GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2015 REGULAR SESSION

HOUSE BILL NO. 329

FRIDAY, FEBRUARY 27, 2015

The following bill was reported to the Senate from the House and ordered to be printed.

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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY K. Adler

1 AN ACT relating to pain management facilities.

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

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

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

7 1. The facility's primary practice component is the treatment of pain; or

8 2. The facility advertises in any medium for any type of pain management
9 services.

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

11 1. A hospital, including a critical access hospital, as defined in KRS
12 Chapter 216, a facility owned by the hospital, or the office of a hospital-
13 employed physician;

14 2. A school, college, university, or other educational institution or program
15 to the extent that it provides instruction to individuals preparing to
16 practice as physicians, podiatrists, dentists, nurses, physician assistants,
17 optometrists, or veterinarians;

18 3. A hospice program or residential hospice facility licensed under KRS
19 Chapter 216B;

20 4. An ambulatory surgical center licensed under KRS Chapter 216B; or

21 5. A long-term-care facility as defined in KRS 216.510.

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

1 24, 2012, unless there is an administrative sanction or criminal conviction
2 relating to controlled substances imposed on the facility, any person employed
3 by the facility, or any person working at the facility as an independent
4 contractor for an act or omission done within the scope of the facility's
5 licensure or the person's employment.
6 ***(b) A facility qualifying for the exemption permitted by paragraph (a) of this***
7 ***subsection whose ownership has been continuously held jointly and***
8 ***exclusively by practitioners having full and active licenses to practice in***
9 ***Kentucky since April 24, 2012, may, after the effective date of this Act:***
10 ***1. Open and operate no more than two (2) additional facilities in***
11 ***locations other than those locations existing and operating on April***
12 ***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***
21 ***practice in Kentucky without disqualifying the facility's grandfathered***
22 ***status under this subsection if the facility notifies the cabinet of the***
23 ***transfer thirty (30) days before it occurs in cases where the interest is***
24 ***being transferred to a physician who is not an existing owner in the***
25 ***facility.***
26 (3) Regardless of the form of facility ownership, beginning on July 20, 2012, at least
27 one (1) of the owners or an owner's designee who is a physician employed by and

1 under the supervision of the owner shall be physically present practicing medicine
2 in the facility for at least fifty percent (50%) of the time that patients are present in
3 the facility, and that physician owner or designee shall:
4 (a) Hold a current subspecialty certification in pain management by a member
5 board of the American Board of Medical Specialties, or hold a current
6 certificate of added qualification in pain management by the American
7 Osteopathic Association Bureau of Osteopathic Specialists;
8 (b) Hold a current subspecialty certification in hospice and palliative medicine by
9 a member board of the American Board of Medical Specialties, or hold a
10 current certificate of added qualification in hospice and palliative medicine by
11 the American Osteopathic Association Bureau of Osteopathic Specialists;
12 (c) Hold a current board certification by the American Board of Pain Medicine;
13 (d) Hold a current board certification by the American Board of Interventional
14 Pain Physicians;
15 (e) Have completed a fellowship in pain management or an accredited residency
16 program that included a rotation of at least five (5) months in pain
17 management; or
18 (f) If the facility is operating under a registration filed with the Kentucky Board
19 of Medical Licensure, have completed or hold, or be making reasonable
20 progress toward completing or holding, a certification or training substantially
21 equivalent to the certifications or training specified in this subsection, as
22 authorized by the Kentucky Board of Medical Licensure by administrative
23 regulation.
24 (4) A pain management facility shall accept private health insurance as one (1) of the
25 facility's allowable forms of payment for goods or services provided and shall
26 accept payment for services rendered or goods provided to a patient only from the
27 patient or the patient's insurer, guarantor, spouse, parent, guardian, or legal

1 custodian.

2 (5) If the pain management facility is operating under a license issued by the cabinet,
3 the cabinet shall include and enforce the provisions of this section as additional
4 conditions of that licensure. If the pain management facility is operating as the
5 private office or clinic of a physician under KRS 216B.020(2), the Kentucky Board
6 of Medical Licensure shall enforce the provisions of this section. The provisions of
7 this subsection shall not apply to the investigation or enforcement of criminal
8 liability.

9 (6) Any person who violates the provisions of this section shall be guilty of a Class A
10 misdemeanor.

Speaker-House of Representatives

President of Senate

Attest: Chief Clerk of House of Representatives

Approved Governor

Date 3/20/15