

Georgia Composite Medical Board

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UPDATED

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-.02 Standards of Operation.**" An exact copy of the proposed rule is 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, N.W., 36th Floor, Atlanta, Georgia 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 **8:00 a.m.** on **April 12, 2018** at 2 Peachtree Street, N.W., 5th Floor, Atlanta, Georgia 30303 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 **April 4, 2018 to Diane Atkinson at matkinson@dch.ga.gov** or via mail to the Georgia Composite Medical Board Rules Committee at 2 Peachtree Street, N.W., 36th Floor, Atlanta, Georgia 30303.

The Board voted to adopt this Notice of Intent on **February 2, 2018**. Upon conclusion of the public hearing on **April 12, 2018**, 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. §§ 16-13-21, 15-13-57, 16-13-57, 16-13-60, 16-13-63, 16-13-64, 43-34-1 and 43-34-5. Issued this day, February 5, 2018.

LaSharn Hughes, MBA,
Interim Executive Director
Georgia Composite Medical Board

ECONOMIC IMPACT AND SYNOPSIS FOR

RULE CHAPTER 360-8
“Pain Clinics”

ECONOMIC IMPACT:

The attached rules are promulgated under the authority of the Medical Practice Act, Title 43, Chapter 34. The Georgia Composite Medical Board licenses and regulates nine professions. The formulation and adoption of these rules do not impose excessive regulatory cost on any licensee, and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative that fully accomplishes the objectives of Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated. Additionally, it is not legal or feasible to meet the objectives of the Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated to adopt or implement differing actions for businesses listed in O.C.G.A. §50-13-4(a)(3)(A), (B), (C) and (D).

RULE SYNOPSIS:

Rule 360-8-.02 “Standards of Operation.”

Purpose/Main Features: The purpose of the proposed amendment is to update changes from SB 106 from the FY18 legislative session, which provided provisions relating to licensure requirements for pain management clinics, so as to revise a provision relating to the health care professionals who must be on-site at a pain management clinic in order for the clinic to provide medical treatment or services.

Authority: O.C.G.A. §§ 43-26-11.1 and 43-34-283

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.
~~Nothing in this rule shall be construed to restrict the practice of a Georgia-licensed Certified Registered Nurse Anesthetist administering anesthesia as provided in O.C.G.A. 43-34-11.1.~~ 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 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 and 43-34-283