AN ACT
relating to the certification and regulation of pain management
clinics.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Subtitle B, Title 3, Occupations Code, is
amended by adding Chapter 167 to read as follows:
CHAPTER 167. REGULATION OF PAIN MANAGEMENT CLINICS
SUBCHAPTER A. GENERAL PROVISIONS
Sec. 167.001. DEFINITION. In this chapter, "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.
Sec. 167.002. 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 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 uses other forms of treatment with the issuance of a prescription for a majority of the patients.

[Sections 167.003-167.050 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF BOARD

Sec. 167.051. 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.

Sec. 167.052. INSPECTIONS. The board may inspect a pain management clinic, including the documents of a physician practicing at the clinic, as necessary to ensure compliance with this chapter.

Sec. 167.053. 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.
[Sections 167.054-167.100 reserved for expansion]

SUBCHAPTER C. CERTIFICATION OF CLINIC

Sec. 167.101. 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.

Sec. 167.102. 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.
[Sections 167.103-167.150 reserved for expansion]

SUBCHAPTER D. CERTIFICATE RENEWAL

Sec. 167.151. 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.

Sec. 167.152. 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 167.151; 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 167.151, the pain management clinic must reapply for an original certificate to operate the clinic.

[Sections 167.153-167.200 reserved for expansion]

SUBCHAPTER E. REGULATION OF CLINICS; ENFORCEMENT

Sec. 167.201. 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.

(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.

Sec. 167.202. DISCIPLINARY ACTION. (a) A violation of
this chapter or a rule adopted under this chapter is grounds for
disciplinary action 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.
S.B. No. 911

SECTION 2. (a) Not later than March 1, 2010, the Texas Medical Board shall adopt the rules required by Chapter 167, Occupations Code, as added by this Act.

(b) Notwithstanding Section 167.101, Occupations Code, as added by this Act, a pain management clinic must obtain a certificate required by that section not later than September 1, 2010.

SECTION 3. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2009.

(b) Section 167.101, Occupations Code, as added by this Act, takes effect September 1, 2010.
S.B. No. 911

David Dewhurst
President of the Senate

I hereby certify that S.B. No. 911 passed the Senate on April 16, 2009, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 29, 2009, by the following vote: Yeas 31, Nays 0.

Joe Straus
Speaker of the House

I hereby certify that S.B. No. 911 passed the House, with amendment, on May 26, 2009, by the following vote: Yeas 142, Nays 0, two present not voting.

Robert Harper
Secretary of the Senate

Robert Harper
Chief Clerk of the House

Approved:

19 JUN 09
Date

Rick Perry
Governor

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