284 (i) Data collection and reporting requirements.

285
 286 A physician is primarily engaged in the treatment of pain by
 287 prescribing or dispensing controlled substance medications when
 288 the majority of the patients seen are prescribed or dispensed
 289 controlled substance medications for the treatment of chronic
 290 nonmalignant pain. Chronic nonmalignant pain is pain unrelated
 291 to cancer which persists beyond the usual course of the disease
 292 or the injury that is the cause of the pain or more than 90 days
 293 after surgery.

294 (3) A privately owned clinic, facility, or office that is
 295 primarily engaged in the treatment of pain by prescribing or
 296 dispensing controlled substance medications and advertises in
 297 any medium for any type of pain-management services, or that
 298 employs one or more physicians who are primarily engaged in the
 299 treatment of pain by prescribing or dispensing controlled
 300 substance medications, is exempt from the registration
 301 provisions in subsection (1) if the majority of the physicians
 302 who provide services in the clinic, facility, or office
 303 primarily provide surgical services.

304 (4) As used in this section, the term "parties affiliated
 305 with a pain-management clinic" means:

306 (a) A director, officer, trustee, partner, or committee
 307 member of a pain-management clinic or applicant or a subsidiary
 308 or service corporation of the pain-management clinic or

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309 applicant; or

310 (b) A person who, directly or indirectly, manages,
311 controls, or oversees the operation of a pain-management clinic
312 or applicant, regardless of whether the person is a partner,
313 shareholder, manager, member, officer, director, independent
314 contractor, or employee of the pain-management clinic or
315 applicant.

316 (5) An application for initial or renewal registration of
317 a pain-management clinic submitted to the department must
318 include:

319 (a) The name, full business address, and telephone number
320 of the applicant.

321 (b) All trade or business names used by the applicant.

322 (c) The address, telephone numbers, and names of contact
323 persons for each facility used by the applicant for the
324 prescribing or dispensing of controlled substance medications in
325 the treatment of pain.

326 (d) The type of ownership or operation, such as a
327 partnership, corporation, or sole proprietorship.

328 (e) The names of the owner and the operator of the pain-
329 management clinic, including:

330 1. If an individual, the name of the individual.

331 2. If a partnership, the name of each partner and the name
332 of the partnership.

333 3. If a corporation:

334 a. The name, address, and title of each corporate officer
335 and director.

336 b. The name and address of the corporation and the

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337 resident agent of the corporation, the resident agent's address,
338 and the corporation's state of incorporation.

339 c. The name and address of each shareholder of the
340 corporation that owns 5 percent or more of the outstanding stock
341 of the corporation.

342 4. If a sole proprietorship, the full name of the sole
343 proprietor and the name of the business entity.

344 5. If a limited liability company:

345 a. The name and address of each member.

346 b. The name and address of each manager.

347 c. The name and address of the limited liability company,
348 the resident agent of the limited liability company, and the
349 name of the state in which the limited liability company was
350 organized.

351 (f) The tax year of the applicant.

352 (g) A copy of the deed for the property on which the
353 applicant's pain-management clinic is located, if the clinic is
354 owned by the applicant, or a copy of the applicant's lease for
355 the property on which the applicant's pain-management clinic is
356 located, which must have an original term of not less than 1
357 calendar year, if the pain-management clinic is not owned by the
358 applicant.

359 (h) A list of all licenses and permits issued to the
360 applicant by any other state which authorize the applicant to
361 purchase or possess prescription drugs.

362 (i) The name of the manager of the pain-management clinic
363 that is applying for the initial or renewal registration, the
364 next four highest ranking employees responsible for operations

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365 of the pain-management clinic, the name of all parties
366 affiliated with the pain-management clinic, and the personal
367 information statement and fingerprints required under subsection
368 (6) for each of these persons.

369 (6) (a) Each person required by paragraph (5) (i) to provide
370 a personal information statement and fingerprints shall provide
371 the following information to the department on forms prescribed
372 by the department:

373 1. The person's places of residence for the past 7 years.

374 2. The person's date and place of birth.

375 3. The person's occupations, positions of employment, and
376 offices held during the past 7 years.

377 4. The principal business and address of any business,
378 corporation, or other organization in which the person:

379 a. Held an office during the past 7 years; or

380 b. Had an occupation or position of employment during the
381 past 7 years.

382 5. Whether the person has been, during the past 7 years,
383 the subject of any proceeding for the revocation of any license
384 and, if so, the nature of the proceeding and the disposition of
385 the proceeding.

386 6. Whether, during the past 7 years, the person has been
387 enjoined, temporarily or permanently, by a court of competent
388 jurisdiction from violating any federal or state law regulating
389 the possession, control, or distribution of prescription drugs,
390 together with details concerning any such event.

391 7. A description of any involvement by the person during
392 the past 7 years, including any investments, other than the

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393 ownership of stock in a publicly traded company or mutual fund,
394 with any business that manufactured, administered, prescribed,
395 distributed, or stored pharmaceutical products and any lawsuits
396 in which the businesses were named as a party.

397 8. A description of any felony criminal offense of which
398 the person, as an adult, was found guilty, regardless of whether
399 adjudication of guilt was withheld or whether the person pled
400 guilty or nolo contendere. A criminal offense committed in
401 another jurisdiction which would have been a felony in this
402 state must be reported. If the person indicates that a criminal
403 conviction is under appeal and submits a copy of the notice of
404 appeal of that criminal offense, the applicant shall, within 15
405 days after the disposition of the appeal, submit to the
406 department a copy of the final written order of disposition.

407 9. A photograph of the person taken in the previous 30
408 days.

409 10. A set of fingerprints for the person on a form and
410 under procedures specified by the department and payment of an
411 amount equal to the costs incurred by the department for the
412 criminal record check of the person.

413 11. The name, address, occupation, and date and place of
414 birth for each member of the person's immediate family who is 18
415 years of age or older. As used in this subparagraph, the term
416 "member of the person's immediate family" includes the person's
417 spouse, children, parents, siblings, the spouses of the person's
418 children, and the spouses of the person's siblings.

419 12. Any other relevant information that the department
420 requires.

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421 (b) The information required under paragraph (a) shall be
422 provided under oath.

423 (c)1. The department shall submit the fingerprints
424 provided with an application for initial registration to the
425 Department of Law Enforcement for a statewide criminal record
426 check and for forwarding to the Federal Bureau of Investigation
427 for a national criminal record check.

428 2. For the initial renewal of a registration on or after
429 January 1, 2010, the department shall submit the fingerprints
430 provided as a part of a renewal application to the Department of
431 Law Enforcement for a statewide criminal record check, and for
432 forwarding to the Federal Bureau of Investigation for a national
433 criminal record check. For any subsequent renewal of a
434 registration, the department shall submit the required
435 information for a statewide and national criminal record check.

436 3. Any person who submits to the department a set of
437 fingerprints for a criminal record check is not required to
438 provide a subsequent set of fingerprints for a criminal record
439 check if the person has undergone a criminal record check as a
440 condition of the issuance of an initial registration or the
441 initial renewal of a registration on or after January 1, 2010.

442 Section 4. Section 459.0137, Florida Statutes, is created
443 to read:

444 459.0137 Pain-management clinics.—

445 (1) With the exception of facilities licensed under
446 chapter 395, all privately owned pain-management clinics,
447 facilities, or offices that are primarily engaged in the
448 treatment of pain by prescribing or dispensing controlled

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449 substance medications, referred to as "clinics" in this section,
450 and advertise in any medium for any type of pain-management
451 services, or that employ a physician who is licensed under this
452 chapter and who is primarily engaged in the treatment of pain by
453 prescribing or dispensing controlled substance medications, must
454 register with the department by January 4, 2010. A physician may
455 not practice osteopathic medicine in a pain-management clinic
456 that is not registered with the department as required in this
457 section. If the department finds that a privately owned pain-
458 management clinic is owned, directly or indirectly, by a person
459 who has been convicted of any felony in this state or any other
460 state or the United States, the department shall refuse to issue
461 a certificate of registration to the clinic or shall revoke a
462 certificate of registration previously issued by the department.
463 As used in this subsection, the term "convicted" includes an
464 adjudication of guilt on a plea of guilty or nolo contendere or
465 the forfeiture of a bond when charged with a crime. Each clinic
466 location shall be registered separately regardless of whether
467 the clinic is operated under the same business name or
468 management as another clinic. If the clinic is licensed as a
469 health care clinic under chapter 400, the medical director is
470 responsible for registering the facility with the department. If
471 the clinic is not registered under chapter 395 or chapter 400,
472 the clinic shall, upon registration with the department,
473 designate a physician who is responsible for complying with all
474 requirements related to registration of the clinic. The
475 designated physician shall be licensed under chapter 458 or this
476 chapter and shall practice at the office location for which the

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477 physician has assumed responsibility. The department shall
478 inspect the clinic annually to ensure that it complies with
479 rules of the board of adopted pursuant to this subsection and
480 subsection (2) unless the clinic is accredited by a nationally
481 recognized accrediting agency approved by the board.

482 Registration under this section automatically expires after 2
483 years without further action by the board or the department
484 unless an application for renewal is approved by the board. The
485 actual costs for registration and inspection or accreditation
486 shall be paid by the physician seeking to register the clinic.

487 (2) The board shall adopt rules setting forth standards of
488 practice for physicians who practice in privately owned pain-
489 management clinics that primarily engage in the treatment of
490 pain by prescribing or dispensing controlled substance
491 medications. Such rules shall address, but need not be limited
492 to, the following:

493 (a) Facility operations;

494 (b) Physical operations;

495 (c) Infection control requirements;

496 (d) Health and safety requirements;

497 (e) Quality assurance requirements;

498 (f) Patient records;

499 (g) Training requirements for all facility health care
500 practitioners who are not regulated by another board;

501 (h) Inspections; and

502 (i) Data collection and reporting requirements.

503

504 A physician is primarily engaged in the treatment of pain by

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505 prescribing or dispensing controlled substance medications when
506 the majority of the patients seen are prescribed or dispensed
507 controlled substance medications for the treatment of chronic
508 nonmalignant pain. Chronic nonmalignant pain is pain unrelated
509 to cancer which persists beyond the usual course of the disease
510 or the injury that is the cause of the pain or more than 90 days
511 after surgery.

512 (3) A privately owned clinic, facility, or office that is
513 primarily engaged in the treatment of pain by prescribing or
514 dispensing controlled substance medications and advertises in
515 any medium for any type of pain-management services, or that
516 employs one or more physicians who are primarily engaged in the
517 treatment of pain by prescribing or dispensing controlled
518 substance medications, is exempt from the registration
519 provisions in subsection (1) if the majority of the physicians
520 who provide services in the clinic, facility, or office
521 primarily provide surgical services.

522 (4) As used in this section, the term "parties affiliated
523 with a pain-management clinic" means:

524 (a) A director, officer, trustee, partner, or committee
525 member of a pain-management clinic or applicant, or a subsidiary
526 or service corporation of the pain-management clinic or
527 applicant;

528 (b) A person who, directly or indirectly, manages,
529 controls, or oversees the operation of a pain-management clinic
530 or applicant, regardless of whether the person is a partner,
531 shareholder, manager, member, officer, director, independent
532 contractor, or employee of the pain-management clinic or

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533 applicant.

534 (5) An application for initial or renewal registration as
535 a pain-management clinic submitted to the department must
536 include:

537 (a) The name, full business address, and telephone number
538 of the applicant.

539 (b) All trade or business names used by the applicant.

540 (c) The address, telephone numbers, and names of contact
541 persons for each facility used by the applicant for the
542 prescribing or dispensing of controlled substance medications in
543 the treatment of pain.

544 (d) The type of ownership or operation, such as a
545 partnership, corporation, or sole proprietorship.

546 (e) The names of the owner and the operator of the pain-
547 management clinic, including:

548 1. If an individual, the name of the individual.

549 2. If a partnership, the name of each partner and the name
550 of the partnership.

551 3. If a corporation:

552 a. The name, address, and title of each corporate officer
553 and director.

554 b. The name and address of the corporation and the
555 resident agent of the corporation, the resident agent's address,
556 and the corporation's state of incorporation.

557 c. The name and address of each shareholder of the
558 corporation that owns 5 percent or more of the outstanding stock
559 of the corporation.

560 4. If a sole proprietorship, the full name of the sole

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561 proprietor and the name of the business entity.

562 5. If a limited liability company:

563 a. The name and address of each member.

564 b. The name and address of each manager.

565 c. The name and address of the limited liability company,

566 the resident agent of the limited liability company, and the

567 name of the state in which the limited liability company was

568 organized.

569 (f) The tax year of the applicant.

570 (g) A copy of the deed for the property on which the

571 applicant's pain-management clinic is located, if the clinic is

572 owned by the applicant, or a copy of the applicant's lease for

573 the property on which the applicant's pain-management clinic is

574 located, which must have an original term of not less than 1

575 calendar year, if the pain-management clinic is not owned by the

576 applicant.

577 (h) A list of all licenses and permits issued to the

578 applicant by any other state which authorize the applicant to

579 purchase or possess prescription drugs.

580 (i) The name of the manager of the pain-management clinic

581 that is applying for the initial or renewal registration, the

582 next four highest ranking employees responsible for operations

583 of the pain-management clinic, and the name of all parties

584 affiliated with the pain-management clinic, and the personal

585 information statement and fingerprints required under subsection

586 (6) for each of these persons.

587 (6) (a) Each person required by paragraph (5) (i) to provide

588 a personal information statement and fingerprints must provide

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589 the following information to the department on forms prescribed
590 by the department:

591 1. The person's places of residence for the past 7 years.

592 2. The person's date and place of birth.

593 3. The person's occupations, positions of employment, and
594 offices held during the past 7 years.

595 4. The principal business and address of any business,
596 corporation, or other organization in which the person:

597 a. Held an office during the past 7 years; or

598 b. Had an occupation or position of employment during the
599 past 7 years.

600 5. Whether the person has been, during the past 7 years,
601 the subject of any proceeding for the revocation of any license
602 and, if so, the nature of the proceeding and the disposition of
603 the proceeding.

604 6. Whether, during the past 7 years, the person has been
605 temporarily or permanently enjoined by a court of competent
606 jurisdiction from violating any federal or state law regulating
607 the possession, control, or distribution of prescription drugs,
608 together with details concerning any such event.

609 7. A description of any involvement by the person during
610 the past 7 years, including any investments, other than the
611 ownership of stock in a publicly traded company or mutual fund,
612 with any business that manufactured, administered, prescribed,
613 distributed, or stored pharmaceutical products and any lawsuits
614 in which the businesses were named as a party.

615 8. A description of any felony criminal offense of which
616 the person, as an adult, was found guilty, regardless of whether

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617 adjudication of guilt was withheld or whether the person pled
618 guilty or nolo contendere. A criminal offense committed in
619 another jurisdiction which would have been a felony in this
620 state must be reported. If the person indicates that a criminal
621 conviction is under appeal and submits a copy of the notice of
622 appeal of that criminal offense, the applicant must, within 15
623 days after the disposition of the appeal, submit to the
624 department a copy of the final written order of disposition.

625 9. A photograph of the person taken in the previous 30
626 days.

627 10. A set of fingerprints for the person on a form and
628 under procedures specified by the department, together with
629 payment of an amount equal to the costs incurred by the
630 department for the criminal record check of the person.

631 11. The name, address, occupation, and date and place of
632 birth for each member of the person's immediate family who is 18
633 years of age or older. As used in this subparagraph, the term
634 "member of the person's immediate family" includes the person's
635 spouse, children, parents, siblings, the spouses of the person's
636 children, and the spouses of the person's siblings.

637 12. Any other relevant information that the department
638 requires.

639 (b) The information required under paragraph (a) shall be
640 provided under oath.

641 (c)1. The department shall submit the fingerprints
642 provided with an application for initial registration to the
643 Department of Law Enforcement for a statewide criminal record
644 check and for forwarding to the Federal Bureau of Investigation

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645 for a national criminal record check.

646 2. For the initial renewal of a registration on or after
647 January 1, 2010, the department shall submit the fingerprints
648 provided as a part of a renewal application to the Department of
649 Law Enforcement for a statewide criminal record check, and for
650 forwarding to the Federal Bureau of Investigation for a national
651 criminal record check. For any subsequent renewal of a permit,
652 the department shall submit the required information for a
653 statewide and national criminal record check.

654 3. Any person who submits to the department a set of
655 fingerprints for a criminal record check is not required to
656 provide a subsequent set of fingerprints for a criminal record
657 check if the person has undergone a criminal record check as a
658 condition of the issuance of an initial registration or the
659 initial renewal of a registration on or after January 1, 2010.

660 Section 5. This act shall take effect July 1, 2010.