

EXECUTIVE SUMMARY –
Prescription Drug Abuse, Addiction and Diversion:
Overview of State Legislative and Policy Initiatives
A Three Part Series
Part 2:
State Regulation of Pain Clinics &
Legislative Trends Relative to Regulating Pain Clinics

Part 2 of this series addresses the regulation of pain management clinics at the state level through statute and regulation. As of August 20th, 2013 nine states have adopted specific pain clinic regulation acts as part of an effort to target pill mills and the variety of illegal activities associated therewith. The nine states that currently have pain clinic acts are Florida, Georgia, Kentucky, Louisiana, Mississippi, Ohio, Tennessee, Texas and West Virginia. While the laws in these states differ, NAMSDL identified fourteen common legislative components as follows:

- 1) Definitions: The statute or regulation contains definitions of key terms such as “pain management clinic.” The definition of a pain management clinics differs from state to state but these entities are generally defined as a specific location where patients are prescribed or dispensed controlled substances for treatment of a chronic pain condition. Pain clinic laws and regulations in Florida, Georgia, Kentucky, Louisiana, Mississippi, Ohio, Tennessee, Texas and West Virginia include definitions of key terms.
- 2) Registration: The statute or regulation requires pain clinics to be registered with or certified/licensed by a designated state agency. Pain clinic laws and regulations in Florida, Georgia, Kentucky, Louisiana, Mississippi, Ohio, Tennessee, Texas and West Virginia enumerate specific requirements clinics must comply with in order to operate as a licensed/registered/certified practice.
- 3) Exemptions: The statute or regulation exempts certain facilities such as surgical facilities, hospice providers, nursing homes and state-operated facilities. Pain clinic laws and regulations in Florida, Georgia, Kentucky, Louisiana, Ohio, Tennessee, Texas and West Virginia include a list of exempted entities.
- 4) Ownership Qualifications: The statute or regulation requires clinic owners to hold specific licenses or board certifications such as requiring owners to be licensed and practicing physicians, disallowing ownership of clinics by persons who have been convicted of certain controlled substance crimes and requiring owners to be board certified in a specific field related to pain management. Pain clinic laws and regulation in Florida, Georgia, Kentucky, Louisiana, Mississippi, Ohio, Tennessee, Texas and West Virginia include ownership requirement provisions.

- 5) **Medical Director:** The statute or regulation requires clinics to designate an individual to bear certain responsibilities relative to clinic operation. Pain clinic laws and regulations in Florida, Georgia, Kentucky, Louisiana, Ohio, Tennessee, Texas and West Virginia require clinics to designate an individual who must assume responsibility for operation of the facility.
- 6) **Hourly Requirements:** The statute or regulation requires certain individuals to be on-site at the clinic for a specific number of operating hours. Pain clinic laws and regulations in Georgia, Louisiana, Kentucky, Tennessee and Texas require a designated individual to be on-site at a clinic during a certain percentage of that clinic's operating hours.
- 7) **Prescribing/Dispensing Restrictions:** The statute or regulation restricts prescribing or dispensing of controlled substance at the clinic. Pain clinic laws and regulations in Florida, Kentucky, Louisiana, Ohio, Tennessee and West Virginia place restrictions on the prescribing/dispensing of controlled substances in a pain clinic setting.
- 8) **PMP:** The statute or regulation references certain requirements related to the state's PMP program like requiring a designated individual affiliated with a clinic to register with and/or use a state's PMP in certain circumstances. Pain clinic laws and regulations in Kentucky, Louisiana, Tennessee and West Virginia enumerate a specific mandate relative to the state's PMP program.
- 9) **Training Requirements:** The statute or regulation requires clinic practitioners/employees to meet certain training or educational thresholds including but not limited to completion of specific continuing medical education and board certification through the American Board of Pain Medicine. Pain clinic laws and regulations in Florida, Georgia, Kentucky, Louisiana, Ohio, Tennessee, Texas and West Virginia require persons practicing in pain clinics to meet certain qualifications or receive specific training.
- 10) **Clinic Environment:** The statute or regulation includes requirements related to the physical appearance of the clinic (lighting, signage, etc). Pain clinic laws and regulations in Florida, Kentucky, Louisiana and West Virginia outline requirements regarding the physical environment of a facility.
- 11) **Inspections:** The statute or regulation includes inspection requirements and/or procedures. Pain clinics laws and regulations in Florida, Kentucky, Louisiana, Ohio, Tennessee, Texas and West Virginia authorize various officials to conduct clinic inspections.

12) Records: The statute or regulation mandates that pain clinics maintain certain records and/or collect certain data. Pain clinic laws and regulations in Florida, Kentucky, Louisiana, Ohio, Tennessee, Texas and West Virginia mandate compliance with specific record-keeping and/or data collection requirements.

13) Violations and Penalties: The statute or regulation enumerates specific penalties for violations. Pain clinic laws and regulations in Florida, Georgia, Kentucky, Louisiana, Ohio, Tennessee, Texas and West Virginia establish specific violations and penalties for those violations.

14) Fees: The statute or regulation permits the collection of fees (licensing, inspection, etc.) Pain clinic laws and regulations in Florida, Kentucky, Louisiana, Ohio and Tennessee permit the collection of fees that can help cover the cost of enforcement.

Part 2 presents the information summarized in the fourteen points above in three ways: (1) a narrative section that presents each component, a component description and examples of statutory or regulatory language (2) a series of maps showing the states that have laws or regulations relative to each component and (3) a comparative chart. Part 2 further includes a discussion of the differences between a pain clinic and a pill mill as well as the challenges legislators, law enforcement, regulatory officials and the medical community face in identifying ways to protect the legitimate practice of pain medicine while simultaneously eliminating the illegitimate activities taking place in this nation's pill mills.