

MICHIE'S ALABAMA CODE ANNOTATED

TITLE 34 Professions and Businesses
CHAPTER 24 Physicians and Other Practitioners of Healing Arts
Article 11 Alabama Pain Management Act

§ 34-24-600. Short title.

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

HISTORY: Acts 2013, No. 13-257, § 1, May 8, 2013.

NOTES: Effective dates.

Acts 2013, No. 13-257, effective May 8, 2013.

§ 34-24-601. Legislative findings.

The Legislature finds that the diversion, abuse, and misuse of prescription medications classified as controlled substances under the Alabama Uniform Controlled Substances Act constitute a serious threat to the health, safety, and welfare of the citizens of the State of Alabama. The Legislature further finds that the registration of all physicians providing pain management services, as defined in this article, will assist the Alabama Board of Medical Examiners in preventing the diversion, abuse, and misuse of controlled substances by regulating these registrants. The Legislature further finds that it is in the best interests of the public safety to give the Board of Medical Examiners the authority it needs to suspend the registration of these physicians providing pain management services when the public health, safety, or welfare requires immediate action.

HISTORY: Acts 2013, No. 13-257, § 1, May 8, 2013.

NOTES: Effective dates.

Acts 2013, No. 13-257, effective May 8, 2013.

§ 34-24-602. Legislative intent.

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

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

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

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

(3) To set reasonable registration and renewal fees.

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

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

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

(7) To conduct investigative interviews.

(8) To regulate physicians providing pain management services.

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

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

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

HISTORY: Acts 2013, No. 13-257, § 1, May 8, 2013.

NOTES: Effective dates.

Acts 2013, No. 13-257, effective May 8, 2013.

§ 34-24-603. Definitions.

Unless otherwise indicated from the context, the terms set out below, as used in this article shall have the following meanings:

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

(2) **Board.** The Alabama Board of Medical Examiners.

(3) **Controlled substance.** A drug, substance, or immediate precursor identified, defined, or listed in *Sections 20-2-20 to 20-2-32*, inclusive.

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

(5) **Pain management services.** Those medical services that involve the prescription of controlled substances in order to treat chronic nonmalignant pain by a physician who treats pain.

(6) **Physician.** A doctor of medicine or an osteopathic physician.

(7) **Registrant.** Any physician issued a registration by the board in its capacity as a certifying board pursuant to this article.

HISTORY: Acts 2013, No. 13-257, § 1, May 8, 2013.

NOTES: Effective dates.

Acts 2013, No. 13-257, effective May 8, 2013.

§ 34-24-604. Annual registration.

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

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

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

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

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

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

(3) Proof of an Alabama controlled substances certificate.

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

(5) The results of a criminal background check. Each applicant shall submit a complete set of fingerprints to the board. The board shall submit the fingerprints provided by each applicant for registration to provide pain management services to the Alabama Bureau of Investigation (ABI). The fingerprints shall be forwarded by the ABI to the Federal Bureau of Investigation (FBI) for a national criminal history record check. Costs associated with conducting a criminal history background check shall be borne by the applicant. The board shall keep information received pursuant to this section confidential, except that such information received and relied upon in denying the registration of a physician to provide pain management services in this state may be disclosed as may be necessary to support the denial.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. A renewal application form prescribed by the board.

b. The required renewal fee.

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

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

1. A felony.

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

e. Any applicant who has been convicted of a crime described in paragraph d. may request an interview before the board, after which the board may approve or deny the registration.

f. Any other information requested by the board.

HISTORY: Acts 2013, No. 13-257, § 1, May 8, 2013.

NOTES: Effective dates.

Acts 2013, No. 13-257, effective May 8, 2013.

Editor's notes.

The Code Commissioner edited this section as enacted. The Code Commissioner redesignated (d)(3) and (d)(4) as subsections (e) and (f); redesignated former (e) to (g) as (g) to (i), and adjusted internal references to conform to code style; redesignated former (i)(2)d.3. as (i)(2)e.; deleted ", in its discretion," preceding "may approve" in (i)(2)e. ; and redesignated former (i)(2)e. as (i)(2)f.

§ 34-24-605. Ownership and operation.

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

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

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

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

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

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

HISTORY: Acts 2013, No. 13-257, § 1, May 8, 2013.

NOTES: Effective dates.

Acts 2013, No. 13-257, effective May 8, 2013.

§ 34-24-606. Training requirements.

Each physician serving as the medical director at a practice location shall meet at least one of the following requirements:

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

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

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

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

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

(6) At least one of the following:

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

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

HISTORY: Acts 2013, No. 13-257, § 1, May 8, 2013.

NOTES: Effective dates.

Acts 2013, No. 13-257, effective May 8, 2013.

§ 34-24-607. Inspections.

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

(b) If the board finds that danger to the public health, safety, or welfare requires emergency suspension of a registration and states in writing its reason for that finding, it may proceed without hearing or upon any abbreviated hearing that it finds practicable to suspend the registration under this article. The suspension shall become effective immediately, unless otherwise stated therein. The suspension may be effective for a period of not longer than 120 days and shall not be renewable. The board shall not suspend the same registration for the same or a substantially similar emergency within one calendar year from its first suspension unless the board clearly establishes that it could not reasonably be foreseen during the initial 120-day period that such emergency would continue or would likely reoccur during the next

nine months. When such summary suspension is ordered, a formal suspension or revocation proceeding under *Section 34-24-361* or *Section 20-2-53*, shall also be promptly instituted and acted upon.

HISTORY: Acts 2013, No. 13-257, § 1, May 8, 2013.

NOTES: Effective dates.

Acts 2013, No. 13-257, effective May 8, 2013.

§ 34-24-608. Investigations.

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

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

HISTORY: Acts 2013, No. 13-257, § 1, May 8, 2013.

NOTES: Effective dates.

Acts 2013, No. 13-257, effective May 8, 2013.

§ 34-24-609. Disciplinary action and sanctions.

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

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

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

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

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

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

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

HISTORY: Acts 2013, No. 13-257, § 1, May 8, 2013.

NOTES: Effective dates.

Acts 2013, No. 13-257, effective May 8, 2013.

§ 34-24-610. Construction of article.

Nothing in this article shall be construed to limit the ability of the Board of Medical Examiners to exercise authority existing prior to the passage of this article.

HISTORY: Acts 2013, No. 13-257, § 2, May 8, 2013.

NOTES: Effective dates.

Acts 2013, No. 13-257, effective May 8, 2013.