WEST VIRGINIA CODE: §16B-7-4

§16B-7-4. Operational requirements.

(a) Any person, partnership, association, or corporation that desires to operate a pain management clinic in this state must submit to the director documentation that the facility meets all of the following requirements:

(1) The clinic shall be licensed in this state with the director, the Secretary of State, the State Tax Department, and all other applicable business or license entities.

(2) The application shall list all owners of the clinic. At least one owner shall be a physician actively licensed to practice medicine, surgery, or osteopathic medicine or surgery in this state. The clinic shall notify the director of any change in ownership within 10 days of the change and must submit a new application within the time frame prescribed by the director.

(3) Each pain management clinic shall designate a physician owner who shall practice at the clinic and who will be responsible for the operation of the clinic. Within 10 days after termination of a designated physician, the clinic shall notify the director of the identity of another designated physician for that clinic. Failing to have a licensed designated physician practicing at the location of the clinic may be the basis for a suspension or revocation of the clinic license. The designated physician shall:

(A) Have a full, active, and unencumbered license to practice medicine, surgery, or osteopathic medicine or surgery in this state:

(B) Meet one of the following training requirements:

(i) Complete a pain medicine fellowship that is accredited by the Accreditation Council for Graduate Medical Education or such other similar program as may be approved by the director; or

(ii) Hold current board certification by the American Board of Pain Medicine or current board certification by the American Board of Anesthesiology or such other board certification as may be approved by the director.

(C) Practice at the licensed clinic location for which the physician has assumed responsibility;

(D) Be responsible for complying with all requirements related to the licensing and operation of the clinic;

(E) Supervise, control, and direct the activities of each individual working or operating at the facility, including any employee, volunteer, or individual under contract, who provides treatment of chronic pain at the clinic or is associated with the provision of that treatment.

WV Legislature

The supervision, control, and direction shall be provided in accordance with rules promulgated by the Inspector General.

(4) All persons employed by the facility shall comply with the requirements for the operation of a pain management clinic established by this article or by any rule adopted pursuant to this article.

(5) No person may own or be employed by or associated with a pain management clinic who has previously been convicted of, or pleaded guilty to, any felony in this state or another state or territory of the United States. All owners, employees, volunteers, or associates of the clinic shall undergo a criminal records check prior to operation of the clinic or engaging in any work, paid or otherwise, pursuant to §16B-15-1 *et seq*. of this code.

(6) The clinic may not be owned by, nor may it employ or associate with, any physician or prescriber:

(A) Whose Drug Enforcement Administration number has ever been revoked;

(B) Whose application for a license to prescribe, dispense, or administer a controlled substance has been denied by any jurisdiction; or

(C) Who, in any jurisdiction of this state or any other state or territory of the United States, has been convicted of or plead guilty or nolo contendere to an offense that constitutes a felony for receipt of illicit and diverted drugs, including controlled substances, as defined by §60A-1-101 of this code.

(7) A person may not dispense any medication, including a controlled substance, as defined by section §60A-1-101 of this code, on the premises of a licensed pain management clinic unless he or she is a physician or pharmacist licensed in this state. Prior to dispensing or prescribing controlled substances, as defined by §60A-1-101 of this code, at a pain management clinic, the treating physician must access the Controlled Substances Monitoring Program database maintained by the Board of Pharmacy to ensure the patient is not seeking controlled substances from multiple sources. If the patient receives ongoing treatment, the physician shall also review the Controlled Substances Monitoring Program database at each patient examination or at least every 90 days. The results obtained from the Controlled Substances Monitoring Program database shall be maintained with the patient's medical records.

(8) Each clinic location shall be licensed separately, regardless of whether the clinic is operated under the same business name or management as another clinic.

(9) A pain management clinic shall not dispense to any patient more than a 72-hour supply of a controlled substance, as defined by §60A-1-101 of this code.

(10) The pain management clinic shall develop patient protocols, treatment plans, and profiles, as prescribed by the Inspector General by rule, and which shall include, but not be

WV Legislature

limited by, the following guidelines:

(A) When a physician diagnoses an individual as having chronic pain, the physician may treat the pain by managing it with medications in amounts or combinations that may not be appropriate when treating other medical conditions. The physician's diagnosis shall be made after having the individual evaluated by one or more other physicians who specialize in the treatment of the area, system, or organ of the body perceived as the source of the pain unless the individual has been previously diagnosed as suffering from chronic pain and is referred to the pain management clinic by such diagnosing physician. The physician's diagnosis and treatment decisions shall be made according to accepted and prevailing standards for medical care.

(B) The physician shall maintain a record of all of the following:

(i) Medical history and physical examination of the individual;

(ii) The diagnosis of chronic pain, including signs, symptoms, and causes;

(iii) The plan of treatment proposed, the patient's response to the treatment, and any modification to the plan of treatment;

(iv) The dates on which any medications were prescribed, dispensed, or administered, the name and address of the individual to or for whom the medications were prescribed, dispensed, or administered and the amounts and dosage forms for the drugs prescribed, dispensed, or administered; and

(v) A copy of the report made by the physician to whom referral for evaluation was made.

(C) A physician, physician assistant, certified registered nurse anesthetist, or advanced nurse practitioner shall perform a physical examination of a patient on the same day that the physician initially prescribes, dispenses or administers a controlled substance to a patient, and at least four times a year thereafter at a pain management clinic according to accepted and prevailing standards for medical care.

(D) A physician authorized to prescribe controlled substances who practices at a pain management clinic is responsible for maintaining the control and security of his or her prescription blanks and any other method used for prescribing controlled substance pain medication. The physician shall comply with all state and federal requirements for tamper-resistant prescription paper. In addition to any other requirements imposed by statute or rule, the physician shall notify the director in writing within 24 hours following any theft or loss of a prescription blank or breach of any other method for prescribing pain medication.

(c) Upon satisfaction that an applicant has met all of the requirements of this article, the director may issue a license to operate a pain management clinic. An entity that obtains this license may possess, have custody or control of, and dispense drugs designated as Schedule II or Schedule III in §60A-2-206 or §60A-2-208 of this code.

WV Legislature