

1 AN ACT relating to controlled substance prescription pill counts for pain
2 management facility patients.

3 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

4 ➔Section 1. KRS 218A.175 is amended to read as follows:

5 (1) (a) As used in this section, "pain management facility" means a facility where the
6 majority of patients of the practitioners at the facility are provided treatment
7 for pain that includes the use of controlled substances and:

- 8 1. The facility's primary practice component is the treatment of pain; or
- 9 2. The facility advertises in any medium for any type of pain management
10 services.

11 (b) "Pain management facility" does not include the following:

- 12 1. A hospital, including a critical access hospital, as defined in KRS
13 Chapter 216, a facility owned by the hospital, or the office of a hospital-
14 employed physician;
- 15 2. A school, college, university, or other educational institution or program
16 to the extent that it provides instruction to individuals preparing to
17 practice as physicians, podiatrists, dentists, nurses, physician assistants,
18 optometrists, or veterinarians;
- 19 3. A hospice program or residential hospice facility licensed under KRS
20 Chapter 216B;
- 21 4. An ambulatory surgical center licensed under KRS Chapter 216B; or
- 22 5. A long-term-care facility as defined in KRS 216.510.

23 (2) (a) Only a physician having a full and active license to practice medicine issued
24 under KRS Chapter 311 shall have an ownership or investment interest in a
25 pain management facility. Credit extended by a financial institution as defined
26 in KRS 136.500 to the facility shall not be deemed an investment interest
27 under this subsection. This ownership or investment requirement shall not be

1 enforced against any pain management facility existing and operating on April
2 24, 2012, unless there is an administrative sanction or criminal conviction
3 relating to controlled substances imposed on the facility, any person employed
4 by the facility, or any person working at the facility as an independent
5 contractor for an act or omission done within the scope of the facility's
6 licensure or the person's employment.

7 (b) A facility qualifying for the exemption permitted by paragraph (a) of this
8 subsection whose ownership has been continuously held jointly and
9 exclusively by practitioners having full and active licenses to practice in
10 Kentucky since April 24, 2012, may, after June 24, 2015:

- 11 1. Open and operate no more than two (2) additional facilities in locations
12 other than those locations existing and operating on April 24, 2012;
- 13 2. Transfer whole or partial ownership between existing practitioner
14 owners;
- 15 3. Transfer whole or partial ownership interests to new owners if the new
16 owners are physicians having full and active licenses to practice in
17 Kentucky and the facility notifies the cabinet of the transfer thirty (30)
18 days before it occurs; and
- 19 4. Pass the ownership interest of a deceased former owner through that
20 person's estate to a physician having a full and active license to practice
21 in Kentucky without disqualifying the facility's grandfathered status
22 under this subsection if the facility notifies the cabinet of the transfer
23 thirty (30) days before it occurs in cases where the interest is being
24 transferred to a physician who is not an existing owner in the facility.

25 (3) Regardless of the form of facility ownership, beginning on July 20, 2012, at least
26 one (1) of the owners or an owner's designee who is a physician employed by and
27 under the supervision of the owner shall be physically present practicing medicine

1 in the facility for at least fifty percent (50%) of the time that patients are present in
2 the facility, and that physician owner or designee shall:

- 3 (a) Hold a current subspecialty certification in pain management by a member
4 board of the American Board of Medical Specialties, or hold a current
5 certificate of added qualification in pain management by the American
6 Osteopathic Association Bureau of Osteopathic Specialists;
- 7 (b) Hold a current subspecialty certification in hospice and palliative medicine by
8 a member board of the American Board of Medical Specialties, or hold a
9 current certificate of added qualification in hospice and palliative medicine by
10 the American Osteopathic Association Bureau of Osteopathic Specialists;
- 11 (c) Hold a current board certification by the American Board of Pain Medicine;
- 12 (d) Hold a current board certification by the American Board of Interventional
13 Pain Physicians;
- 14 (e) Have completed a fellowship in pain management or an accredited residency
15 program that included a rotation of at least five (5) months in pain
16 management; or
- 17 (f) If the facility is operating under a registration filed with the Kentucky Board
18 of Medical Licensure, have completed or hold, or be making reasonable
19 progress toward completing or holding, a certification or training substantially
20 equivalent to the certifications or training specified in this subsection, as
21 authorized by the Kentucky Board of Medical Licensure by administrative
22 regulation.
- 23 (4) A pain management facility shall accept private health insurance as one (1) of the
24 facility's allowable forms of payment for goods or services provided and shall
25 accept payment for services rendered or goods provided to a patient only from the
26 patient or the patient's insurer, guarantor, spouse, parent, guardian, or legal
27 custodian.

- 1 (5) If the pain management facility is operating under a license issued by the cabinet,
2 the cabinet shall include and enforce the provisions of this section as additional
3 conditions of that licensure. If the pain management facility is operating as the
4 private office or clinic of a physician under KRS 216B.020(2), the Kentucky Board
5 of Medical Licensure shall enforce the provisions of this section. The provisions of
6 this subsection shall not apply to the investigation or enforcement of criminal
7 liability.
- 8 (6) (a) A pain management facility shall implement a pill count procedure for all
9 patients prescribed any Schedule II, III, IV, or V controlled substance for
10 more than three (3) consecutive months. The pill count procedure shall:
11 1. Include an initial count of prescribed pills at the start of therapy;
12 2. Randomly subject patients to pill counts throughout the course of
13 therapy;
14 3. Include annual pill counts on a minimum of thirty percent (30%) of
15 all patients prescribed any Schedule II, III, IV, or V controlled
16 substance for more than three (3) consecutive months;
17 4. Require patients to bring their prescribed medication to all office
18 visits;
19 5. Permit a pill count of prescribed medication at any office visit; and
20 6. Include a report of the results of all pill counts to the electronic system
21 for monitoring controlled substances established under KRS
22 218A.202.
- 23 (b) If a patient is dismissed from a pain management facility for irregularities
24 in a pill count or failure to comply with the pill count procedure, the facility
25 shall report the dismissal and the reason for the dismissal to the electronic
26 system for monitoring controlled substances established under KRS
27 218A.202.

- 1 (Z) Any person who violates the provisions of this section shall be guilty of a Class A
- 2 misdemeanor.