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3 SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR SB113  
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8 SYNOPSIS: This bill would provide for additional  
9 regulation of physicians providing pain management  
10 services.  
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12 A BILL  
13 TO BE ENTITLED  
14 AN ACT  
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16 To add a new Article 11 consisting of Sections  
17 34-24-1001, 34-24-1002, 34-24-1003, 34-24-1004, 34-24-1005,  
18 34-24-1006, 34-24-1007, 34-24-1008, 34-24-1009, and 34-24-1010  
19 to Chapter 24 of Title 34 of the Code of Alabama 1975,  
20 relating to doctors of medicine, osteopathic physicians and  
21 all physician certificate holders and licensees of the Alabama  
22 Board of Medical Examiners and the Medical Licensure  
23 Commission of Alabama so as to provide for additional powers  
24 of the board relating to pain management; to provide for the  
25 Alabama Pain Management Act; to safeguard the public health,  
26 safety, and welfare by requiring the registration and  
27 regulation of physicians providing pain management services;

1 to provide for the renewal of pain management registrations;  
2 to provide for the requirements in order to become registered  
3 under this act; to provide for registration fees; to provide  
4 for conducting investigations and inspections; to provide for  
5 contracting to assist in the prevention of abuse, misuse, and  
6 conversion; to provide for the ability to administer oaths and  
7 issue subpoenas; to provide for the adoption of rules and  
8 regulations to implement this article; to provide the  
9 requirements for holding a registration; to provide for the  
10 establishment of a medical director and the duties associated  
11 with being a medical director; to provide for disciplinary  
12 actions, sanctions, and punishments for the violation of the  
13 act, including civil monetary penalties; to provide the board  
14 with the authority to suspend the registration of a physician  
15 when he or she poses an immediate danger to public health,  
16 safety, or welfare; to provide the board the authority and  
17 jurisdiction to carry out the intent of this act; and to  
18 provide for related matters and for other purposes.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. A new Article 11 is added to Chapter 24  
21 of Title 34 of the Code of Alabama 1975, consisting of  
22 Sections 34-24-1001, 34-24-1002, 34-24-1003, 34-24-1004,  
23 34-24-1005, 34-24-1006, 34-24-1007, 34-24-1008, 34-24-1009,  
24 and 34-24-1010 to read as follows:

25 Article 11. Alabama Pain Management Act.

26 §34-24-1001. Short title.

1           This article shall be known as and may be cited as  
2 the Alabama Pain Management Act.

3           §34-24-1002. Legislative findings.

4           The Legislature finds that the diversion, abuse, and  
5 misuse of prescription medications classified as controlled  
6 substances under the Alabama Uniform Controlled Substances Act  
7 constitute a serious threat to the health, safety, and welfare  
8 of the citizens of the State of Alabama. The Legislature  
9 further finds that the registration of all physicians  
10 providing pain management services, as defined in this  
11 article, will assist the Alabama Board of Medical Examiners in  
12 preventing the diversion, abuse, and misuse of controlled  
13 substances by regulating these registrants. The Legislature  
14 further finds that it is in the best interests of the public  
15 safety to give the Board of Medical Examiners the authority it  
16 needs to suspend the registration of these physicians  
17 providing pain management services when the public health,  
18 safety, or welfare requires immediate action.

19           §34-24-1003.

20           (a) Authority. The Alabama Board of Medical  
21 Examiners shall have the jurisdiction and authority necessary  
22 to carry out the provisions and intent of this article.

23           (b) Intent. The article is intended to require  
24 physicians to register under the provisions of this article,  
25 and to provide the Alabama Board of Medical Examiners the  
26 following powers and duties with respect to all registrants of  
27 the Board of Medical Examiners, in addition to its existing

1 authority as a certifying board pursuant to the Alabama  
2 Uniform Controlled Substances Act:

3 (1) To adopt, amend, and repeal such rules and  
4 regulations in accordance with the Alabama Pain Management Act  
5 for the proper administration and enforcement of this article.

6 (2) To establish rules regarding the registration of  
7 all physicians providing pain management services.

8 (3) To set reasonable registration and renewal fees.

9 (4) To renew registrations and set renewal and  
10 expiration dates and other deadlines.

11 (5) To initiate investigations for the purposes of  
12 discovering violations of this article.

13 (6) To administer oaths, subpoena witnesses and  
14 documents, including medical records, and take testimony in  
15 all matters relating to the board's duties.

16 (7) To conduct investigative interviews.

17 (8) To regulate physicians providing pain management  
18 services.

19 (9) To revoke, suspend, reprimand, place on  
20 probation, issue terms and conditions, limit practice, fine,  
21 require additional training, or otherwise sanction physicians  
22 providing pain management services.

23 (10) To immediately suspend registrations from  
24 physicians providing pain management services when they pose  
25 an immediate danger to the public health.

26 (c) In order to prevent abuse, misuse, and  
27 conversion of controlled substances, and further administer

1 this article, the board may contract with the Alabama  
2 Physician Wellness Committee, or any other nonprofit  
3 professional organization or nonprofit society that in its  
4 discretion it deems appropriate.

5 §34-24-1004. Definitions.

6 (a) Unless otherwise indicated from the context, the  
7 terms set out below, as used in this article shall have the  
8 following meanings:

9 (1) APPLICANT. A person who has submitted or that is  
10 in the process of submitting a registration under this  
11 article.

12 (2) BOARD. The Alabama Board of Medical Examiners.

13 (3) CONTROLLED SUBSTANCE. A drug, substance, or  
14 immediate precursor identified, defined, or listed in Sections  
15 20-2-20 to 20-2-32, inclusive.

16 (4) HOSPITAL. A health care institution licensed by  
17 the Alabama Department of Public Health and has the same  
18 definition as provided in Chapter 420-5-7 of the Alabama  
19 Administrative Code. The term shall include any outpatient  
20 facility or clinic that is separated from the hospital that is  
21 owned, operated, or controlled by the hospital.

22 (5) PAIN MANAGEMENT SERVICES. Those medical services  
23 that involve the prescription of controlled substances in  
24 order to treat chronic nonmalignant pain by a physician who  
25 treats pain.

26 (6) PHYSICIAN. A doctor of medicine or an  
27 osteopathic physician.

1           (7) REGISTRANT. Any physician issued a registration  
2 by the board in its capacity as a certifying board pursuant to  
3 this article.

4           §34-24-1005. Annual registration.

5           (a) Beginning January 1, 2014, and continuing each  
6 year thereafter:

7           (1) All physicians providing pain management  
8 services shall obtain a pain management registration from the  
9 board.

10           (2) All physicians who otherwise meet the criteria  
11 established by the board shall obtain a pain management  
12 registration from the board.

13           (b) To register, a physician applicant shall submit  
14 the following to the board:

15           (1) A completed application on a form prescribed by  
16 the board.

17           (2) Proof of a current drug enforcement  
18 administration registration.

19           (3) Proof of an Alabama controlled substances  
20 certificate.

21           (4) Proof of a current registration with the Alabama  
22 Prescription Drug Monitoring Program (PDMP).

23           (5) The results of a criminal background check. Each  
24 applicant shall submit a complete set of fingerprints to the  
25 board. The board shall submit the fingerprints provided by  
26 each applicant for registration to provide pain management  
27 services to the Alabama Bureau of Investigation (ABI). The

1 fingerprints shall be forwarded by the ABI to the Federal  
2 Bureau of Investigation (FBI) for a national criminal history  
3 record check. Costs associated with conducting a criminal  
4 history background check shall be borne by the applicant. The  
5 board shall keep information received pursuant to this section  
6 confidential, except that such information received and relied  
7 upon in denying the registration of a physician to provide  
8 pain management services in this state may be disclosed as may  
9 be necessary to support the denial.

10 (6) A list of all registrants who own, co-own,  
11 operate, or provide pain management services in the practice  
12 location.

13 (7) The disclosure of any controlled substances  
14 certificate or registration denial, restriction, or discipline  
15 imposed on the registrant, or any disciplinary act against the  
16 license of the registrant.

17 (8) Payment of the initial registration fee as set  
18 forth in this section and in the rules of the Alabama Board of  
19 Medical Examiners.

20 (9) A certification listing the current name of the  
21 physician who will serve as the medical director.

22 (10) Any other information requested by the board  
23 related to the qualifications to, or the provision of,  
24 providing pain management services.

25 (c) The applicant shall provide the board with a  
26 physical address for each location where he or she provides  
27 pain management services and a list of all physicians who work

1 at the practice location, including the name of the physician  
2 who will serve as the medical director. For purposes of this  
3 subsection, if a practice location is a hospital, the  
4 physician applicant is not required to provide the names of  
5 physicians at the hospital other than the medical director.

6 (d) Exemptions. The provisions of this article shall  
7 not apply to any of the following:

8 (1) A hospice program licensed by the Alabama  
9 Department of Public Health, or any physicians while  
10 performing work for that program.

11 (2) A facility maintained or operated by the United  
12 States or any of its departments, offices, or agencies, or any  
13 physicians while performing work for that facility.

14 (3) The board shall provide individual, entity, and  
15 any categorical exemptions as, in its discretion, it deems  
16 appropriate.

17 (4) Any physician who is not included in  
18 subdivisions (1) and (2) may petition the board for an  
19 exemption from the requirements of this section for working at  
20 a particular entity. The board shall have the sole discretion  
21 in determining whether the requested exemption shall be  
22 granted or denied.

23 (e) Fees.

24 (1) An initial registration fee is provided in an  
25 amount set by the board in its rules not to exceed three  
26 hundred dollars (\$300).



1                   (2) Renewal fee. A renewal fee is provided in an  
2 amount set by the board in its rules not to exceed three  
3 hundred dollars (\$300).

4                   (f) Miscellaneous.

5                   (1) An applicant practicing in more than one  
6 location shall submit a separate registration fee for each  
7 practice.

8                   (2) If an applicant does not complete the initial  
9 application process within 90 days of his or her first  
10 submission to the board, then the application shall be closed,  
11 the application fee shall not be refunded, and the applicant  
12 shall be required to reapply for registration.

13                   (3) An application which is submitted to the board  
14 may be withdrawn at any time prior to the granting or denial  
15 of registration; provided, however, that the application fee  
16 shall not be refunded.

17                   (g) Renewal.

18                   (1) A registration by a physician under this article  
19 shall expire on December 31 of each year.

20                   (2) A registrant may renew a current registration  
21 prior to its expiration date by submitting the following to  
22 the board:

23                   a. A renewal application form prescribed by the  
24 board.

25                   b. The required renewal fee.

1 c. A certification that each location at which the  
2 applicant provides pain management service has a medical  
3 director.

4 d. If the practice location is not a hospital, an  
5 attestation that the practice location is not owned wholly or  
6 partly by a person who has been convicted of or pled nolo  
7 contendere to any of the following:

8 1. A felony.

9 2. An offense that constitutes a misdemeanor, the  
10 facts of which relate to the distribution or illegal  
11 prescription of any controlled substance.

12 3. Any applicant who has been convicted of a crime  
13 described in paragraph d. may request an interview before the  
14 board, after which the board, in its discretion, may approve  
15 or deny the registration.

16 e. Any other information requested by the board.

17 §34-24-1006. Ownership and operation.

18 (a) All registrants must provide pain management  
19 services at a location that is owned and operated by one of  
20 the following:

21 (1) One or more physicians licensed to practice  
22 medicine in Alabama.

23 (2) A business entity registered with the Secretary  
24 of State.

25 (b) In order to be registered, a physician shall  
26 certify that each practice location is under the direction of  
27 a medical director who shall be a physician who possesses a

1 current, unrestricted license to practice medicine or  
2 osteopathy in Alabama.

3 (c) Every registrant providing pain management  
4 services is required to obtain access to the Alabama  
5 Prescription Drug Monitoring Program (PDMP) maintained by the  
6 Alabama Department of Public Health.

7 §34-24-1007. Training requirements.

8 (a) Each physician serving as the medical director  
9 at a practice location shall meet at least one of the  
10 following requirements:

11 (1) Successful completion of a residency program in  
12 physical medicine and rehabilitation, anesthesiology,  
13 addiction medicine, neurology, neurosurgery, family practice,  
14 preventive medicine, internal medicine, surgery, orthopedics,  
15 or psychiatry approved by the Accreditation Council for  
16 Graduate Medical Education (ACGME) or the American Osteopathic  
17 Association Bureau of Osteopathic Specialists (AOABOS).

18 (2) Board certification in physical medicine and  
19 rehabilitation, anesthesiology, addiction medicine, neurology,  
20 neurosurgery, family practice, preventive medicine, internal  
21 medicine, surgery, orthopedics, or psychiatry approved by the  
22 American Board of Medical Specialties (ABMS) or the American  
23 Osteopathic Association Bureau of Osteopathic Specialists  
24 (AOABOS).

25 (3) Specialty certification in pain management, pain  
26 medicine, hospice and palliative medicine, geriatric medicine,  
27 rheumatology, hematology, medical oncology, gynecologic

1 oncology, infectious disease, pediatric hematology-oncology,  
2 or pediatric rheumatology recognized by the American Board of  
3 Medical Specialties or the American Osteopathic Association  
4 Bureau of Osteopathic Specialists.

5 (4) Board certification by the American Board of  
6 Pain Medicine.

7 (5) Board certification by the American Board of  
8 Interventional Pain Physicians.

9 (6) At least one of the following:

10 a. Completion of 40 in-person, live participatory  
11 AMA PRA Category 1 Credit or AOA Category 1-A credits in the  
12 area of pain management completed within three years of  
13 implementation of this article or prior to serving as a  
14 medical director for the practice location, whichever of them  
15 is most recent.

16 b. Completion of a board approved course of medical  
17 education in the area of prescribing controlled substances  
18 completed within three years of implementation of this article  
19 or prior to serving as medical director for the practice  
20 location, whichever of them is most recent, and completion of  
21 40 in-person, live participatory AMA PRA Category 1 Credit or  
22 AOA Category 1-A credits in the area of pain management within  
23 three years of commencement of service as medical director.

24 §34-24-1008. Inspections.

25 (a) Physicians registered under this article shall  
26 make all records, notes, and files of the registrant open to  
27 inspection. In carrying out the intent of this article, the

1 board shall have all of the power and authority that it  
2 currently possesses in its current capacity under Sections  
3 34-24-363 to 34-24-365, inclusive. However, all of that  
4 authority and power therein may be applied to this article for  
5 purposes of this pain management registration.

6 (b) If the board finds that danger to the public  
7 health, safety, or welfare requires emergency suspension of a  
8 registration and states in writing its reason for that  
9 finding, it may proceed without hearing or upon any  
10 abbreviated hearing that it finds practicable to suspend the  
11 registration under this article. The suspension shall become  
12 effective immediately, unless otherwise stated therein. The  
13 suspension may be effective for a period of not longer than  
14 120 days and shall not be renewable. The board shall not  
15 suspend the same registration for the same or a substantially  
16 similar emergency within one calendar year from its first  
17 suspension unless the board clearly establishes that it could  
18 not reasonably be foreseen during the initial 120-day period  
19 that such emergency would continue or would likely reoccur  
20 during the next nine months. When such summary suspension is  
21 ordered, a formal suspension or revocation proceeding under  
22 Section 34-24-361 or Section 20-2-53, shall also be promptly  
23 instituted and acted upon.

24 §34-24-1009. Investigations.

25 (a) The board or its agents, on its own motion or in  
26 response to a written complaint, may investigate known or  
27 suspected violations of this article, and may issue subpoenas.

1 (b) In addition to the powers granted under this  
2 article, the board or its agents are further authorized to  
3 conduct any investigations pursuant to its authority in  
4 Section 34-24-361, including, but not limited to, the  
5 conducting of formal interviews with a physician, the filing  
6 of a written administrative complaint and the request for the  
7 temporary emergency suspension of the license of a physician  
8 by the Medical Licensure Commission of Alabama.

9 §34-24-1010. Disciplinary action and sanctions.

10 (a) A violation of this article or a rule adopted  
11 under this article is grounds for disciplinary action and  
12 sanctions against a registrant as provided in this section.

13 (b) A violation of this article may be enforced in  
14 the same manner as any other violation of Sections 20-2-50 to  
15 20-2-58, inclusive.

16 (c) Any violation of this article or a rule adopted  
17 under this article shall be prosecuted against and in the name  
18 of the registrant or registrants participating in the alleged  
19 violation.

20 (d) In addition to the requirements, sanctions, and  
21 punishment provided by Sections 20-2-50 to 20-2-58, inclusive,  
22 the board may impose the following sanctions:

23 (1) The failure to register shall be punishable by a  
24 fine up to ten thousand dollars (\$10,000) per violation, or  
25 the revocation of the registration, or both.

26 (2) A violation of any other requirements under this  
27 article by a physician, including a medical director, shall be

1 punishable by a fine up to one thousand dollars (\$1,000) per  
2 violation, or the revocation of the registration, or both.

3 (3) If a practice location has two or more  
4 physicians that violate this article within one year, the  
5 board shall report the violations to the appropriate licensing  
6 agency that regulates the practice location.

7 Section 2. Nothing in this act shall be construed to  
8 limit the ability of the Board of Medical Examiners to  
9 exercise authority existing prior to the passage of this act.

10 Section 3. The provisions of this act are severable.  
11 If any part of this act is declared invalid or  
12 unconstitutional, that declaration shall not affect the part  
13 which remains.

14 Section 4. This act shall become effective  
15 immediately following its passage and approval by the  
16 Governor, or its otherwise becoming law.