

OCCUPATIONS CODE
TITLE 3. HEALTH PROFESSIONS
SUBTITLE B. PHYSICIANS
CHAPTER 168. REGULATION OF PAIN MANAGEMENT CLINICS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 168.001. DEFINITIONS. In this chapter:

(1) "Pain management clinic" means a publicly or privately owned facility for which a majority of patients are issued on a monthly basis a prescription for opioids, benzodiazepines, barbiturates, or carisoprodol, but not including suboxone.

(2) "Operator" means an owner, medical director, or physician affiliated or associated with the pain management clinic in any capacity. Each of these individuals is considered to be operating at the pain management clinic.

Redesignated from Occupations Code, Chapter 167 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. [1303](#)), Sec. 27.001(45), eff. September 1, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 478 (S.B. [1235](#)), Sec. 1, eff. September 1, 2015.

Sec. 168.002. EXEMPTIONS. This chapter does not apply to:

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

(2) a hospital, including any outpatient facility or clinic of a hospital;

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

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

(5) a clinic maintained or operated by the United States;

(6) a health organization certified by the board under Section [162.001](#);

(7) a clinic owned or operated by a physician who

treats patients within the physician's area of specialty and who personally uses other forms of treatment, including surgery, with the issuance of a prescription for a majority of the patients; or

(8) a clinic owned or operated by an advanced practice nurse licensed in this state who treats patients in the nurse's area of specialty and who personally uses other forms of treatment with the issuance of a prescription for a majority of the patients.

Redesignated from Occupations Code, Chapter 167 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(45), eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 956 (H.B. 1803), Sec. 7, eff. January 1, 2014.

Sec. 168.003. LEGISLATIVE FINDING. The legislature finds that deaths resulting from the use of opioids and other controlled substances constitute a public health crisis and that there is a compelling state interest in the board closely regulating the prescribing of opioids and other controlled substances by physicians and their delegates. Accordingly, the legislature finds that inspections and investigations conducted by the board, including the board's use of subpoenas for immediate production, inspection, and copying of medical and billing records, are necessary to adequately regulate the prescribing of opioids and other controlled substances in order to protect the public health and welfare.

Added by Acts 2017, 85th Leg., R.S., Ch. 534 (S.B. 315), Sec. 3, eff. September 1, 2017.

SUBCHAPTER B. POWERS AND DUTIES OF BOARD

Sec. 168.051. ADOPTION OF RULES. The board shall adopt rules necessary to implement this chapter, including rules to address, for a pain management clinic:

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

- (3) standards to ensure quality of patient care;
- (4) certificate application and renewal procedures and requirements;
- (5) inspections and complaint investigations; and
- (6) patient billing procedures.

Redesignated from Occupations Code, Chapter 167 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(45), eff. September 1, 2011.

Sec. 168.052. INSPECTIONS. (a) The board may inspect a pain management clinic certified under this chapter, including the documents of a physician practicing at the clinic, as necessary to ensure compliance with this chapter.

(b) The board may inspect a clinic or facility that is not certified under this chapter to determine whether the clinic or facility is required to be certified under Section 168.101. The board by rule shall establish the grounds for conducting an inspection under this subsection, including grounds based on:

- (1) the population of patients served by the clinic or facility;
- (2) the volume or combination of drugs prescribed to patients served by the clinic or facility; and
- (3) any other criteria the board considers sufficient to require an inspection of the clinic or facility.

Redesignated from Occupations Code, Chapter 167 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(45), eff. September 1, 2011.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 534 (S.B. 315), Sec. 4, eff. September 1, 2017.

Sec. 168.053. COMPLAINTS. The board shall investigate a complaint alleging a violation of this chapter or a rule adopted under this chapter by a pain management clinic certified under this chapter or a physician who owns or operates a clinic in the same manner as other complaints under this subtitle.

Redesignated from Occupations Code, Chapter 167 by Acts 2011, 82nd

Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(45), eff. September 1, 2011.

SUBCHAPTER C. CERTIFICATION OF CLINIC

Sec. 168.101. CERTIFICATE REQUIRED. (a) A pain management clinic may not operate in this state unless the clinic is certified under this chapter.

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

Redesignated from Occupations Code, Chapter 167 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(45), eff. September 1, 2011.

Sec. 168.102. CERTIFICATE APPLICATION AND ISSUANCE. (a) A physician who owns or operates a pain management clinic shall apply for a certificate for the clinic under this chapter. A pain management clinic must be owned and operated by a medical director who is a physician who practices in this state under an unrestricted license.

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

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

(d) If an applicant for a certificate under this chapter is under investigation by the board for a violation of this subtitle, board rules, or other law relating to the prescription, dispensation, administration, supply, or sale of a controlled substance, the board may not make a decision on the application until the board has reached a final decision on the matter under investigation.

Redesignated from Occupations Code, Chapter 167 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(45), eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1226 (S.B. 1643), Sec. 5, eff. September 1, 2013.

SUBCHAPTER D. CERTIFICATE RENEWAL

Sec. 168.151. EXPIRATION OF CERTIFICATE. (a) A certificate issued under this chapter expires on the second anniversary of the date it is issued.

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

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

Redesignated from Occupations Code, Chapter 167 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(45), eff. September 1, 2011.

Sec. 168.152. REQUIREMENTS FOR RENEWAL. (a) The owner or operator of a pain management clinic may apply to renew a certificate issued to the clinic under this chapter by:

(1) submitting a renewal application to the board on the form prescribed by the board before the expiration of the grace period under Section 168.151; and

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

(b) If a certificate is not renewed before the expiration of the grace period under Section 168.151, the pain management clinic must reapply for an original certificate to operate the clinic.

Redesignated from Occupations Code, Chapter 167 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(45), eff. September 1, 2011.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.002(14), eff. September 1, 2011.

SUBCHAPTER E. REGULATION OF CLINICS; ENFORCEMENT

Sec. 168.201. REGULATION OF PERSON AFFILIATED WITH CLINIC.

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

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

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

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

(a-1) For the purposes of this section, inappropriate prescribing includes nontherapeutic prescribing or other conduct as specified by board rule.

(b) A pain management clinic may not be owned wholly or partly by a person who has been convicted of, pled nolo contendere to, or received deferred adjudication for:

(1) an offense that constitutes a felony; or

(2) an offense that constitutes a misdemeanor, the facts of which relate to the distribution of illegal prescription drugs or a controlled substance as defined by Section [551.003\(11\)](#).

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

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

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

(d) A person who owns or operates a pain management clinic is engaged in the practice of medicine. This shall include, but is not limited to, all supervision and delegation activities related to the pain management clinic.

Redesignated from Occupations Code, Chapter 167 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. [1303](#)), Sec. 27.001(45), eff. September 1,

2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 956 (H.B. 1803), Sec. 8, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 478 (S.B. 1235), Sec. 2, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 534 (S.B. 315), Sec. 5, eff. September 1, 2017.

Sec. 168.202. DISCIPLINARY ACTION. (a) A violation of this chapter or a rule adopted under this chapter is grounds for disciplinary action, including a temporary suspension or restriction under Section 164.059, against a pain management clinic certified under this chapter or an owner or operator of a clinic certified under this chapter.

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

(c) A violation of this chapter is subject to criminal prosecution under Section 165.152.

Redesignated from Occupations Code, Chapter 167 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(45), eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1226 (S.B. 1643), Sec. 6, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 478 (S.B. 1235), Sec. 3, eff. September 1, 2015.