

PAIN MANAGEMENT FACILITIES

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House Bill 4404 as introduced
Sponsor: Rep. Sam Singh
Committee: Health Policy
Complete to 4-25-17

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4404 would add a Part 218 (MCL 333.21801 et al) to the Public Health Code, defining "pain management facilities" and prescribing their establishment, management, and required certification under the Department of Licensing and Regulatory Affairs (LARA). The bill would also amend five sections of the Code to account for this new entity, including the addition of "pain management facilities" to the Code's definition of health facilities or agencies. The bill would take effect 90 days after enactment.

The new **Part 218** of the Code would define the following key terms:

- ***Pain management facility***: a facility where a majority of the patients are provided treatment for pain through the use of a controlled substance and either the facility's primary practice is the treatment of pain or the facility advertises for any type of pain management service. (A pain management facility does not include a county medical care facility, hospital, nursing home, or a hospital long-term care unit, among others)
- ***Pain management service***: medical care specializing in managing chronic or acute pain.
- ***Controlled substance*** (as defined in MCL 333.7104): a drug, substance, or immediate precursor included in schedules 1 to 5 of part 72 (Schedule 1: MCL 333.7212; Schedule 2: MCL 333.7214; Schedule 3: MCL 333.7216; Schedule 4: MCL 333.7218; Schedule 5: MCL 333.7220)

Establishing a pain management facility

Under the bill, beginning January 1, 2018, a person must submit a completed application for licensure in order to establish or maintain and operate a pain management facility. Beginning June 1, 2018, a person must have obtained a license from the Department of Licensing and Regulatory Affairs in order to establish or maintain and operate the facility.

Ownership of a pain management facility

Generally, an individual who is not a physician may not have an ownership interest in a pain management facility. However, this prohibition does not apply for a facility operating as of the effective date of the act so long as no individual employed by the facility or the facility itself has been sanctioned by a disciplinary committee under the Code for an act or omission involving a controlled substance, and no employee has a controlled substance conviction.

If one of the owners of a pain management facility operating when this act takes effect is not a physician, the facility's owners must designate a physician employed by the facility as its designated physician, with the requirements for that role described below.

Designated physician

Beginning one year after the act takes effect, the owners of the pain management facility must ensure that a designated physician or at least one physician who has an ownership interest in the pain management be physically present in the practice of medicine or osteopathic medicine and surgery, for at least 50% of the time a patient is present at the facility. These physicians must also meet one of the following:

- Hold a subspecialty certification in pain management or hospice and palliative medicine issued by the American Board of Medical Specialties, a certificate of added qualification in pain management or hospice and palliative medicine issued by the American Osteopathic Association Bureau of Osteopathic Specialists, or an equivalent certification or certificate as determined by LARA.
- Hold a board certification issued by the American Board of Pain Management, the American Board of Interventional Pain Physicians, or an equivalent certification as determined by LARA.
- Have completed a residency or fellowship in pain management approved by LARA or meet any other educational standard as determined by LARA.

Payment for services

Subject to Section 20201 of the Public Health Code, which describes a patient's rights and responsibilities, a pain management facility may only accept payment for a good or service provided to a patient from the patient or patient's insurer, guarantor, spouse, parent, legal guardian, or legal custodian. A facility may also accept private health insurance as a source of payment.

Additional Changes

The bill would make complementary amendments to five sections of the Code:

- Add "a pain management facility" to the list of health facilities or agencies under Section 20106 of the Code.
- Require that applicants or licensees to become pain management facilities under Part 218 of the Code must comply with the same disclosure requirements as applicants or licensees to be homes for the aged (Part 213) or nursing homes (Part 217).
- Set the fee for licensure as a pain management facility at \$1,000 per facility license, with an initial licensure application fee of \$2,000 per initial license.
- Replace references to the Department of Community of Health with the reorganized and renamed Department of Health and Human Services.

FISCAL IMPACT:

A fiscal analysis is in process.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.