



# TEXAS MEDICAL BOARD

## Pain Management Clinic Certification Withdrawal / Cancellation form

**Physician Name** \_\_\_\_\_

Please print the same name used on your application.

**Pain Management Clinic Name** \_\_\_\_\_

Please print the same name used on your application.

The Texas Medical Board cannot give legal advice. Please consult an attorney if you have questions regarding whether or not your clinic meets one of the exemptions listed in Texas Medical Board rule Chapter 195. However, please note that the Board does have inspection authority, and owners of clinics that are not properly registered can be investigated.

**Please check the appropriate box:**

I request to withdraw my application for a pain management clinic certification.

I understand that by submitting this form, I am requesting to withdraw my request to be registered as the owner/operator of the above listed pain management clinic.

I understand that should I wish to re-apply for pain management clinic certification at a later date, a new application will need to be submitted.

I understand that my request to withdraw my pain management clinic application is subject to approval by the TMB.

I request that my pain management clinic certificate, number \_\_\_\_\_ be cancelled immediately.

I understand that by submitting this form, I am requesting that my pain management clinic certification be cancelled.

I understand that my pain management clinic certificate may not be eligible for cancellation if there is a pending investigation relating to the ownership or operation of said clinic.

I understand that should I wish to re-apply for pain management clinic certification at a later date, a new application will need to be submitted.

I understand that my request to cancel my pain management clinic certificate is subject to approval by the TMB..

**Reason for Withdrawal or Cancellation:**

I now believe that my clinic is exempt from registration.

Another physician is purchasing the clinic.

Clinic is no longer operating.

Other: \_\_\_\_\_

\_\_\_\_\_

**Signature (Required):** \_\_\_\_\_

**Signature**

\_\_\_\_\_ **Date**

**Mail or Fax to:**  
Texas Medical Board  
P.O. Box 2029  
Austin, Texas 78768-2029  
Fax: (512) 463-9416

**Location Address:**  
1801 Congress Ave, Suite 9-200  
Austin, Texas 78701

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## **Chapter 195 - Pain Management Clinics §§195.1-195.4**

### **§195.1. Definitions**

The following words and terms, when used in this chapter, shall have the following meanings, unless the contents indicate otherwise.

(1) Board--The Texas Medical Board.

(2) Pain management clinic--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.

(3) Physician--A person licensed by the Texas Medical Board as a medical doctor or doctor of osteopathic medicine who diagnoses, treats, or offers to treat any disease or disorder, mental or physical, or any physical deformity or injury by any system or method or effects cures thereof and charges therefor, directly or indirectly, money or other compensation. "Physician" and "surgeon" shall be construed as synonymous.

*Source Note: The provisions of this §195.1 adopted to be effective May 2, 2010, 35 TexReg 3281.*

### **§195.2. Certification of Pain Management Clinics**

(a) Application for Certification. Effective September 1, 2010, a pain management clinic may not operate in Texas without obtaining a certificate from the Board. Each physician who owns or operates a pain management clinic shall submit an application on a form prescribed by the board. Certificates issued pursuant to this subsection are not transferable or assignable. If there is more than one physician owner of the clinic, only the primary physician owner shall be required to register with the Board.

(b) Eligibility for Certification.

(1) 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:

(A) have been denied, by any jurisdiction, a license issued by the Drug Enforcement Agency or a state public safety agency under which the person may prescribe, dispense, administer, supply, or sell a controlled substance;

(B) have held a license issued by the Drug Enforcement Agency or a state public safety agency in any jurisdiction, under which the person may prescribe, dispense, administer, supply, or sell a controlled substance, that has been restricted; or

(C) 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.

(2) 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:

(A) an offense that constitutes a felony; or

(B) 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 Texas Occupations Code §551.003(11).

(c) Expiration of Certificate.

(1) Certificates shall be valid for two years.

(2) Certificate holders shall have a 180-day grace period from the expiration date to renew the certificate, however, the owner or operator of the clinic may not continue to operate the clinic while the permit is expired.

(d) Certificate Renewal. Certificates must be timely renewed. If a certificate is not renewed before the expiration of the grace period, the certificate will be automatically cancelled and the owner or operator of the clinic must reapply for original certification.

(e) The board shall coordinate the certification required under this section with the registration required under the Medical Practice Act, Texas Occupations Code Chapter 156, so that the times of registration, payment, notice, and imposition of penalties for late payment are similar and provide a minimum of administrative burden to the board and to physicians.

*Source Note: The provisions of this §195.2 adopted to be effective May 2, 2010, 35 TexReg 3281*

### **§195.3. Inspections**

(a) The board may conduct inspections to enforce these rules, including inspections of a pain management clinic and of documents of a physician's practice. The board may contract with another state agency or qualified person to conduct these inspections.

(b) Unless it would jeopardize an ongoing investigation, the board shall provide at least five business days' notice before conducting an on-site inspection under this section.

(c) This section does not require the board to make an on-site inspection of a physician's office.

(d) The board shall conduct inspections of pain management clinics if the board suspects that the ownership or physician supervision is not in compliance with board rules.

*Source Note: The provisions of this §195.3 adopted to be effective May 2, 2010, 35 TexReg 3281.*

#### **§195.4. Operation of Pain Management Clinics**

(a) Purpose. The purpose of these rules is to identify the roles and responsibilities of physicians who own pain management clinics and to provide the minimum acceptable standards for such clinics.

(b) Exemptions. The rules promulgated under this title do not apply to the following settings:

- (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 TAC §97.403 (relating to Standards Specific to Agencies Licensed to Provide Hospice Services) or defined by 42 CFR §418.3;
- (4) a facility maintained or operated by this state;
- (5) a clinic maintained or operated by the United States;
- (6) a nonprofit health organization certified by the board under Chapter 177 of this title (relating to Certification of Non-Profit Health Organizations);
- (7) a clinic owned or operated by a physician who treats patients within the physician's area of specialty 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 personally uses other forms of treatment with the issuance of a prescription for a majority of the patients.

(c) Ownership. A pain management clinic may not operate in Texas unless the clinic is owned and operated by a medical director who is a physician who practices in Texas and has an unrestricted medical license and hold a certificate as described in §192.4(b) of this title (relating to Registration).

(d) Operation of Clinic. The medical director of a pain management clinic must operate the clinic in compliance with Drug Prevention and Control Act, 21 U.S.C.A. 801 et. seq. and the Texas Controlled Substances Act, Chapter 481 of the Tex. Health and Safety Code, relating to the prescribing and dispensing of controlled substances.

(e) Personnel Requirements. The medical director of a pain management clinic must, on an annual basis, ensure that all personnel are properly licensed, if applicable, trained to include 10 hours of continuing medical education related to pain management, and qualified for employment consistent with §192.4(b)(2)(A) of this title.

(f) Standards to Ensure Quality of Patient Care. The medical director 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;
- (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;
- (3) establish protocols consistent with Chapter 170 of this title (relating to Pain Management); and
- (4) establish quality assurance procedures to include at a minimum:
  - (A) a practice quality plan that requires the medical director to complete at least 10 hours of continuing medical education in the area of pain management;
  - (B) documentation of the background, training, and certifications for all clinical staff;
  - (C) a written drug screening policy and compliance plan for patients receiving chronic opioids;
  - (D) performance of periodic quality measures of medical and procedural outcomes and complications that may include questionnaires or surveys for activities of daily living scores, pain scores, and standardized scales.

(g) Patient Billing Procedures.

(1) The medical director of a pain management clinic must ensure that adequate billing records are maintained for all patients and made available to the board, upon request. Billing records shall include the amount paid, method of payment, and description of services.

(2) Billing records shall be maintained for seven years from the date of last treatment of the patient.

*Source Note: The provisions of this §195.4 adopted to be effective May 2, 2010, 35 TexReg 3281*