

Georgia Composite Medical Board

Executive Director
LaSharn Hughes, MBA



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Vice Chairperson
Thomas Harbin, MD

2 Peachtree Street, NW • 6th Floor • Atlanta, Georgia 30303 • (404) 656-3913 • www.medicalboard.georgia.gov

NOTICE OF INTENT TO AMEND AND ADOPT RULES

TO ALL INTERESTED PARTIES:

Notice is hereby given that pursuant to the authority set forth below, the Georgia Composite Medical Board (hereinafter "Board") proposes amendments to the Georgia Composite Medical Board Rules by amending **Rule 360-8-.01 "Definitions," Rule 360-8-.02 "Standards of Operation," Rule 360-8-.03 "Pain Management Clinic License Requirements," and Rule 360-8-.05 "Notification to the Board."** An exact copy of the proposed rules are attached to this Notice.

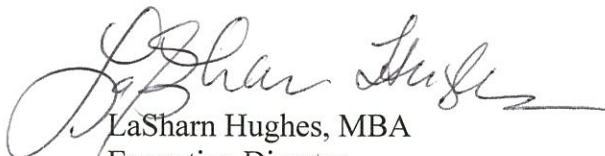
This notice, together with an exact copy of the proposed rules and a synopsis of the proposed amendments may be reviewed between 8:00 a.m. and 4:00 p.m., Monday through Friday, except official state holidays, at 2 Peachtree Street, NW., 6th Floor, Atlanta, GA 30303. These documents can also be reviewed online at <http://medicalboard.georgia.gov/notice-intent-amendadopt-rules>.

A public hearing is scheduled to begin at **8:30 a.m. on October 1, 2020 via TEAMS** to provide the public an opportunity to comment upon and provide input into the proposed rules. At the public hearing, any interested person may present data, make a statement or comment, or offer a viewpoint or argument orally or in writing. Lengthy statements and statements of a considerable technical or economic nature, as well as previously recorded messages, must be submitted for the official record. Oral statements should be concise and will be limited to 5 minutes per person. Additional comments should be presented in writing. To ensure their consideration, submit all written comments by **September 24, 2020 to lhughes@dch.ga.gov** via mail to the Georgia Composite Medical Board Rules Committee at 2 Peachtree Street, N.W., 6th Floor, Atlanta, Georgia 30303.

The Board voted to adopt this Notice of Intent on **August 6, 2020**. Upon conclusion of the public hearing on **October 1, 2020**, the Board will consider whether the formulation and adoption of these proposed rule amendments imposes excessive regulatory costs on any license or entity, and whether any cost to comply with the proposed rule amendments could be reduced by a less expensive alternative that accomplishes the objectives of the statutes which are the basis of the proposed rule. Additionally, the Board will consider whether it is legal or feasible in meeting the objectives of the applicable laws to adopt or implement differing actions for businesses as listed in O.C.G.A. § 50-13-4(3)(A),(B),(C), and (D).

This Notice is adopted and posted in compliance with O.C.G.A. § 50-13-4 of the Georgia Administrative Procedures Act. A synopsis of the proposed rules and an economic impact statement are attached to this Notice. The authority for promulgation of these rules is O.C.G.A. §§43-34-5(c), and 4-34-25(c).

Issued this day August 12, 2020.


LaSharn Hughes, MBA
Executive Director
Georgia Composite Medical Board

Rule 360-8-.01. Definitions

- (1) 'Annual patient population' means persons seen by a clinic or practice in a 12 month calendar year but shall not include persons that are patients of a nursing home, home health agency or hospice licensed pursuant to Chapter 7 of Title 31.
- (2) 'Board' means the Georgia Composite Medical Board created by Code Section 98 43-34-2.
- (3) 'Chronic pain' means physical pain treated for a period of 90 days or more in a year but shall not include perioperative pain, which shall mean pain immediately preceding and immediately following a surgical procedure, when such perioperative pain is being treated in connection with a surgical procedure by a licensed health care professional acting within the scope of his or her license.
- (4) 'License' means a valid and current certificate of registration issued by the board pursuant to this article which shall give the person to whom it is issued to engage in the practice prescribed thereon.
- (5) 'Licensee' means any person holding a license under this article.
- (6) 'Medical treatment' and 'medical services' means the treatment of chronic pain.
- (7) 'Medical treatment or services' means for purposes of Chapter 360-8, medical treatment and services include, but are not limited to, the evaluation, diagnosis, and/or treatment of any medical complaint or condition, including prescribing and/or ordering medication, administering therapy, and/or any surgical procedure.
- (8) 'Nonterminal condition' means a medical condition which is reversible, where there is a reasonable hope of recovery, and where the patient's medical prognosis is a life expectancy of two years or more.
- (9) 'Pain management clinic' means a medical practice advertising 'treatment of pain' or utilizing 'pain' in the name of the clinic or a medical practice or clinic with greater than 50 percent of its annual patient population being treated for chronic pain for nonterminal conditions by the use of Schedule II or III controlled substances. This term shall not include any clinic or practice owned, in whole or in part, or operated by a hospital licensed pursuant to Chapter 7 of Title 31 or by a health system or any ambulatory surgical center, skilled nursing facility, hospice, or home health agency licensed pursuant to Chapter 7 of Title 31.
- (10) 'Proof of Ownership' includes official documents such as incorporation papers filed with Secretary of State, a business license issued to the location identified in the application, lease agreements, bank accounts, information related to billing practices of the business, evidence related to form of payment for the owners of the clinic and physicians practicing at the clinic, and any other documentation that the Board may need to determine actual ownership.
- (11) 'Person' means a natural person.
- (12) 'Physician' means a person who possesses a current, unrestricted license to practice medicine in the State of Georgia pursuant to Article 2 of this chapter.

Authority: O.C.G.A Sections [43-34-281](#), [43-34-282](#).

Rule 360-8-.02. Standards of Operation

- (1) Each location of a clinic where a physician practices pain management must be licensed.
- (2) A new pain management clinic license must be obtained if there is a change in ownership or a change in location.
- (3) No pain management clinic shall provide medical treatment or services unless a physician, a physician assistant authorized to prescribe controlled substances under an approved job description, or an advanced practice registered nurse authorized to prescribe controlled substances pursuant to a physician protocol is on-site at the pain management clinic. This rule shall not apply to a certified registered nurse anesthetist practicing pursuant to Code Section 43-26-11.1, so long as
 - (a) the patient has previously been examined by a physician and such physician has issued a written order for such patient to receive medical treatment or services and
 - (b) the pain management clinic has obtained written consent of the patient prior to any medical treatment or services being provided by the certified registered nurse anesthetist regarding the medical treatment or services to be performed, the risks of the medical treatment or services to be performed, and that a physician may or may not be on-site.
- (4) No licensed physician can own a pain management clinic if the physician, during the course of his or her practice, has been denied the privilege of prescribing, dispensing, administering, supplying or selling any controlled substance, or has had board action against his or her medical license as a result of dependency on alcohol or drugs.
- (5) No person can own a pain management clinic if he or she has been convicted of a felony. For purposes of this rule, the term "convicted of a felony" shall include a conviction of an offense which if committed in this state would be deemed a felony under either state or federal law, without regard to its designation elsewhere. As used in this paragraph, the term "conviction" shall include a finding or verdict of guilt, a plea of guilty resulting in first offender status, or a plea of nolo contendere in a criminal proceeding, regardless of whether the adjudication of guilt or sentence is withheld or not entered thereon.
- (6) The owner of the clinic and the physicians practicing in the clinic shall be responsible for compliance with all the laws and rules and regulations regulating the practice of medicine and the laws and rules and regulations pertaining to the controlled substances.
- (7) The license issued by the Board shall be displayed in a conspicuous place.
- (8) All pain management clinics that dispense controlled substances or dangerous drugs shall be registered with the Georgia State Board of Pharmacy as required by Chapter 4 of Title 26.
- (9) Each physician owning or practicing in a pain management clinic must register with the Georgia Prescription Monitoring Program ("PDMP"). See link <https://georgia.pmpaware.net/login> www.gdna.ga.gov. Each physician practicing at a pain clinic must regularly check the PDMP on all new and existing patients.
- (10) The Board shall have the power to reprimand, cancel, suspend, revoke, or otherwise restrict any license or permit issued by the Board.

- (11) Any person who operates a pain management clinic in the State of Georgia without a license shall be guilty of a felony.

Authority: O.C.G.A. §§ [43-26-11.1](#), [43-34-283](#).

Rule 360-8-.03. Pain Management Clinic License Requirements

- (1) Effective July 1, 2013, all pain management clinics must hold a license issued by the Board to operate in this state, and must be owned by physicians holding current licenses to practice in this state.
- (a) A pain management clinic who can present satisfactory evidence to the Board of being in existence on June 30, 2013, may also qualify for a license at each location if it is jointly owned by one or more Georgia licensed physicians and one or more Georgia licensed physician assistants or Georgia licensed advanced practice registered nurses.
- (b) All pain management clinics shall be owned by physicians licensed in this state, unless exempted under O.C.G.A. § 43-34-283 (b)(1) or (b)(2).**
- (b)(c)** A pain management clinic who can present satisfactory evidence to the Board of being in existence on June 30, 2013, may also qualify for a license at ONE location even though it is not wholly owned by Georgia licensed physicians. However, the owners must meet all the qualifications for licensure except being a licensed physician.
- (2) All applicants for licensure as pain management clinic must submit an application on a form approved by the Board for each location and a non-refundable application fee for each application, and must submit all of the following:
- (a) An affidavit from each owner that each owner is a United States citizen, a legal permanent resident of the United States, or that he/she is a qualified alien or non-immigrant under the Federal Immigration and Nationality Act. If the applicant is not a U.S. citizen, he/she must submit documentation that will determine his/her qualified alien status. The Board participates in the **DHS-USCIS SAVE** (Systematic Alien Verification for Entitlements or "SAVE") program for the purpose of verifying citizenship and immigration status information of non-citizens. If the applicant is a qualified alien or non-immigrant under the Federal Immigration and Nationality Act, he/she must provide the alien number issued by the Department of Homeland Security or other federal immigration agency.
- (b) A secure and verifiable document from each owner.
- (c) Proof that each licensed owner who holds a license to practice healthcare in this state and each physician, physician assistant and advanced practice registered nurse who practices at the clinic are in good standing with the Board or their respective licensing board.
- (d) Each owner, principal, manager, agent, officer, and licensed health care practitioner must pass a criminal background check and further investigation, at the Board's discretion.

- (e) Each owner must submit an affidavit of ownership and current photograph.
 - (f) A National Practitioner Data Bank and Health Integrity and Protection Data Bank Report is required for all health care providers owning or practicing in the pain management clinic.
 - (g) A copy of the current Drug Enforcement Administration (DEA) card for all owners and all health care providers practicing in the pain management clinic that holds such license.
 - (h) Proof of ownership.
- (3) Pain management clinic applications are valid for six month from initial receipt.
 - (4) The Board may require the owner and/or physician(s) practicing at the pain management clinic to appear for a personal interview before the Licensure Committee of the Board.
 - (5) The physical location of the applicant pain management clinic may be inspected before the application is considered. In addition, if a license is granted, the pain management clinic may be inspected at the Board's discretion at any time. The pain management clinic must have the necessary medical equipment to provide the medical treatment or service offered and must comply with sanitation standards.
 - (6) An application may be denied for any of the reasons authorized by law, or the Board may grant a license with restrictions.

Authority: O.C.G.A. Sections [43-34-5](#), [43-34-8](#), [43-34-282](#), [43-34-283](#), [43-34-284](#), [43-34-286](#), and [43-34-288](#).

Rule 360-8-.05. Notifications to the Board

- (1) The licensee shall notify the Board **within ten business days** upon the occurrence of any of the following:
 - (a) Permanent closing of a licensed pain management clinic;
 - (b) Any theft or loss of drugs or devices of a licensed pain management clinic;
 - (c) Any known conviction of any employee of a licensed pain management clinic of any state or federal drug laws;
 - (d) Any known conviction based upon charges of fraud of any employee of a licensed pain management clinic; or
 - (e) Disasters, accidents, theft, destruction, or loss of records of a licensed pain management clinic required to be maintained by state or federal law or the rules of the board.
 - (f) If there is a death of a patient due to medication.

- (g) Any malpractice settlements or disciplinary actions imposed against the owners or physicians practicing in the clinic
 - (h) Impairment of any physician, physician assistant or advanced practice registered nurse practicing in the clinic.
 - (i) Revocation of the license of another pain management clinic in this or other states owned by the same owners.
 - (j) Notification if the DEA of an owner of physician, physician assistant or advanced practice registered nurse is revoked or surrendered.
 - (k) Termination of employment of a physician, physician assistant and advanced practice registered nurse from a licensed pain management clinic;
- (2) The licensee must notify the Board at least ten (10) days **prior to the occurrence** of the following:
- (a) Change of ownership, name, management, or location of a licensed pain management clinic; the license is non-transferrable so the license immediately becomes void and inactive upon a change in ownership or location.
 - (b) Employment of a new **physician physicians**, physician assistant, or advanced practice registered nurse in a licensed pain management clinic. The notification must be on a form approved by the Board and must include appropriate supplemental documentation including a criminal background check. Although prior approval by the Board is not required, the employment of a person who does not qualify for employment at a pain clinic under the law and rules of the Board is grounds for disciplinary action against the clinic license. A clinic license holder may voluntarily submit notification with a request for prior Board approval to verify that a person does qualifies for employment under the laws and rules of the Board.

Authority: O.C.G.A. §§ 43-34-5, 43-34-283, 43-34-285(8).