

## **BILL ANALYSIS**

Senate Research Center  
83R19837 SLB-D

C.S.S.B. 1646  
By: Williams  
Health & Human Services  
4/17/2013  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

With the passage of S.B. 911, 81st Legislature, Regular Session, 2009, the State of Texas took a strong stance against prescription drug abuse and the individuals who were enabling and profiting from that abuse. The new law allowed tighter oversight of pain management clinics by the medical board and gave criminal prosecutors the tools they needed to stop this epidemic from gaining any more ground.

C.S.S.B. 1646 makes updates to Chapter 168 (Regulation of Pain Management Clinics) of the Occupations Code relating to pain management clinics. C.S.S.B. 1646 clarifies that owning and operating a pain management clinic is the practice of medicine and provides for the Board of Nursing to adopt rules relating to pain management services.

C.S.S.B. 1646 amends current law relating to the regulation of pain management services.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Board of Nursing in SECTION 1 (Section 168.002, Occupations Code), SECTION 2 (Section 168.002, Occupations Code), and SECTION 5 (Section 301.1546, Occupations Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 168.002, Occupations Code, as follows:

Sec. 168.002. EXEMPTIONS. Provides that this chapter (Regulation of Pain Management Clinics) does not apply to:

(1)-(6) Makes no change to these subdivisions;

(7) a clinic owned or operated by a physician who treats patients within the physician's area of specialty and who personally uses other forms of treatment, including surgery, with the issuance of a prescription for a majority of the patients; or

(8) a clinic owned or operated by an advanced practice nurse licensed in this state who treats patients in the nurse's area of specialty and who personally uses other forms of treatment with the issuance of a prescription for a majority of the patients in compliance with rules adopted by the Texas Board of Nursing (BON).

SECTION 2. Amends Section 168.102, Occupations Code, by adding Subsection (d), as follows:

(d) Prohibits the Texas Medical Board (TMB), if an applicant for a certificate under this chapter is under investigation by TMB for a violation of this subtitle (Physicians), TMB rules, or other law relating to the prescription, dispensation, administration, supply, or sale of a controlled substance, from making a decision on the application until TMB has reached a final decision on the matter under investigation.

SECTION 3. Amends Section 168.201, Occupations Code, by adding Subsection (d), to provide that a person who owns or operates a pain management clinic is engaged in the practice of medicine.

SECTION 4. Amends Section 168.202(a), Occupations Code, to provide that a violation of this subchapter or a rule adopted under Chapter 168 is grounds for disciplinary action, including a temporary suspension or restriction under Section 164.059 (Temporary Suspension or Restriction of License), against a pain management clinic certified under this chapter or an owner or operator of a clinic certified under this chapter.

SECTION 5. Amends Subchapter D, Chapter 301, Occupations Code, by adding Section 301.1546, as follows:

Sec. 301.1546. RULES REGARDING PAIN MANAGEMENT. Requires BON to adopt rules regarding the provision of pain management services by advanced practice nurses.

SECTION 6. Makes application of the change in law made to Section 168.002, Occupations Code, prospective.

SECTION 7. Provides that Section 168.102(d), Occupations Code, as added by this Act, applies only to an application for a certificate for a pain management clinic filed with TMB on or after the effective date of this Act. Provides that an application for a certificate for a pain management clinic filed before that date is governed by the law in effect on the date the application was filed, and that law is continued in effect for that purpose.

SECTION 8. Effective date: September 1, 2013.